

## The Death Penalty in the Indonesian Criminal Justice System in the Midst of Global Challenges



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**ABSTRACT:** This article analyses the death penalty in the Indonesian judicial system amid the challenges of globalisation. The purpose of this article is to find out how the death penalty reform in the justice system in Indonesia amid the challenges of globalisation. This research uses the normative research method. The result of this research is that the new criminal code reflects the quality of the Indonesian nation. There is a need for new regulations to discipline and regulate law enforcement officials in carrying out their duties. Legal culture, it is necessary to socialize the common people about the nature and essence of law as well as the mechanism of law to be carried out in order to realize an interactive justice and responsiveness of law enforcers with the community.

**KEYWORDS:** Death penalty; Justice; Criminal; Globalization; Indonesia

### I. INTRODUCTION

Law can be a guide to human behaviour. There is a saying *ibi societates ibi ius*. The meaning of the saying is that law exists because of the existence of society and the relationship between individuals in society. The relationship between individuals in society is an essential thing according to human nature, which cannot live alone because humans are polis creatures, creatures of society (*zoon politicon*) (Darmodiharjo, et.al., 1995: 73). According to its type, law can be divided into criminal law and civil law. Civil law is a law between individuals that regulates the rights and obligations of individuals against each other in family relations and in the association of society. Criminal law is a rule of law that regulates offences based on crimes that disturb public order and whose perpetrators may be threatened with suffering or torture.

Crime contains the value system in a society about what is good and what is not good, what is moral and what is immoral, and what is allowed and what is forbidden (Ekaputra, et.al., 2010: 13). According to Prof. Sudarto, punishment can traditionally be defined as a penalty imposed by the state on someone who violates the provisions of the law, intentionally so that it feels like a punishment (Sudarto, 1996: 109-111). Prof. Muladi argues that the characteristics contained in punishment are that the punishment is essentially an imposition of suffering or *nestapa* or other unpleasant consequences, the punishment is given intentionally by a person or body that has the power (by the authorities), and the punishment is imposed on someone who has committed an offence according to the law (Muladi, et.al., 1992: 6).

The death penalty is a type of criminal sanction in Indonesia. The death penalty is the most severe sanction or punishment currently available in the Indonesian legal system. Indonesia is a multicultural country that is diverse in terms of ethnicity, religion, culture, race and so on. In reality, Indonesia is within the framework of overlapping normative sociality. In an effort to overcome this phenomenon, the formation of the legal system in Indonesia implicitly blends into an existing normative system. The initial analysis is about the clash between state authority, culture and religion. In reality, these entities often have more power than formal state law, for example in the formation of the new penal code (KUHP 2023). Edward Omar Sharif Hiarij, Deputy Minister of Law and Human Rights, said that creating a penal code in a multi-ethnic, multi-religious and multicultural country like Indonesia was not easy. Every issue has to be controversial, and every issue has its own justification. A real example is the article on the death penalty, where there are differences between state and religious authorities. Articles 67, 98, 99, 100, 101 and 102 state that judges can impose the death penalty with a 10-year suspended sentence. People who are in favour of the death penalty will say that the death penalty is imposed by an unfair legal system, where the state prefers to punish people who are poor or who belong

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to racial, ethnic or religious minorities because of discrimination in the judicial system. This is inversely proportional to the statement by the deputy chairman of the Corruption Eradication Commission (KPK), Laode M Syarif, who said that the death penalty against corrupt people has no relevance to the fight against corruption. At least, based on the data, countries that have the death penalty do indeed have a low Corruption Perception Index (CPI). Conversely, countries with a high CPI are those that do not have the death penalty. This means that there is no relationship between a country's CPI and the existence of the death penalty. There are those who agree and those who disagree with the death penalty, but the newly created Indonesian penal code is unique in taking a different path. (<https://www.beritasatu.com/nasional/591473/kpk-hukuman-mati-tak-relevan-dengan-pemberantasan-korupsi>)

Edward Omar Sharif Hiariej said that for Indonesia, the death penalty is not only a legal issue, but there are social issues, political issues and religious issues. Regarding religious issues, a random survey was conducted among 100 (one hundred) people in Indonesia. The first question in the survey was 'Do you agree with the death penalty? Out of the one hundred people, 83 agreed with the death penalty. The second question was do you agree that corrupt people should be sentenced to death and 83 (eighty-three) people agreed. The last question was whether you agree that terrorists should be sentenced to death and only 20 people agreed. The responses in the survey concluded that the issue of the death penalty is not only a legal issue, but is also linked to religious and social issues. There are biases that can make all decisions and attitudes inaccurate. Bias also affects the way we see and respond to diversity (CNN, Indonesia, 2022).

People who agree with the death penalty (pro-death penalty) and those who do not agree with the death penalty (contra-death penalty) are in an equally strong position. Pro-death penalty people say that if a person's behaviour is considered incorrigible, he or she should be destroyed. Islam, the religion of the majority of Indonesians, also has the death penalty in its teachings. People who oppose the death penalty argue that no one has the right to take a life and that it is God's right, that God alone is merciful and willing to forgive the sins of His people who repent, and that people should be able to follow suit. Another reason for those who oppose the death penalty is that if the death penalty is applied wrongly, for example if someone who is innocent is sentenced to death because of the dirty game of the authorities and law enforcers, then someone's life in this world is lost and cannot be repaired. Indonesia finally chose a middle way regarding the death penalty by including the death penalty in the special criminal qualification. This means that if the condemned person behaves well in prison for 10 (ten) years, there is a possibility of commuting the death penalty to life imprisonment. Indonesia has taken a middle ground between the pros and cons related to the death penalty by still enforcing the death penalty and giving 10 (ten) years probation to the convicts. This leaves the concern that the death penalty still exists under Indonesian law. Even today, many people sentenced to death are still waiting for their turn to be executed, let alone in the future when the new penal code comes into force. The drafters of the new penal code believe that everyone deserves a second chance to repent and reform. This is one of the reasons why there is a suspended sentence for those sentenced to death.

The above phenomenon becomes a legal problem that needs to be studied more deeply related to criminal law that regulates the death penalty as stipulated in the 2023 Criminal Code. The author will conduct a juridical study related to the death penalty in Indonesian positive law with the title The death penalty in the Indonesian criminal justice system in the midst of global challenges.

### II. RESEARCH PROBLEM

The researcher believes that the above phenomenon is a legal problem that needs to be studied in depth in relation to the criminal law that regulates the death penalty as stipulated in the Criminal Code 2023. Given that Pancasila is the source of all sources of law, the author will conduct a legal study related to the death penalty in Indonesian positive law that does not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia. The right to life is a human right guaranteed by the 1945 Constitution of the Republic of Indonesia in Article 28 A, which reads as follows Everyone has the right to life and the right to defend his life. Based on the preliminary description above, the problems of this research are How is the reform of criminal law in the Indonesian justice system in the global challenge?.

### III. RESULT AND DISCUSSION

#### Justice system in Indonesia

According to Marjono, the criminal justice system is a crime control system consisting of police, prosecution, courts and prisons (Marjono, 1993: 1). Herbert Packer divides the criminal justice system into 2 (two) models (Packer, 1998: 153): first, Due process model. Due process is a "negative model. The negative model teaches that restrictions on the power and manner of use of power by law enforcement officials are very necessary, but with the affirmative model, the existence of power and the use of power is maximized (Atmasasmita, 1983: 74). Second, The crime control model. Crime control as an "affirmative model". The crime control

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model always uses methods of repression against criminals and this is done primarily for the sake of efficiency.

When combined with the existing criminal procedure system in Indonesia, the concept of Indonesian criminal procedure is to fulfil the crime control model. According to Mardjono Reksodiputro, the criminal justice system is a crime control system consisting of the police, the prosecution, the court, and correctional institutions (Mardjono, 1993:1). The objectives of the criminal justice system according to Mardjono Reksodiputro are to prevent the public from becoming objects/victims, to solve crimes that occur so that the public is satisfied that justice has been done and the guilty are convicted, and finally to ensure that those who have committed crimes do not reoffend (Atmasasmita, 1996: 14). The components of the justice system in Indonesia are the police, prosecutors, lawyers, courts and correctional institutions.

### Political and criminal law

According to Sudarto, legal policy is an effort to realise good regulations in accordance with the circumstances and situation at that time (Sudarto, 1996: 27). The policy of law is the policy of the state through authorised bodies to establish the desired regulations that are expected to be used to express what is contained in society and to achieve what is desired (Sudarto, 1983: 20). In the context of criminal law, the policy of law is the will of the state to accommodate all the aspirations of the community and the value system derived from the Indonesian nation, namely Pancasila. Criminal justice policy is usually referred to as criminal justice policy. The term policy is derived from 'policy' (English) or 'politiek' (Dutch). In foreign literature, the term criminal law policy is often known by various terms, such as 'penal policy', 'criminal law policy' or 'strafrechtpolitiek' (Arief, 1996: 27). This policy is related to a policy, so the policy of law here is related to the policy of criminal law that can be properly formulated and provide guidelines for the implementation of criminal law. Legislative policy is a very crucial stage for the next stages because when criminal legislation is made, the objectives to be achieved have been determined. In this context, the scope of legislative policy emphasises the following efforts (Renggong, 1963: 7-8):

1. Replacement of colonial and national laws that no longer reflect the evolution of society.
2. To improve existing laws and regulations that do not meet the demands and needs of the community.
3. To make new laws and regulations that meet the demands and legal needs of the community.

Criminal law is part of the general law of a country, which lays down the foundations and rules for criminal law, according to Prof. Moeljatno:

- a. Determination of the acts which may not be performed, which are prohibited, accompanied by threats or sanctions in the form of certain punishments for those who violate the prohibition (criminal law, substantive criminal law).
- b. Determining when and in what cases those who have violated the prohibitions may be subjected to the threatened punishment or sentenced (criminal liability, substantive criminal law).
- c. To determine the manner in which the penalty may be imposed when a person is suspected of having violated the prohibition (criminal procedure).

(Rusli, 2020) Criminal law is divided into 2 types, namely;

#### a. Material criminal law

Substantive criminal law includes rules that define and formulate punishable acts, rules that contain the conditions for the imposition of punishment, and rules concerning punishment. The substantive criminal law is regulated in the Criminal Code.

#### b. Formal criminal law

Formal criminal law contains rules on how the abstract criminal law is to be enforced in practice. This type of criminal law is usually called criminal procedure law.

With regard to the elements of a criminal offence, Lamintang formulated the main points of a criminal offence, namely (Laminatang, 1997: 182):

- a. "wederrechtelijk", which means unlawful.
- b. "aan schuld te wijten", which means that it was committed intentionally or unintentionally.
- c. "strafbaar", which means punishable.

According to Article 10 of the old Criminal Code, criminal sanctions consisted of

- a. Basic penalty (death penalty, imprisonment, deprivation of liberty, fine, imprisonment)
- b. Additional penalty (deprivation of certain rights, confiscation of certain property, notification of the judge's decision).

Article 64 of Law No. 1 Year 2023 on the Criminal Code (new Criminal Code), criminal sanctions consist of

- a. Basic punishment (imprisonment, detention, supervision, fine, community service)
- b. Additional punishment (deprivation of certain rights, deprivation of certain goods and/or bills, notification of the judge's decision, payment of compensation, deprivation of certain licences, fulfilment of local customary obligations). Additional punishment may be imposed if the imposition of the main punishment alone is not sufficient to achieve the purpose of the

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punishment and may be imposed in 1 or more types.

c. Special punishment for certain offences specified by law. For example, the death penalty, which is always an alternative punishment.

### The death penalty

In the KBBI, the death penalty is defined as a punishment carried out by killing, shooting and hanging the guilty person. Capital punishment is a sanction imposed by the state through a choice of lethal actions on criminals who have been found guilty by a court decision that has the force of *res judicata*. In essence, the death penalty is a form of sanction imposed on violators of the law, especially serious violators. According to Prof. Roeslan Saleh, the death penalty is a radical attempt to get rid of people who are beyond repair and to eliminate the state's obligation to keep them in prisons, which cost a lot of money. According to Roeslan Saleh, the death penalty is also an attempt to eliminate the fears of the community if these people escape from prison and commit crimes in society again (Dewi, 2020: 107-108).

In the Penal Code, the death penalty is the most severe basic punishment and is reserved for certain offenders. The death penalty is exceptional in nature, which means that the death penalty is imposed by the judge only when it is really necessary (Dewi, 2020: 107-108). The death penalty is interpreted as an instrument to protect society and the state, and is carried out with preventive and repressive efforts. an instrument to protect society and the state, both in preventive and repressive forms. The purpose of the death penalty itself is to make the public aware that the government does not want disturbances of the peace, which are highly feared by the public.

Indonesia is a country that recognises human rights. This is reflected in Law No. 39 of 1999 on Human Rights and Articles 28A-28J of the 1945 Constitution. The recognition of human rights in Indonesia does not lead to the abolition of the death penalty. The Criminal Code (KUHP) explicitly provides for the death penalty as the principal punishment. Article 10(a) of the KUHP states that the main penalties are death, imprisonment, detention, fines and closure. Convicts who have been sentenced to death by the District Court can still appeal, namely;

#### 1) Appeals

Article 67 of the Code of Criminal Procedure: "The accused or the public prosecutor has the right to request an appeal against the decision of the court of first instance, except in the case of acquittal, release from all charges relating to the incorrect application of the law and the decision of the court in a speedy trial". The deadline for filing an appeal is 7 (seven) days after the verdict is read out. If the time limit for filing an appeal has expired, the appeal will be rejected by the Court of Appeal because the decision of the district court is considered to be final.

#### 2) Court of cassation

According to Article 244 of KUHP, cassation is reviewed by the Supreme Court: "In a criminal case, where a judgement has been handed down at the final level by a court other than the Supreme Court, the defendant or the public prosecutor may submit a request for cassation review to the Supreme Court, except in the case of acquittal". The time limit for filing an appeal is 14 (fourteen) days from the date of notification to the defendant.

#### 3) Judicial review

Judicial review is an appeal by the convicted person or his heirs to the Supreme Court against a court decision that has the force of *res judicata*, with the exception of an acquittal or release from all legal charges. Indonesia also regulates how death row inmates can obtain pardons for their actions. The types of pardon are: Presidential Clemency: According to Article 1 of Law No. 20/2002, clemency is a pardon granted by the President to a convicted person in the form of a modification, mitigation, reduction or abolition of the execution of the sentence; Amnesty: By granting a pardon, the President is in effect declaring that the unlawfulness of a person's actions is negated because the President is exercising his right to forgive the unlawful actions of a person or group of people; Abolish: Abolition is the right to abolish all the consequences of a court decision or to abolish criminal charges against a convicted person, as well as to terminate if the decision has been executed. It is a prerogative of the President, granted only after the advice of the Supreme Court.

An example of an offence for which the death penalty may be imposed is premeditated murder. This is in accordance with the provisions of Article 340 of the Criminal Code, which states that anyone who intentionally and with premeditation takes the life of another person shall be punished by death or life imprisonment or a maximum of twenty years' imprisonment, as he is guilty of premeditated murder. The death penalty imposed by a court of general jurisdiction or a military court shall be carried out by firing squad. Pursuant to Article 10(1) of Presidential Decree No. 2 of 1964 on the Procedure for the Execution of the Death Penalty Imposed by Courts within the General and Military Courts, the execution of the death penalty is carried out by a firing squad of the mobile brigade ("Brimob") formed by the regional police chief in the area where the court imposing the death penalty is located. The firing squad is composed of a sergeant and 12 soldiers under the command of an officer. Article 4 of Perkapolri

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Number 12 Year 2010 regulates the procedure of carrying out the death penalty, which consists of preparation, organisation, execution and termination.

### **Analysing the Death Penalty in the Criminal Code 2023**

The content of the death penalty has been updated after the old Criminal Code was updated to the Criminal Code of 2023. The legal reform of the death penalty is included in the article on types of punishment. Death penalty is no longer included in the main punishment, but death penalty is categorised as a special punishment. The death penalty as a special punishment is regulated in articles 98-102 of the Criminal Code of 2023. Renewal is also carried out in related articles, namely the death penalty is imposed on convicts with a probation period of 10 years. Article 100 of the Criminal Code states that judges shall impose the death penalty with a suspended sentence of 10 years, taking into account: remorse and hope to improve themselves and their role in criminal acts. If within 10 years the convicted person shows remorse and good behaviour, the death penalty is reduced to life imprisonment. Conversely, during the probationary period, the person does not change and cannot be corrected, so the death penalty is still carried out by order of the Attorney General. Moreover, the death penalty is carried out only after the convicted person's petition for pardon has been rejected by the President (cf. Art. 99, paragraph 1). Article 99, paragraph 1).

Article 98 states that the death penalty shall be imposed as a last resort to prevent the acts committed by the convicted person. The death penalty is also imposed as a form of protection of the community. The death penalty is not carried out in public (Article 9(2)). The death penalty may also be postponed in the case of pregnant women, nursing mothers and mentally ill persons. This is stated in Article 99(4): "The execution of a pregnant woman, a woman who is breastfeeding her baby or a mentally ill person shall be postponed until the woman gives birth, the woman stops breastfeeding her baby or the mentally ill person recovers. This provision is in line with the consideration of the Constitutional Court Decision No 2-3/PUU-V/2007, which states that the formulation, application and implementation of the death penalty in the criminal justice system in Indonesia should be imposed with a suspended sentence of ten years, which can be changed to life imprisonment or 20 years if the convicted person shows good behaviour.

### **The death penalty in a global context**

Globalization is the spread of the influence of culture and science to all corners of the world. Globalization can also be interpreted as the creation of relationships between people around the world in various fields of life. The term globalization comes from the word global which means world and lization which means process. According to Selo Soemardjan, globalization is a process of forming a system of organization and communication between communities around the world, the aim is to follow certain systems and rules that are the same (CNN, Indonesia, 2023). the causes of globalization include technological developments, the existence of the internet, international cooperation, ease of transportation, and open economic principles among countries in the world. Satjipto Rahardjo explains that developments in the world have an impact on developments in the national laws of nations, which can be seen from this:

- 1.How the field of law is becoming increasingly internationalised
- 2.How transnational materials for legal practice are produced
- 3.How the power of the logics at work in the economic field, the state and the international order also affect the legal field, so that the logic of the legal field forms a microcosm of a larger social phenomenon. The development of the national legal system must be directed towards national laws that serve the national interest. Legal development must be able to serve as a basis for society to create, among other things, legal security, legal order and legal protection (Setiadi, 2002: 2).

The development of the national legal system must be directed towards national laws that serve the national interest. The development of the legal system must be able to serve as a basis for the security of society, including the creation of legal certainty, legal order and legal protection. As a violation of the right to life, the death penalty still exists in Indonesia's criminal justice system. From the perspective of the purpose of punishment, the death penalty is essentially not the main means to regulate society. The imposition of punishment as suffering is only the last remedy (*ultimum remedium*), which can only be applied when other efforts such as prevention have failed (Hamzah, 1984: 12). A total of 103 countries have abolished the death penalty for all forms of crime, 7 countries have abolished the death penalty for common criminals and 50 countries have a moratorium on the death penalty. However, there are still 37 countries that retain the death penalty and even actively carry out executions, including the Indonesian government.

Given that there are many countries that have abolished the death penalty on human rights grounds, the sanction does not have a deterrent effect and there is a feeling that there is no connection between the death penalty and the legal objectives to be achieved. globalisation makes all information about anything in this world easily generated and easily accessible. This is a consideration for policy makers drafting the new penal code that in other countries have come together to abolish the death



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penalty, and looking back at history, it is felt that the death penalty still does not have a deterrent effect and is not in line with the objectives of Indonesian law, which is to encourage offenders to behave better after serving their sentence.

### Analysis of the political renewal of the criminal law in the global age

The political ideals of the death penalty law are defined as the direction of the legal policy on the death penalty, which includes the state policy on how the death penalty law has been made and how the death penalty law should be made (Mahfud MD, 2001:9). The issue of death penalty becomes an important issue to be discussed and always becomes an actual issue because it is often associated with the issue of human rights which is a basic right as a human being and no one should be able to take it away. For those who oppose the death penalty, the death penalty is a form of violation of the right to life (Hanafi, 1990: 300-301). Friedman provides three legal components that help the author to analyse the law, especially the Penal Code 2023 regarding the death penalty. The three components are: legal substance, legal structure and legal culture.

First, the substance of the law. The substance of the law is the rules, norms and patterns of behaviour of the people in the system. The substance of the law includes all legal rules, both written (law books) and unwritten (living law), as well as court decisions adopted by the community and the government. In the case of the death penalty, the legal substance is the Criminal Code. De facto, the legal substance of the Criminal Code has been amended and reformed by the adopted Criminal Code 2023. (Hanafi, 1990: 13) The reasons for criminal law reform are as follows:

- a. The Criminal Code is no longer considered to be in line with the dynamics of the development of Indonesian national criminal law;
- b. The development of criminal law outside the KUHP, both in the form of special criminal law and administrative criminal law, has shifted the existence of the criminal law system in the KUHP. This situation has resulted in the formation of more than one criminal law system applicable in the national criminal law system;
- c. In some cases, there has also been a duplication of criminal law norms between criminal law norms in the KUHP and criminal law norms in laws outside the KUHP. Therefore, it can be said that the KUHP (WvS) that has been taught so far is not a criminal law that originates from, is rooted in or is derived from the views/concepts of the basic values (grundnorm) and realities (socio-political, socio-economic and socio-cultural) that live in the Indonesian society itself.

According to Friedman's legal system theory, the reform of legal substance includes substantive criminal law, formal criminal law and criminal enforcement law. The Criminal Code of 2023 analysed above has been updated and has sufficiently fulfilled the sense of public justice and legal security in society. One of the interesting results of the amendments and changes to the Criminal Code of 2023 is the death penalty. In essence, the provisions of the Criminal Code on the death penalty respond to the global challenges and expectations of the community. Indeed, the world condemns countries that regulate and recognise the death penalty in positive law. According to Edward, the application of the death penalty in Indonesia follows the principle of de facto abolition, which means that it exists de iure but has never been applied in practice. The death penalty, which still exists in positive law, has also seen the reality of Indonesia, which is a plural and diverse nation. The Indonesian nation consists of different tribes, nations, races, cultures and religions. Morally, the death penalty has insulted human civilisation, so it is not justified. This is in contrast to the view of human rights, where the death penalty is an extraordinary abomination because it deprives a person of the right to life, which by nature is an inalienable right.

So is the death penalty in the Indonesian context contrary to the Constitution and Pancasila, which is the source of all sources of law? The death penalty is indeed very contrary to human rights, but it would be too naive to say that the death penalty is contrary to Pancasila. The author underpins this analytical consideration with the argument that, from a legal point of view, the law governing the death penalty is not against the death penalty. This is because the death penalty is not imposed arbitrarily by the judge. The law that imposes it must go through existing legal procedures. The law has clearly regulated what kind of crimes are subject to the death penalty and through careful and thorough procedures in accordance with existing regulations. In the interpretation of Pancasila, it cannot be done partially, but holistically. Each commandment is interrelated and interpreted in relation to the other commandments. Just and civilised humanity must also be interpreted in relation to the other commandments. There seems to be a tendency among those who are for and against (the death penalty) to use Pancasila as a "justification". However, the author maintains that the death penalty is no longer relevant to modern law. In the Indonesian context, the death penalty "does not conflict" (the author is careful to say this) with the Constitution. This is because the right to life (Article 28A jo Article 28 I of the 1945 Constitution and Article 9 paragraph 1 jo Article 4 of the Human Rights Law) and the right to be free from loss of life (Article 33 of the Human Rights Law) cannot be diametrically opposed (completely contradictory) to the "death penalty". If it is diametrically opposed, then even imprisonment can be said to be contrary to the 1945 Constitution. The legal provisions state that what is not allowed is "arbitrary deprivation of life". In addition, the reality of Indonesia's plural society (religion, race, culture, ethnicity, etc.) is also a deep consideration in reforming our criminal law regarding the death

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penalty. However, we should be grateful for the reform of the new Indonesian Penal Code, which implicitly leads to the "abolition of the death penalty", which is regulated in the Penal Code, but in practice can change depending on the changes raised by the death convict.

The author sees the reform of the 2023 Criminal Code on the death penalty as an alternative attempt to bridge the confrontation on the death penalty. This is an alternative path that is indeed based on observation, research, reasoning, argumentation and reflective legal reasoning based on existing disciplinary studies in order to achieve justice, utility and legal certainty. The renewal of the death penalty worldwide can indeed be explained with existing empirical facts by presenting the applicable law in society. The applicable law in Indonesia is a combination of civil law, customary law and Islamic law. De facto, the death penalty exists in Islamic law itself. Therefore, the content of the death penalty law in Indonesia in the Criminal Code 2023 is clear and binding, while providing legal certainty to the community. It does not exclude the possibility that the death penalty may be changed to life imprisonment in the future based on changes in the existing society with the continuous flow of globalisation.

Second, legal structure. Friedman explains that the structure of a legal system consists of elements such as: the number and size of the courts; their jurisdiction (i.e. what cases they hear, and how and why); and the means of appeal from one court to another. Structure also means how the legislature is organised, how many members it has. What a president can or cannot do (legally), what procedures a police force follows, and so on. Structure is a kind of cross-section of the legal system? A kind of freeze-frame that freezes the action. The reform of the legal structure includes the institutional, administrative and management systems of law enforcement agencies (investigators, prosecutors, courts, law enforcement officers), including coordination between these law enforcement agencies at the national, regional and international levels. In simple terms, the legal structure refers to the institutional arrangement and performance and its apparatus in implementing and enforcing the law. It includes patterns of how the law is implemented and enforced in accordance with its formal rules (of legal performance).

The Criminal Code 2023 regarding the death penalty has been amended and updated to show that the death penalty is imposed on convicts through a probation period of 10 years. If within 10 years it is found and judged that the death row inmate has shown remorse, willingness to reform and can change for the better, then the death sentence can be commuted to life imprisonment or 20 years. This raises questions and pessimistic attitudes from the wider community about the strength of the rules and the integrity of the apparatus/law enforcement in carrying out its duties. The fears and anxieties of the community are the reality of the law enforcers who are easily influenced and bought with money by the capital (rich). This leads to the result that the sentence of probation can be changed not because of changes in the convicted person, but because of the intervention of power and can also be bought with money. The legal facts show that it is not the content of the law that is broken, but the law enforcers themselves. In order to respond to the anxiety, fear and pessimism of this community, there is a need for a new code of criminal procedure to regulate the behaviour and mechanisms of law enforcement officials in the performance of their duties.

Law enforcement officers should be trained and disciplined with strict and complete disciplinary mechanisms to become individuals who truly uphold integrity, professionalism and good morals. Law enforcement officers assigned to correctional institutions must be selectively selected and then rigorously trained so that they can truly perform their duties properly and fairly. In addition, it provides a disciplinary mechanism for each individual through a harsh and complete institution, namely the prison. How to discipline individuals so that they are transformed is through disciplinary instruments: hierarchical supervision, normalisation and examination. Therefore, it is necessary to reform the legal regulations in order to regulate the law enforcers who are in charge of disciplining the convicts for the better and also to show the existing indicators of discipline so that it can be determined and assessed whether the convict is really changing or pretending.

Third, Legal culture: Legal culture reform emphasises changes in culture, morality and behaviour (law-abiding behaviour and awareness of obeying the law), legal education and legal scholarship that accompany the implementation of the law. This legal culture is also referred to as a combination of written and unwritten public law. Legal culture is also used here to explain why the legal system does not work as it should or deviates from its original pattern from time to time. The legal culture of a society can also be treated in the same way as legal consciousness, but it is different from legal sentiments. Legal feelings are a spontaneous product of the community's judgement, which is certainly subjective, while legal awareness is more the result of the thinking, reasoning and arguments of scholars, especially legal experts (Rusdiana, 2017: 60).

In the context of the legal system, what is meant by the legal culture of a society is actually the legal consciousness of the legal subjects of the society as a whole. Renewal in this case is a change of attitude and awareness of the community's behaviour in implementing existing laws. It is necessary to socialise ordinary people about the nature and essence of the law, as well as the mechanism by which the law is implemented. Here, the proportionality and transparency in the formation, enforcement process and application of the law can be known to ordinary people. Finally, the public can be made aware of the need to obey the law and can be stimulated to think critically about existing legal phenomena.

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## IV. CONCLUSION

Criminal law reform in Indonesia has been carried out, namely the birth of the 2023 Criminal Code. The birth of the 2023 Criminal Code is an effort to provide justice, benefit and especially legal certainty. One of the reforms is the death penalty. In essence, the Criminal Code on the death penalty is clear and committed to providing legal certainty and justice to the community. This new penal code truly characterises the culture of Indonesia itself. The substance of the law in Indonesia is largely regulated in written law in the form of existing laws and regulations. The problem, however, is the legal structure, that is, the way of thinking, living and behaving of the law enforcers. Law enforcers should be trained and disciplined with a strict and complete disciplinary mechanism so that they become individuals who truly uphold integrity, professionalism and good morals.

Law enforcement officers assigned to correctional institutions must be selectively selected and then rigorously trained so that they can truly perform their duties properly and fairly. New regulations are needed to discipline and regulate law enforcement officials in the performance of their duties. Legal culture, it is necessary to socialise ordinary people about the nature and essence of the law as well as the legal mechanisms that are carried out in order to realise interactive justice and responsiveness of law enforcers with the community.

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