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Analysis Of The Application Of The Death Penalty In The Criminal Justice System In Indonesia From A Human Rights Perspective

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Abstract

The issue of the death penalty is one of the issues that raises pros and cons, both at the national and international levels. The death penalty is the most severe form of punishment in the criminal justice system. The use of this punishment is considered necessary because it has a significant deterrent effect for perpetrators of serious crimes. This study aims to explore the application of the death penalty in the legal system in Indonesia. The approach used is normative juridical by utilizing primary data obtained from literature, scientific works, and relevant laws and regulations. Data analysis was carried out in a descriptive manner. The death penalty is no longer considered the main punishment, but rather as a special and alternative punishment. This study concludes that in deciding on the death penalty, judges consider various factors, including legal aspects, applicable regulations, regulatory elements, and religious aspects. The death penalty can be imposed for the most serious crimes according to the law at the scene. In Indonesia law, there is no difference in treatment between foreign citizens and Indonesian citizens. In making a decision, the judge also considers juridical aspects such as the testimony of witnesses, experts, defendants, evidence, as well as non-juridical aspects that can aggravate or mitigate the punishment for the defendant.

Keywords

Death Penalty; Human Rights; Sanctions

Introduction

In Indonesia's positive legal system, the death penalty or the death penalty is known as one of the forms of punishment regulated in the Criminal Code (Criminal Code). Article 10 of the Criminal Code, in Chapter II concerning Crime, mentions various types of punishments, which are divided into principal crimes and additional crimes. The death penalty is included in the category of principal crimes and ranks first. (Leonard, 2016)

Indonesia is one of the countries that still maintains and recognizes the legality of the death penalty as a punishment for criminals, although the pros and cons debate about this punishment has been going on for a long time. (Hamenda, 2013) In fact, in the new Draft Criminal Code, the death penalty is still maintained as one of the sanctions for serious crimes whose perpetrators are considered unable to return to society. The death penalty is not only considered the most severe punishment, but also a very frightening punishment, especially for those who are awaiting execution. In the history of criminal law, the death penalty has been a topic of long debate. (Najicha, 2023)

According to Sudikno in his book, law is defined as a whole of rules or norms that

regulate behavior in common life, the implementation of which can be imposed with sanctions. (Efendi, 2022)

In the context of justice according to Indonesia law, as stipulated in the Terrorism Law and the Narcotics Law, the death penalty is given as a sanction for the perpetrators of crimes. (Mulkan, 2019) There are two views regarding the death penalty: first, which supports its existence because it is considered proportional to the crime committed and can have a deterrent effect; Second, those who refuse because they are considered inhumane and contrary to humanitarian principles. (Harefa S. , 2019)

The Constitutional Court has consistently maintained its stance on the death penalty, as seen in the Constitutional Court's Decision on the testing of Law No. 22 of 1999 on Narcotics, which still imposes the death penalty in Indonesia's legal system. (Yanto, Penjatuhan Pidana Mati Pelaku Tindak Pidanakorupsi Dalam Keadaan Tertentu (Death Penalty To Corruptors In A Certain Condition), 2017) The Constitutional Court held that the death penalty does not conflict with the right to life guaranteed by the 1945 Constitution because the Indonesia constitution does not recognize the absoluteness of human rights. (Krisnanda Etika Putri, 2016)

Although Article 11 of the Criminal Code regulates the procedure for the execution of the death penalty, Indonesia uses Presidential Decree No. 2 of 1964 as the legal basis for the procedure for the execution of the death penalty, which changed the method of punishment from hanging to being shot dead. This change was made through Presidential Decree No. 3 of 1964 dated April 27, 1965, which was then regulated in Law No. 2 of PNPS of 1964. (Olivia, 2021)

The death penalty has not fully functioned as the main tool to regulate, order, and improve society. (Priyono, 2018) Therefore, a criminal law policy is needed through a formulation policy, namely formulating laws and regulations that regulate the death penalty, especially in the future narcotics law.

Method

This research uses normative or doctrinal research methods, namely by examining written sources. The data used are secondary data (normative juridical research) derived from primary legal materials, such as the 1945 Constitution of the Republic of Indonesia; Law Number 8 of 1981 concerning the Criminal Procedure Law; Law Number 39 of 1999 concerning Human Rights; Law Number 2 of 2002 concerning the Police of the Republic of Indonesia; Law Number 35 of 2009, as well as other laws and regulations relevant to this research. Secondary legal materials include books, previous research, certain scientific works, newspapers, and papers that explain and support primary legal materials. Tertiary legal materials are sources that provide clues or explanations to primary and secondary legal materials, such as dictionaries and encyclopedias. The data collection technique used is literature study, which is the process of collecting written data, both in the form of documents, literature books, and laws and regulations related to the research topic. The analysis technique used in this study is qualitative normative descriptive analysis. (Supriyanto, 2021)

Result and Discussion

Capital Punishment

The death penalty has always been a controversial topic. This controversy arises because of the complexity in the basis of the execution of the death penalty, with various interrelated problems. One problem can be viewed from different perspectives, and conversely, different problems can appear similar when viewed from the same perspective. (Nurillah, 2017)

The death penalty is a form of punishment imposed by the state on a person who is found guilty of a very serious crime, usually a crime that is considered a threat to public safety or humanity, such as premeditated murder, terrorism, treason against the state, and other serious crimes. (Purnomo, 2016) This penalty is considered the highest penalty, where the convict will lose his life as a form of retribution or termination of the legal process.

In various perspectives, the death penalty is often a controversial subject. Some parties consider it an effective way to provide a deterrent effect, maintain public order, and provide justice for victims. However, on the other hand, there is a view that rejects the death penalty on the basis of human values, human rights, and the risk of legal errors that can be fatal to innocent people. (Debora Anggie Noviana, 2020)

According to the Regulation of the Chief of the National Police of the Republic of Indonesia Number 12 of 2010 concerning Procedures for the Implementation of the Death Penalty (Perkapolri 12 of 2010), the death penalty or the death penalty is one of the main punishments imposed by the judge on convicts who have obtained permanent legal force, as specified in Article 1 number 3. (Hadjar, 2024)

Criminologists such as Lamroso and Garofalo argue that the death penalty is an absolute excuse for eliminating irreparable individuals. (Prasetyo, 2019) Because of this, both experts advocated the death penalty as a radical way to eliminate irreparable people, thus removing the obligation to keep them in prison which was costly to raise. In addition, the fear that they might escape from prison and return to commit crimes in society disappeared. (Daming, Konfigurasi Pertarungan Abolisionisme Versus Retensionisme dalam Diskursus Keberadaan Lembaga Pidana Mati di Tingkat Global dan Nasional, 2016)

Lamroso's opinion is understandable if it is linked to his theory that there are people who are different from others from birth, have an innate tendency to commit crimes. He introduced the concept of *born criminals*, which concluded that no external factors or influences could improve these people. Therefore, for them, the death penalty is considered the right way to protect society. (Purba, 2021)

History of the Enactment of the Death Penalty System in Indonesia

The death penalty is one of the oldest forms of punishment ever. Although this punishment is often considered irrelevant to the times, until now there is no adequate alternative as a replacement. In the history of punishment, the death penalty has

existed since the beginning of human existence on earth, with a legal system based on the principle of "retailism" or absolute retribution, where revenge is likened to a wolf preying on another wolf. The death penalty has long been part of the legal system in Indonesia, rooted from the Netherlands colonial period to the post-independence modern era. (Adam, 2022)

The following are important stages in the history of the implementation of the death penalty in Indonesia:

1. Colonial Period (Netherlands East Indies)

During the rule of the Netherlands East Indies, the applicable criminal law was *Wetboek van Strafrecht voor Nederlandsch-Indië* (WvS), which is the Criminal Code (KUHP) for the Netherlands East Indies region. (Al-Djufri, 2022) The Criminal Code, adapted from Netherlands criminal law, introduced the death penalty as a form of punishment for very serious crimes, such as premeditated murder or treason against the state. Colonial courts granted the death penalty for a variety of serious crimes, including resistance to colonial authority and crimes that threatened the stability of the colonial government. The execution of the death penalty during this period was carried out by various methods, such as hanging, shooting, or even beheading. (Adelina, Eksternalisasi Penerapan Hukuman Mati Terorisme dalam Perspektif Pidana Islam: Studi Komparasi Indonesia dan Mesir, 2024)

2. Independence Era and Old Order

After Indonesia gained independence in 1945, Indonesia's legal system still adopted many laws that applied during the Netherlands East Indies period, including the Criminal Code. The death penalty remains part of Indonesia's criminal law. In the Old Order era under the leadership of President Soekarno, the death penalty was imposed in several major cases, especially related to rebellion and treason. One of the major events involving the death penalty was the PKI (Communist Party of Indonesia) rebellion in 1948 and various other cases that were considered to threaten national stability. (Kholiq, 2023)

3. New Order Era

During the Suharto administration, the death penalty remained an integral part of the criminal justice system, especially for cases that were considered very serious, such as treason against the state, gross corruption, and narcotics. During this period, the government used the death penalty as a tool to enforce political stability, and several major political figures and criminals were executed. A major event involving the death penalty was the G30S/PKI-related case in 1965, in which many PKI members and sympathizers were executed. In addition, several major narcotics cases also ended with the death penalty, because they were considered to threaten the young generation and the future of the nation. (Fadilah, 2022)

4. The Reformation and Contemporary Era

After the fall of the New Order regime in 1998, Indonesia entered the Reform era.

During this period, there was a fierce debate about the sustainability of the death penalty, especially due to the insistence of human rights groups who opposed the death penalty. Despite this, Indonesia still maintains the death penalty in the law, especially for very serious crimes such as premeditated murder, terrorism, and serious narcotics crimes. Under the leadership of President Joko Widodo, the death penalty was mainly applied to narcotics cases, which were considered a major threat to the nation. The executions of several foreign and local drug convicts in 2015 came under international scrutiny, as many countries and human rights organizations condemned the execution. (Herindrasti, Valentina Lusita Herindrasti, "Drug-free ASEAN 2025: Tantangan Indonesia dalam penanggulangan penyalahgunaan narkoba." *Jurnal Hubungan Internasional* 7.1 (2018): 19-33., 2018)

5. Contemporary Debate Regarding the Death Penalty

In the contemporary context, the death penalty in Indonesia continues to be a controversial topic. There are two major camps: supporters of the death penalty, who believe that the sentence is necessary to provide a deterrent effect for serious crimes, and those who oppose it on human rights grounds and possible wrongdoing in the judicial process. Despite calls from the international community and human rights groups to abolish the death penalty, the majority of Indonesia, based on surveys, still support the application of the death penalty for serious crimes, especially narcotics and terrorism. The Indonesia government also often emphasizes the importance of the death penalty to maintain national security and order. (Daming, *Konfigurasi Pertarungan Abolisionisme Versus Retensionisme dalam Diskursus Keberadaan Lembaga Pidana Mati di Tingkat Global dan Nasional*, 2016).

The Application of the Death Penalty and Its Legal Basis in Indonesia

The death penalty in Indonesia is one of the forms of crime imposed on perpetrators of serious crimes. In Indonesia's legal system, the death penalty is regulated in several laws that specifically stipulate criminal acts that can be threatened with the punishment. (Nugraha, 2020)

1. Legal Basis for the Application of the Death Penalty

The death penalty in Indonesia has a strong legal basis and is regulated in various laws. (Izad, 2019) Here are some of the legal bases:

- **Criminal Code (KUHP):** The Criminal Code as the main criminal regulation in Indonesia regulates several criminal acts that can be sentenced to death. Article 10 of the Criminal Code states that the death penalty is included in one of the main types of crimes. (Mahmud, 2023)
- **Narcotics Law (Law No. 35 of 2009 concerning Narcotics):** In this law, the death penalty is imposed on dealers or producers of narcotics in large quantities or who act as part of an international syndicate. (Herindrasti, *Drug-free ASEAN 2025: Tantangan Indonesia dalam penanggulangan*

penyalahgunaan narkoba, 2018)

- Terrorism Law (Law No. 5 of 2018 concerning the Eradication of Terrorism Crimes): The death penalty can also be imposed for perpetrators of terrorism crimes that cause the loss of many lives, serious damage, or threats to the stability of the country. (Ambarita, 2018)
- Corruption Crime Law (Law No. 20 of 2001 concerning the Eradication of Corruption Crimes): The death penalty can be imposed for perpetrators of corruption crimes committed under certain circumstances, such as when the country is in an economic crisis. (Yanto, Penjatuhan Pidana Mati Pelaku Tindak Pidanakorupsi Dalam Keadaan Tertentu (Death Penalty To Corruptors In A Certain Condition), 2017)

2. Criminal Acts Threatened with the Death Penalty

Some of the crimes that are threatened with the death penalty in Indonesia include: (Munasto, 2022)

- Premeditated murder (Article 340 of the Criminal Code)
- Genocide (Law No. 26 of 2000 concerning Human Rights Courts)
- Terrorism
- Narcotics crimes involve large amounts and play an important role in international networks.

3. Procedure for Execution of the Death Penalty

The execution of the death penalty in Indonesia is carried out through the firing squad method regulated in the relevant regulations. The death penalty process is carried out after a court decision with permanent legal force (inkracht), and if the convict applies for clemency to the President and is refused, the death penalty can only be carried out. (Firmansyah, 2024)

4. Controversy and Debate

The death penalty in Indonesia has become a hot topic of debate, both in terms of ethics, morality, and effectiveness in preventing serious crimes. Pro-death penalty groups consider that this punishment has a strong deterrent effect, especially in exceptional cases such as narcotics and terrorism. However, groups opposed to the death penalty argue that this sentence violates human rights, especially the right to life, guaranteed in Indonesia's constitution and the Universal Declaration of Human Rights. (Fanani, 2018)

In addition, one of the main criticisms of the death penalty is the possibility of errors in the justice system that could result in the execution of innocent people. Some also highlighted the need for reforms in the legal system, especially regarding transparency and independence of the courts.

5. International and Indonesia Legal Position

Internationally, many countries have abolished the death penalty, and there is pressure from the international community to stop this punishment. However, Indonesia still maintains the death penalty on the grounds that the state has the sovereign right to determine criminal law according to the needs of society. Indonesia is also committed to reviewing the death penalty on a case-by-case basis, taking into account humanitarian factors, such as the behavior of convicts while in prison, as well as other social factors.

So, the death penalty in Indonesia has a strong legal basis and is applied to certain crimes that are considered very severe. Despite this, its application continues to be an ethical and legal debate, especially regarding human rights. In the context of Indonesia law, the application of the death penalty is still considered a solution to criminal acts that are very detrimental to society and the state. (Afif, 2021)

The Death Penalty in the Context of Human Rights

The death penalty is a controversial form of punishment in many discussions related to human rights (HAM). On the one hand, there are countries and societies that view the death penalty as a legitimate step to uphold justice, especially in cases of serious crimes such as murder, terrorism, or war crimes. On the other hand, there are deep concerns about human rights violations, especially regarding the right to life which is considered the most fundamental right. (Rangga Abdi Ramadhan, 2024)

Basically, every country has the same goal, which is to create a prosperous, fair, and prosperous life for its citizens. One of the main obstacles to achieving this goal is the criminal acts committed by some of its own citizens. Therefore, to prevent and reduce crime, every country must make effective efforts. (Isnantiana, 2019)

One method to eradicate crime is to apply and threaten criminal penalties for every criminal act, which initially aims to deter perpetrators and prevent others from getting involved in crimes. Over time, the purpose of this crime has also developed, namely to foster and educate criminals to be better. (Michael, 2024)

The fact that every human being has a fear of death leads to the threat of the death penalty is considered the right step to prevent the act of murder. However, the application of the death penalty faces various problems. If we examine various aspects related to the death penalty, we will see the inevitable pros and cons, accompanied by various arguments that underlie these considerations. (Jarot Yusviq Andito, 2022)

Regarding the issue of the application of the death penalty, especially in the context of Human Rights (HAM), there are several considerations, namely:

1. Right to Life

In the context of human rights, the right to life is one of the non-derogable rights. Article 3 of the Universal Declaration of Human Rights (DUHAM) states that "Everyone has the right to life, liberty, and personal security." The death penalty is considered a violation of this right because the state actively deprives a person of life

as a form of punishment. Some human rights organizations, such as Amnesty International, reject the death penalty on the grounds that the right to life must be guaranteed in all circumstances. (Surajiman, 2022)

2. Court Errors and Risks of Execution of Innocent People

One of the strongest arguments against the death penalty is the possibility of judicial errors. Although the legal system is designed to avoid mistakes, there is still a risk that innocent individuals could be sentenced to death. In such cases, the execution cannot be reversed, and this constitutes a serious human rights violation. (Adelina, Eksternalisasi Penerapan Hukuman Mati Terorisme dalam Perspektif Pidana Islam: Studi Komparasi Indonesia dan Mesir, 2024)

3. Death Penalty and Torture

The UN Convention Against Torture states that inhuman or degrading punishment is a violation of human rights. The death penalty, especially those carried out in painful or inhuman ways, such as crucifixion, hanging, or lethal injection, is often considered a violation of these principles. Public executions carried out in several countries are also considered a form of insult to human dignity.

4. Deterrent Effect (Efek Penjeraan)

Proponents of the death penalty often argue that this sentence serves as a deterrent to serious crimes. However, empirical evidence regarding the deterrent effect of the death penalty is still debated. Some studies have shown that countries without the death penalty have the same or lower crime rates than countries that implement it. This raises the question of whether the death penalty is really effective as a crime prevention tool. (Hendra Arjuna, 2024)

5. Discrimination in the Application of the Death Penalty

Many reports indicate that the death penalty is often disproportionately applied to minority groups, the poor, or those who lack access to competent lawyers. This shows that there is injustice in the application of the death penalty, which ultimately violates the principle of equality before the law, one of the basic principles in human rights. (Sholahudin, 2016)

6. Cultural and Religious Context

In some countries, the death penalty is still seen as morally valid based on cultural or religious traditions. For example, some Muslim-majority countries refer to Sharia law in applying the death penalty, especially in cases of serious crimes such as murder or adultery. Here, a debate arises between the application of religious law and universal human rights principles. (Dhamayanti, 2022)

7. Criminal Law Reform

Countries that still implement the death penalty are often faced with international pressure to reform their legal systems to better align with human rights standards. Some countries have taken steps to limit the use of the death penalty, for example

only for extraordinary crimes, or establish temporary moratoriums for executions. (Daming, Konfigurasi Pertarungan Abolisionisme Versus Retensionisme dalam Diskursus Keberadaan Lembaga Pidana Mati di Tingkat Global dan Nasional, 2016)

From a sociocultural perspective, the application of the death penalty refers to abolitionist theory. In a culture that highly values human life and dignity, the death penalty has always been considered controversial. There is a general view that the death penalty is contrary to humanitarian principles, given the prohibition on killing that applies in conjunction with the death penalty order in the current legal system.

The Death Penalty for Corrupt Perpetrators Does Not Contradict Human Rights

Corruption is a crime that is considered extraordinary (extraordinary crime), because of its impact that is very detrimental to many aspects of social, economic, and political life. In many countries, corruption is considered a serious threat to government stability, law enforcement, and social justice. (Rahmatullah, 2021) In Indonesia, for example, corruption has resulted in the loss of trillions of rupiah from the state treasury that could have been used for the welfare of the people. Therefore, the provision of severe punishment for corruption perpetrators is often considered reasonable as a form of justice.

In the context of Indonesia, the death penalty is regulated in Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption, but the application of the death penalty is only given to corrupt perpetrators who harm the state in certain circumstances, such as in disaster or national emergency conditions. This shows that the application of the death penalty is not arbitrary, but through very strict and specific criteria. (Harefa A. , 2022)

Article 1 paragraph (3) of the 1945 Constitution states that Indonesia is a country of law. According to Kansil, as a country of law based on the rule of law, there are two main conditions, namely the rule of law and equality before the law. The supremacy of the law means that the law must have the highest standing, while equality before the law means that everyone has the same status before the law. (Nasarudin, 2020)

According to Julius Stahl, the idea of the state of law is characterized by four main elements:

1. Recognition and protection of human rights;
2. The state is based on the theory of trias politica;
3. Government is carried out based on law;
4. There is a state administrative court.

Regulations on human rights are regulated in Law Number 39 of 1999 concerning Human Rights (UU HAM), which defines human rights as a set of rights that are inherent in the essence and existence of human beings as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the state, law, and

government for the honor and protection of human dignity. (Ardinata, 2020)

Human Rights (HAM) are basic principles that guarantee the fundamental rights of every individual, such as the right to life, freedom, and security. One of the most fundamental rights is the right to life, which is recognized in various international human rights instruments, such as the Universal Declaration of Human Rights (DUHAM) and the International Covenant on Civil and Political Rights (ICCPR). (Muni, 2020)

However, the ICCPR in Article 6(2) still provides an exception to the application of the death penalty with the note that the sentence can only be imposed for "the most serious crimes". This opens up space for interpretation that in certain cases, the death penalty can be applied, as long as it is in accordance with a valid and fair legal procedure. (Makatita, 2020)

Massive corruption can cause widespread suffering for society, such as continued poverty, the state's inability to provide basic public services, and exacerbate social injustices. Some countries consider corruption to be a "serious crime" that has a major impact on people's basic rights, including the right to welfare, health, education, and even the right to a decent life. Therefore, the death penalty for corrupt perpetrators in several countries can be seen as a decisive step to safeguard the greater public interest.

Based on the above understanding, the death penalty for corrupt perpetrators is not necessarily contrary to Human Rights, as long as its application meets the principles of justice, including a fair legal process, transparency, and only applies to very serious cases. The principle of human rights remains respected to the extent that the death penalty is given through a judicial process that meets international standards and is recognized as a response to crimes that seriously endanger the wider community.

In this context, the restriction of the right to life through the death penalty for corrupt perpetrators can be justified by the argument that corruption crimes have deprived a much wider range of basic rights of society. The purpose of this severe punishment is to provide a deterrent effect, uphold justice, and protect the rights of the majority of the community from major losses due to corruption.

The debate on the right to life, especially related to the death penalty for perpetrators of corruption crimes, has been going on for a long time and will never be obsolete to be studied. In the 1945 Constitution, the right to life is regulated in Article 28A and Article 28I paragraph (1), which states that everyone has the right to life which is a gift of God Almighty and cannot be reduced under any circumstances. Only God has the right to determine a person's life or death. (Damping, 2019)

However, it is important to reflect that although God determines a person's life and death, the way a person lives or dies is a person's own choice. Humans can choose to die in good or bad circumstances. If a person wants to avoid death in bad circumstances, he should not commit a crime.

If a person commits a crime, then he has actually chosen to die in bad circumstances. Especially for people who are educated and have an honorable status, who of course know that their actions violate religious teachings and state laws. (Marpaung, 2022)

Restoration of perpetrators of crimes to restore social honor is an important effort. The imposition of the death penalty on the perpetrators of corruption crimes must be seen as part of the restoration process to restore social harmony that has been disrupted by the crime. (Suhariyono, 2018)

In criminal law, the aspect of retaliation is often difficult to avoid, because the nature of criminal sanctions itself contains a retributive element. However, if criminal sanctions, including the death penalty, are viewed from the perspective of restoring social harmony, this impression of retaliation can be diminished or even lost. (Permono, 2019)

The rejection of the abolition of the death penalty in Indonesia must be understood in the historical context of Indonesia society that has not fully accepted the abolition of the death penalty. (Syauket, 2022) The history of Indonesia's constitution, starting from the 1945 Constitution before the amendment, the 1949 Constitution of the Republic of Indonesia, the 1950 Constitution, and the post-amendment 1945 Constitution, shows that these constitutions do not regulate human rights, including the right to life, explicitly and completely. The 1945 Constitution after the amendment still formulates restrictions on human rights, including the right to life, as stipulated in Article 28J. This shows that the view of Indonesia's constitutionalism since independence until now does not adhere to the principle of absolute human rights, and the imposition of the death penalty, especially for the perpetrators of corruption crimes, is still understood as part of the values of legal and moral justice in society Indonesian.

Conclusion

The death penalty is a type of punishment imposed by the government of a country and is considered the most severe and oldest crime in terms of history. Law Number 35 of 2009 concerning Narcotics stipulates that the eradication of narcotics crimes can be carried out through the threat of sanctions in the form of fines, imprisonment, life imprisonment, or the death penalty.

Criminal sanctions are laws that are applied as a result of a criminal act, where the act is the cause and the punishment is the result. Individuals who are sanctioned will generally receive punishment from the authorities. In criminal law, sanctions are regulated in the Criminal Code (KUHP) and other laws and regulations. The application of these sanctions is part of law enforcement efforts, and the forms of criminal sanctions regulated in article 10 of the Criminal Code are divided into principal and additional crimes.

Everyone has rights that must be respected and upheld, which means that there is a balance between rights and obligations. Article 28J paragraph (1) of the 1945 Constitution regulates the obligation to respect the rights of others, while Article 28J paragraph (2) of the 1945 Constitution regulates the limits on human rights, including the right to life, in accordance with the provisions of the constitution. The imposition

of the death penalty on the perpetrators of corruption crimes can be seen as a form of social restoration to restore harmony that has been disrupted by the crime.

The absence of the abolition of the death penalty in Indonesia shows that the people of Indonesia are not ready to accept the abolition. This shows that Indonesia's view of constitutionalism, since independence until now, has not fully adopted the principle of absolute human rights. Therefore, in the historical context of the development of the Indonesia nation, the application of the death penalty, especially to the perpetrators of corruption crimes, is still considered in line with the values of legal and moral justice.

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