

Death Penalty Criticism and Its Relevance in Indonesia's Modern Criminal Justice System: A Normative Analysis of Law No. 1 of 2023

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Criminal law reform in Indonesia continuously seeks to balance retributive justice with the protection of human rights, particularly regarding the existence of the death penalty. This study aims to analyze the fundamental concept of capital punishment, examine scholarly criticisms of its implementation, and evaluate its relevance within the modern legal system. Employing a normative legal research method with a literature-based approach, this study analyzes primary and secondary legal materials related to policies governing the formulation and application of the death penalty. The findings reveal that the principal criticisms of capital punishment concern the lack of conclusive empirical evidence supporting its deterrent effect and the risk of irreversible judicial errors. From the perspective of modern law, a significant paradigm shift has occurred, whereby the death penalty is no longer positioned as a principal punishment but rather as a special and alternative sanction, as stipulated in Law Number 1 of 2023 concerning the Criminal Code. This transformation reflects an effort to reconcile criminal justice objectives with contemporary human rights standards. The study concludes that the death penalty remains relevant in the modern legal era only when applied as an *ultimum remedium* (last resort) for extraordinary crimes, accompanied by careful consideration of human rights principles, proportionality, and substantive justice.

Keywords: Modern Law, Criminal Law, Death Penalty, Law No. 1 of 2023.

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1. Introduction

Law serves as a fundamental guideline that regulates human behavior and plays a crucial role in achieving social order and public welfare. Consequently, legal science recognizes the maxim *Ibi Societas Ibi Ius* (where there is society, there is law). This maxim emerges from the understanding that law exists because of society and the interactions among individuals within it. Human interaction in society is an essential aspect of human nature, as individuals cannot live in isolation. Humans are inherently social beings (*zoon politicon*) who depend on social relationships for their existence and development [1].

Discussions of law can never be separated from the concept of justice. It has become a *conditio sine qua non* that law must embody and guarantee justice. According to Yusuf A.W., in his work entitled *Law and Justice*, law cannot be detached from the ultimate objective of social and state life, namely justice (*rechtsvaardigheid* or *justice*) [2]. Through law, individuals and communities are enabled to live in a fair and orderly manner. The concept of humanistic justice implies that justice should be humane, consistent with human nature, and applicable to individuals as social beings who continuously interact with others and with their environment in a dynamic social setting [3]. The ultimate purpose of justice is to humanize human

beings. However, contemporary society has witnessed a process of dehumanization in both justice and legal practice, influenced by the growing dominance of hedonism, materialism, and utilitarianism [4].

Legal issues, particularly those concerning crime and punishment, constitute the object of study within criminal law known as *penitentiary law* (*penitensier recht*). Criminal law reform aimed at improving the sentencing system continues to evolve, especially regarding the application of capital punishment. In Indonesia, the death penalty remains the highest criminal sanction that may be imposed upon a convicted offender. In pursuit of a more humane criminal justice system, several countries have abolished capital punishment from their criminal legislation. Nevertheless, from the perspective of countries that continue to retain the death penalty within their positive legal systems, including Indonesia, such retention is often justified based on constitutional and philosophical values, particularly those embodied in Pancasila [5].

The authors' interest in examining the death penalty and its relevance to modern law arises from the fact that capital punishment remains one of the most controversial issues in contemporary legal discourse. This controversy stems from the complexity of its implementation, encompassing debates regarding its fundamental philosophical basis, scholarly criticisms of its application, and its compatibility with the principles of modern legal systems. Accordingly, this study seeks to explore the basic concept of capital punishment, examine expert criticisms of its implementation, and assess its relevance within the framework of modern law.

This study employs a normative legal research method (*normative legal research*), focusing on legal synchronization and the identification of legal principles related to capital punishment [6]. The research integrates two primary approaches: a statutory approach (*statute approach*) to examine relevant regulations, particularly the former Criminal Code and Law Number 1 of 2023 concerning the Criminal Code, and a conceptual approach (*conceptual approach*) to analyze legal doctrines and scholarly perspectives advanced by thinkers such as Lombroso, Aristotle, and Satjipto Rahardjo regarding the nature of justice and the effectiveness of punishment [7].

The arguments developed in this study are based on secondary data classified into three categories of legal materials. Primary legal materials consist of statutory regulations, including the 1945 Constitution of the Republic of Indonesia and the Criminal Code. Secondary legal materials are derived from library research, encompassing textbooks, previous research findings, and relevant scientific journals [8]. In addition, tertiary legal materials, such as legal dictionaries and encyclopedias, are utilized to clarify legal terminology and concepts employed throughout the analysis.

The collection of legal materials was conducted systematically through document analysis and literature review. The collected materials were subsequently analyzed using a descriptive qualitative method supported by deductive reasoning. The analytical process involved comparing prevailing positive legal norms with contemporary legal theories to formulate a prescriptive conclusion regarding the future relevance of capital punishment within Indonesia's legal system [9].

2. Literature Review and Problem Statement

Concept of Capital Punishment

Capital punishment represents the most severe criminal sanction within criminal law and involves the deprivation of an offender's life as a consequence of committing certain serious crimes. The primary objective of criminal punishment is to maintain social order, provide legal protection, and uphold justice within society [10]. From the perspective of classical legal philosophy, justice is understood as giving each individual what is rightfully due to them. Aristotle viewed justice as the principle of allocating rights

proportionally, while Ulpian defined justice as a constant and perpetual will to render to every person his or her due [10].

In Indonesia, the legal basis for capital punishment has historically been derived from the Criminal Code inherited from the Dutch colonial legal system and several special criminal statutes. Although many countries have abolished the death penalty, Indonesia continues to recognize it as a legal sanction for certain extraordinary crimes, reflecting the state's commitment to protecting society and maintaining public order [5].

Scholarly Debate on Capital Punishment

The existence of capital punishment has generated extensive debate among legal scholars, policymakers, and human rights advocates. Supporters of the death penalty generally argue that it serves as a proportionate punishment for grave crimes and functions as a deterrent against future criminal behavior [12]. Lombroso and Garofalo, for instance, considered capital punishment a necessary mechanism for eliminating offenders who are deemed beyond rehabilitation and whose continued existence poses a threat to society [15].

Conversely, opponents contend that capital punishment violates the fundamental right to life and contradicts contemporary human rights principles [13]. Critics further argue that there is insufficient empirical evidence demonstrating that the death penalty is more effective than life imprisonment in reducing serious crimes. Moreover, judicial errors in capital cases create irreversible consequences because wrongful executions cannot be corrected once carried out [16].

From a sociological perspective, the implementation of capital punishment is also influenced by socioeconomic factors. Research has shown that individuals from disadvantaged backgrounds often face a greater risk of receiving death sentences due to unequal access to legal representation and judicial resources [11]. This condition raises concerns regarding substantive justice and equality before the law.

Modern Legal Theory and Human Rights

The development of modern legal theory has shifted legal paradigms from rigid legal positivism toward a more humanistic and progressive understanding of law. According to Satjipto Rahardjo, law should function as an instrument that serves human beings rather than as a rigid mechanism detached from social realities and moral considerations [7]. Consequently, modern legal systems increasingly emphasize human dignity, rehabilitation, proportionality, and restorative justice.

The right to life is recognized as one of the most fundamental human rights. International human rights instruments, including the Universal Declaration of Human Rights, affirm that every individual possesses an inherent right to life, liberty, and security [19]. Therefore, the legitimacy of capital punishment continues to be questioned within contemporary legal discourse, particularly regarding its compatibility with international human rights standards.

Criminal Law Reform and the New Criminal Code

A significant development in Indonesia's criminal law reform is reflected in Law Number 1 of 2023 concerning the Criminal Code. This legislation introduces a new approach to capital punishment by categorizing it as a special and alternative punishment rather than a principal punishment. This reform seeks to balance the objectives of criminal justice with the protection of human rights and the principles of modern law.

The repositioning of capital punishment demonstrates an effort to transform criminal law from a purely retributive system into one that incorporates rehabilitation and the possibility of offender reform. Such a

development aligns with progressive legal thought, which advocates that legal institutions should prioritize substantive justice and humanity while maintaining legal certainty and social protection [17], [18].

Problem Statement

Despite the ongoing reform of Indonesia's criminal justice system, the death penalty remains one of the most contested issues in legal scholarship and practice. The controversy stems from conflicting perspectives regarding its effectiveness as a deterrent, its compatibility with human rights principles, and its role within a modern legal framework. Furthermore, the enactment of Law Number 1 of 2023 has introduced a new paradigm concerning the legal status and implementation of capital punishment.

Accordingly, this study seeks to address the following research questions:

1. What is the fundamental concept of capital punishment within the Indonesian criminal justice system?
2. What are the principal scholarly criticisms regarding the implementation of capital punishment?
3. How relevant is capital punishment within the framework of modern law following the enactment of Law Number 1 of 2023?

By addressing these questions, the study aims to contribute to the discourse on criminal law reform and provide a comprehensive assessment of the future position of capital punishment in Indonesia.

3. Method

This study employed a normative legal research method, which focuses on examining legal norms, legal principles, and legal doctrines governing the regulation and implementation of capital punishment in Indonesia. Normative legal research was selected because the study aims to analyze the legal framework, scholarly perspectives, and policy developments concerning the death penalty within the context of modern law rather than investigating empirical social phenomena [6].

The research utilized two principal approaches. First, the statutory approach (*statute approach*) was applied to examine relevant legal instruments governing capital punishment, including the 1945 Constitution of the Republic of Indonesia, the Indonesian Criminal Code, and Law Number 1 of 2023 concerning the Criminal Code. This approach enabled the researchers to identify legal developments and policy shifts regarding the position of capital punishment within Indonesia's criminal justice system [6]. Second, the conceptual approach (*conceptual approach*) was employed to analyze legal doctrines, theories, and scholarly opinions related to justice, punishment, human rights, and modern legal thought. This approach incorporated the perspectives of legal scholars and philosophers, including Aristotle, Lombroso, Garofalo, and Satjipto Rahardjo, whose ideas have significantly influenced contemporary discussions on criminal punishment and legal reform [7].

The study relied exclusively on secondary data obtained through comprehensive library research. The legal materials examined were classified into three categories. Primary legal materials consisted of statutory regulations and official legal documents, including the 1945 Constitution, Law Number 1 of 2023 concerning the Criminal Code, Constitutional Court Decision Number 2/PUU-V/2007, and other relevant legislation governing capital punishment. Secondary legal materials included scholarly books, peer-reviewed journal articles, previous research findings, and legal commentaries discussing capital punishment, criminal law reform, and human rights issues [8]. Tertiary legal materials, such as legal dictionaries, encyclopedias, and other reference sources, were used to clarify legal concepts and terminology.

Data collection was conducted through systematic document analysis and literature review. Relevant legal sources were identified, collected, classified, and evaluated according to their relevance to the research objectives. Subsequently, the collected legal materials were analyzed using a descriptive qualitative

method. The analysis involved interpreting legal norms, comparing existing legal provisions with contemporary legal theories, and examining the relationship between capital punishment and modern legal principles [9].

To ensure analytical rigor, the study adopted a deductive reasoning approach. General legal principles concerning justice, human rights, criminal punishment, and modern law were examined and subsequently applied to specific legal issues related to the death penalty in Indonesia. Through this process, the study generated prescriptive conclusions regarding the relevance of capital punishment within the framework of modern law following the enactment of Law Number 1 of 2023. The findings are expected to contribute to academic discourse on criminal law reform and provide insights for future legal policy development concerning capital punishment in Indonesia.

4. Results and Discussion

The Fundamental Concept of Capital Punishment and Scholarly Criticism

The imposition of capital punishment, commonly referred to as the death penalty, constitutes an integral part of criminal law. In essence, criminal law functions to provide protection for society and to impose sanctions on individuals who commit acts contrary to legal norms. Therefore, the existence of criminal law is closely related to the effort to uphold justice within society [10]. Justice, however, is not a simple concept. It is abstract, multidimensional, and has been interpreted differently by various schools of legal and philosophical thought. Classical thinkers, beginning with Greek philosophers and continuing through medieval and modern European legal scholars, have attempted to explain justice according to their respective theoretical frameworks. Aristotle, as cited in legal philosophy discourse, understood justice as giving each person what is rightfully due to them, while Ulpian defined justice as a constant and continuous will to give every person what properly belongs to them [10].

In the context of capital punishment, the concept of justice becomes more complex because the sanction directly involves the deprivation of human life. On the one hand, the death penalty is viewed by its supporters as a form of proportional punishment for extremely serious crimes. On the other hand, opponents consider it a sanction that contradicts humanitarian values and fundamental human rights. This tension demonstrates that the death penalty is not merely a technical legal issue but also a philosophical, moral, sociological, and constitutional issue.

The basic concept of capital punishment in Indonesia has long been recognized in the Criminal Code (*Kitab Undang-Undang Hukum Pidana* – KUHP) and in several laws outside the Criminal Code. The provisions on capital punishment contained in the Indonesian Criminal Code were historically derived from the *Wetboek van Strafrecht voor Nederlandsch-Indie*, which was introduced during the Dutch colonial administration in the Dutch East Indies in 1918. Interestingly, although the Netherlands abolished the death penalty in 1870, the sanction continued to be maintained in the colonial criminal law applied in Indonesia. After Indonesian independence, the existence of capital punishment was preserved through Article II of the Transitional Provisions of the 1945 Constitution, which maintained the validity of existing laws as long as they did not conflict with the Constitution.

This historical background shows that the death penalty in Indonesia is not a purely indigenous legal product, but rather part of a colonial legal inheritance that has continued to exist within the national legal system. Nevertheless, its continued existence has been justified by several arguments, including the need to protect society from extraordinary crimes, uphold public order, and maintain national stability. In the new Criminal Code, namely Law Number 1 of 2023, capital punishment is still recognized, but its legal position has undergone a significant transformation. It is no longer placed as an ordinary principal punishment, but

rather as a special and alternative punishment. This change indicates a shift in Indonesian criminal law policy toward a more cautious and humanistic approach.

From a sociological perspective, capital punishment has a particular social meaning because the strength and effectiveness of a sanction depend heavily on how society perceives that sanction. A criminal sanction is not merely a legal instrument imposed by the state, but also a social symbol that reflects the relationship between crime, morality, authority, and public order. The purpose of imposing criminal sanctions is to punish unlawful conduct and to maintain compliance with social norms. However, the imposition of the death penalty is not always neutral. Socioeconomic status, access to legal assistance, and the quality of legal representation may influence whether a defendant receives a death sentence.

Satjipto Rahardjo highlighted that in certain contexts, particularly in studies from the United States, capital punishment has had a disproportionate impact on poor and minority communities. Defendants from disadvantaged backgrounds are more vulnerable to receiving death sentences, especially when they rely on court-appointed lawyers rather than private legal counsel [11]. This condition raises serious questions about the fairness of the criminal justice system. If the death penalty is imposed within an unequal legal structure, then the punishment may not fully represent substantive justice. Instead, it may reproduce social inequality within the judicial process.

In Indonesia, the death penalty remains a highly debated issue. The basic idea behind its imposition is often connected to the effort to fulfill society's sense of justice. Several laws, including laws concerning terrorism and narcotics, recognize capital punishment as a sanction for crimes considered to have extraordinary consequences. Supporters argue that the death penalty is necessary because certain crimes cause severe harm, threaten public safety, and generate widespread social anxiety. From this perspective, capital punishment is seen as a sanction that is proportionate to the gravity of the offense and capable of creating a deterrent effect [12].

However, a contrasting view rejects the existence of capital punishment on the basis that it is inhumane and inconsistent with the principle of just and civilized humanity. This perspective considers the death penalty to be incompatible with the protection of human rights, particularly the right to life. Since the essence of capital punishment is the taking of human life by the state, its legitimacy is continuously questioned in both national and international legal discourse [13]. The main objection is that the state should not be granted unlimited authority to deprive a person of life, especially when judicial systems remain vulnerable to error, bias, and unequal access to justice.

The debate between supporters and opponents of the death penalty reflects different understandings of justice. Those who support the death penalty generally emphasize retributive justice, social protection, and deterrence. They believe that certain offenders deserve the most severe punishment because of the seriousness of their crimes. In contrast, those who oppose the death penalty emphasize human dignity, the sanctity of life, rehabilitation, and the possibility of judicial error. They argue that punishment should not eliminate the possibility of moral transformation or legal correction.

Capital punishment is still maintained in Indonesia on the grounds of protecting society, preventing serious crimes, upholding justice, and preserving national unity. Meanwhile, opponents of the death penalty often base their arguments on theological and humanitarian grounds, asserting that only God has the authority to take human life and that the death penalty contradicts the principle of humanity [13]. In positive criminal law, capital punishment has traditionally been categorized as the most severe form of principal punishment. However, from a human rights perspective, its most problematic aspect lies in the fact that it directly eliminates a person's life [14].

The controversy surrounding capital punishment has also been shaped by criminological thought. Lombroso and Garofalo, who are often associated with classical criminological perspectives, argued that the death penalty could be justified as a necessary measure to eliminate individuals who are considered incapable of rehabilitation. According to this view, certain offenders are regarded as permanently dangerous and beyond correction. Therefore, capital punishment is seen as a radical measure to protect society from individuals who cannot be reformed [15].

This argument also includes pragmatic considerations. By executing offenders deemed irredeemable, the state no longer bears the financial burden of maintaining them in prison. In addition, society is freed from the risk that such offenders may escape from prison and commit further crimes. From this standpoint, capital punishment is viewed as an instrument of social defense. However, such reasoning has been criticized for reducing human beings to objects of social utility and ignoring the possibility of rehabilitation, repentance, and legal error.

The difference in views regarding capital punishment was clearly visible during the judicial review of the Narcotics Law before the Constitutional Court in 2007. In that case, various experts, including practitioners and academics, presented arguments both supporting and opposing the death penalty. Those who opposed capital punishment argued that it was not effective in achieving its intended objective, namely deterrence. They pointed out that despite the imposition of death sentences on narcotics offenders, drug-related crimes continued to occur and even increased in certain contexts. This raised doubts about whether the death penalty truly has a stronger deterrent effect than other severe punishments such as life imprisonment [16]. On the other hand, supporters argued that the threat of capital punishment must be maintained as part of law enforcement efforts against extraordinary crimes. They believed that the death penalty could serve as a strong warning to potential offenders and prevent more serious crimes in the future [16]. This debate shows that the death penalty remains contested not only at the level of moral philosophy but also at the level of legal policy and empirical effectiveness.

The Relevance of Capital Punishment in Modern Law

The relevance of capital punishment in modern law must be examined through a broader legal paradigm. Modern law is no longer expected to function merely as a rigid instrument of state power. It is also expected to reflect moral responsibility, human dignity, justice, and social welfare. Satjipto Rahardjo warned that modern law should not be reduced to a "soulless machine" governed solely by rigid positivism. Law must remain connected to human values and social realities, because law exists for human beings, not the other way around [7].

In this context, the enactment of Law Number 1 of 2023 concerning the Criminal Code represents an important development in Indonesian criminal law reform. The new Criminal Code introduces a more humanistic and progressive paradigm by repositioning capital punishment from a principal punishment to a special and alternative punishment. This change reflects an effort to deconstruct the rigidity of the previous criminal law system and to provide greater protection for human dignity and individual freedom.

Through this mechanism, capital punishment is no longer understood merely as an instrument of pure retaliation. Instead, it is placed within a more balanced framework that considers justice, humanity, rehabilitation, and legal certainty. The transformation of capital punishment into a special and alternative sanction indicates that the state recognizes the seriousness of taking human life and therefore imposes stricter limitations on its application. In this sense, the death penalty in modern Indonesian law is increasingly positioned as an *ultimum remedium*, namely a last resort that may only be applied under exceptional circumstances.

The emergence of modern law is closely related to the development of Western legal systems rooted in positivist traditions. These traditions are often characterized by secularism, individualism, and an emphasis on freedom. Satjipto Rahardjo explained that the combination of technology, industrialization, and capitalism contributed to the formation of modern legal systems designed to support centralized management and economic expansion. In such a system, law tends to prioritize order, certainty, and institutional control [17].

However, modern law also contains weaknesses. A legal system that is too strongly influenced by positivism may become excessively formalistic and detached from moral, spiritual, and social dimensions. When law is treated only as a neutral, objective, and context-free rule system, it may ignore the human realities behind legal cases. This can create legal arrogance, particularly when legal certainty is prioritized without sufficient attention to substantive justice and human dignity.

The legality of capital punishment continues to be recognized in several countries, including China, Saudi Arabia, Iran, the United States in certain states, and Indonesia. However, its continued existence has become increasingly controversial in the modern era. For critics, the death penalty is no longer relevant to a legal system that should be humane and oriented toward the protection of human rights [18]. For supporters, however, capital punishment may remain relevant if its application is modernized and strictly limited by principles of justice, utility, and legal certainty.

Indonesia's current approach attempts to mediate these opposing positions. By placing the death penalty as a special and alternative sanction rather than an ordinary principal punishment, the new Criminal Code seeks to accommodate the demands of public protection while also responding to human rights concerns. This formulation indicates that the state does not entirely abolish capital punishment, but also does not treat it as a normal or routine punishment. Instead, it is placed in an exceptional category.

The concept of modern law is also closely associated with progressive law. Progressive law aims to protect society, move toward legal ideals, reject the status quo, and prevent law from becoming a technology without conscience. In relation to capital punishment, this means that the death penalty should not be imposed merely as an expression of vengeance or as a mechanical application of criminal statutes. It must be evaluated through the broader purposes of law, including protection of society, respect for human rights, and the achievement of substantive justice.

If capital punishment is applied in a legal system without special safeguards, it may contradict the protective function of law. Punishment should not merely inflict suffering or provide retaliation for wrongdoing. In its broader meaning, punishment must also protect the rights of individuals and society. The state has a responsibility to maintain public order, but that responsibility must be exercised within the boundaries of justice and humanity.

Historically, the death penalty was often regarded as an effective remedy for serious crimes. However, this paradigm cannot be accepted without critical examination in the modern era. Criminal law is dynamic, and its development must respond to changing social conditions, legal consciousness, and human rights standards. Therefore, the issue is not simply whether capital punishment should exist or be abolished, but how it is regulated, limited, and applied within a modern constitutional state.

Modern legal systems that are strongly influenced by positivism often emphasize rules and policies that are considered neutral, objective, impartial, context-free, and empirically grounded. Nevertheless, this paradigm may overlook the spiritual, psychological, social, and moral dimensions of human beings. As a result, law may become overly legalistic and fail to address deeper questions of justice. In the context of capital

punishment, such a legalistic approach is especially dangerous because the consequence of punishment is irreversible.

The relevance of the death penalty in modern law therefore cannot be viewed narrowly. A narrow perspective would reduce law to a mechanical instrument that merely applies sanctions without moral reflection. Modern law is required to be simple, effective, and humane. The death penalty remains controversial precisely because it is directly connected to the right to life. The right to life is one of the most fundamental human rights and remains a central value in modern legal systems [19].

Article 3 of the Universal Declaration of Human Rights affirms that everyone has the right to life, liberty, and security of person. Indonesia, as a state that recognizes human rights protection, also guarantees the right to life within its constitutional framework. This constitutional and international human rights dimension requires the state to exercise extreme caution in maintaining and applying the death penalty.

The application of capital punishment in modern law cannot simply be declared irrelevant as a matter of criminal policy. Rather, it must be placed as an exceptional and alternative measure. Although modern law emphasizes the protection of life and individual freedom, this does not automatically mean that capital punishment is entirely incompatible with modern law. What must be transformed is not merely the existence of the death penalty, but the paradigm of its enforcement. It should not be used as an instrument of revenge or as the primary mechanism of punishment, but only as a last resort when other principal punishments are considered insufficient for extraordinary crimes.

Furthermore, the relevance of capital punishment cannot stand alone. It is only one component of the broader criminal justice system. Its effectiveness and legitimacy depend on other components, including the structure of law enforcement institutions, judicial integrity, procedural safeguards, access to legal representation, and the legal culture of society. Without these supporting elements, the death penalty may fail to achieve its stated objectives of justice, utility, and legal certainty [20].

Therefore, the modern relevance of capital punishment in Indonesia must be understood as conditional, limited, and exceptional. Law Number 1 of 2023 provides a new legal framework that attempts to balance public protection with human rights concerns. By positioning the death penalty as a special and alternative punishment, Indonesian criminal law reform reflects a movement toward a more humane and progressive sentencing system. Nevertheless, its implementation must remain subject to strict scrutiny, because the deprivation of life is irreversible and carries profound moral, legal, and constitutional consequences.

5. Conclusion

The existence of capital punishment within Indonesia's legal system remains one of the most debated issues in contemporary criminal law, reflecting the ongoing tension between retributive justice and the protection of fundamental human rights, particularly the right to life. This study has demonstrated that the principal criticisms of capital punishment are centered on two major concerns. First, there is insufficient empirical evidence to conclusively establish that the death penalty provides a stronger deterrent effect than alternative sanctions, such as life imprisonment. Second, the possibility of irreversible judicial error raises serious concerns regarding the fairness and legitimacy of imposing a punishment that cannot be corrected once executed. Furthermore, sociological considerations indicate that the application of capital punishment may be influenced by public perceptions and the socioeconomic status of offenders, potentially creating disparities that undermine substantive justice.

From the perspective of modern law, legal systems are increasingly expected to move beyond rigid legal formalism and toward a more humane, ethical, and progressive approach. In line with the ideas of Satjipto

Rahardjo, law should function as an institution that serves humanity rather than as a mechanical instrument of punishment. This paradigm shift is reflected in Law Number 1 of 2023, which repositions capital punishment from a principal punishment to a special and alternative sanction. Such a reform represents a significant effort to reconcile criminal justice objectives with contemporary human rights standards while providing opportunities for rehabilitation and reconsideration before execution.

Ultimately, this study concludes that capital punishment may remain relevant within Indonesia's criminal justice system only when applied as an *ultimum remedium* for extraordinary crimes that seriously threaten public order, national security, and societal stability. Its implementation must be subject to strict legal safeguards, proportionality, and respect for human dignity. By adopting a more cautious and human-centered approach, Indonesia has demonstrated its commitment to developing a criminal justice system that balances legal certainty, social protection, and moral justice within the framework of modern law.

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