



Juridical Analysis of the Death Penalty for Perpetrators of Corruption as the Ultimate Remedium for Corruption Eradication in Indonesia

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A B S T R A C T

The death penalty for perpetrators of corruption crimes is regulated in Article 2 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (hereinafter referred to as the PTPK Law). The death penalty is imposed on perpetrators of corruption crimes with crimes that harm state finances under certain circumstances, namely perpetrators of corruption crimes commit corruption when the state is in danger in accordance with applicable laws, when a national natural disaster occurs, as a repetition of corruption crimes, or when the country is in a state of economic and monetary crisis. However, in Indonesia, the death penalty for convicted corruptors is still minimal, even corruption of the Minister of Social Affairs of the Republic of Indonesia, Juliari Batubara, was not sentenced to death and received leniency by a judge in a different trial than in China, even though the death penalty or *uitvoering* provides a deterrent effect for corrupt perpetrators that correlates with the eradication of corruption. This type of research is normative research. The result of this study is that the regulation of the death penalty in Indonesia is already contained in the Criminal Code and the special criminal law of the death penalty is also found in the Drug Law, the Terrorism Law, the Human Rights Court Law and PTPK. Both in general and special criminal law, the death penalty is only given to extra ordinary or very cruel crimes that have an impact on a wide audience. Indonesia has similarities in the application of the death penalty with China, namely providing the death penalty for corruption crimes and has carried out more executions of corruption convicts than Indonesia. Both countries prioritize human rights, so that the imposition of the death penalty has a waiting period and changes to life imprisonment if the convict shows efforts to improve commendable behavior and actions as well as the right to apply for clemency. The death penalty as the ultimate remedium in Indonesia has not been effective so that it cannot produce a deterrent effect for the eradication of corruption in Indonesia.

1. Introduction

Corruption in Indonesia has raged in all lines of the Indonesian government. Corruption comes from the word *corruptio* which means rotten, damaged, twisted, or bribery (Génaux, 2004). Corruption in KBBI means the misappropriation or misuse of state money (companies and so on) for personal or other personal gain (KBBI, n.d.). So that corruption in Indonesia is a very bad act by embezzling or misusing state money for personal or other personal gain.

In Indonesia, regulations regarding corruption crimes are regulated in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (hereinafter referred to as the PTPK Law). Corruption in the PTPK Law is divided into 7 (seven) crimes, namely harming State Finance located in Articles 2 and 3 of the PTPK Law, bribery located in Articles 5, 6 and Articles 11-13 of the PTPK Law, Embezzlement in office located in Articles 8-10 of the PTPK Law, extortion located in Article 12 letters (e), (f) and (g) of the PTPK Law, Fraudulent acts located in Article 7 paragraph (1) of the PTPK Law, Conflict of interest in Article 12 letter (i) of the PTPK Law and finally Gratification of Article 12B paragraph (1) of the PTPK Law (Renata Christha Auli, n.d.). The seven crimes categorized as acts of corruption were punished in accordance with the provisions of the article and crimes committed under the death penalty in certain circumstances and a life sentence and a fine of Rp 200,000,000 (two hundred million rupiah) to Rp 1,000,000,000 (one billion rupiah) to the defendant (Amiruddin, 2012).

Corruption is an extraordinary crime because of its impact (Ifrani, 2018). As an extraordinary *crime*, the way to deal with corruption is handled in extraordinary ways (*extra judicial action*). This method is to regulate the crime of corruption into a special law that distinguishes corruption from general criminal acts. Apart from the regulation aspect, a special body was formed to eradicate corruption, namely the Corruption Eradication Commission (KPK) with Law No. 30 of 2002 Jo. Law No. 10 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2015 concerning Amendments to Law Number 30 of 2002 concerning the Commission for the Eradication of Corruption into Law Jo. Law (UU) Number 19 of 2019 concerning the Second Amendment to Law Number 30 2002 concerning the Commission for the Eradication of Corruption (hereinafter referred to as the KPK Law).

Corruption has a special characteristic, which is correlated with money and power. This is evident from the fact that the perpetrators are public figures or people known to the public or Politically Exposed Persons (PEP) (Carr, 2017) where they have economic, political, legal and other powers (Carr, 2017). This is a characteristic of corruption so it is often referred to as *White Collar Crime*, where corruption is generally carried out by officials or power holders. Therefore, corruption sanctions are carried out as much as possible to prevent and intimidate or intimidate them to commit corruption as Article 2 of the PTPK Law as follows:

"(1) Every person who unlawfully commits an act of enriching himself or another person or a corporation that may harm the state finances or the state economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp200,000,000.00 (two hundred million rupiah) and a maximum of Rp1,000,000,000, 00 (one billion rupiah)"

(2) In the event that the criminal act of corruption as intended in paragraph (1) is committed in certain circumstances, the death penalty may be imposed"

The death penalty is a sanction to take someone's life and become *the ultimate remedium* or last resort to eradicate corruption. In Article 2 paragraph (2) of the PTPK Law, the meaning of certain circumstances as a prerequisite for the death penalty is to be submitted for the death penalty lies in the explanation of Article 2 paragraph (2) of the PTPK Law, namely:

"What is meant by "certain circumstances" in this provision is intended as a burden for the perpetrators of corruption crimes if the criminal act is committed when the state is in a state of danger in accordance with applicable laws, at the time of a national natural disaster, as a repetition of the crime of corruption, or when the state is in a state of economic and monetary crisis."

The explanation positions the death penalty as a sanction only for corruption crimes that harm state finances with the following qualifications:

1. A country in danger in accordance with applicable laws
2. National natural disasters
3. *Recidivist* of Corruption
4. At a time when the country is in a state of economic and monetary crisis

This qualification shows that the death penalty is given when the perpetrator of a criminal act is proven and guilty of committing corruption with *the tempus* and *locus* of the State in a precarious position and the corruption committed can put the state in a dangerous condition. Except for the qualification of repeater/*recidivist* where the perpetrator of the crime of corruption has been or has been previously convicted of corruption and commits a criminal act of corruption again.

The death penalty in legal terms is known as *uitvoering*. The death penalty is the imposition of a criminal sentence by depriving a person who has committed a criminal act regulated in the law that is threatened with the death penalty. The death penalty means that a person has taken a life. Even though every human being has the right to live (Marcell et al., 2025). The legal issue that has attracted a lot of public attention is the debate about the death penalty itself. Among them are the death penalty executed on terrorists and other criminal acts such as narcotics.

The death penalty is a punishment that is carried out by taking the life of a person who violates the provisions of the law, the implementation of the death penalty is so that the public can pay attention that the government does not want any disturbance to the peace and security in a country. The concept of the death penalty is often described as cruel, inhumane and sadistic. This is of course only seen from one aspect, namely humanity according to the standards of the modern world, regardless of its purpose, reason, purpose and effectiveness (Sularto et al., 2016). Indonesia regulates the death penalty in the Criminal Code (KUHP) and related laws and regulations, such as the Law on Narcotics and Terrorism. However, its implementation is often marked by debates about the effectiveness of these punishments in preventing crime, as well as human rights considerations. On the other hand, another country that still adheres to the death penalty is China. China is known as one of the countries that most often carries out the death penalty, this is especially true for corruption convicts which harm the country economically and have an impact on the country's progress.

China's criminal law, the *Criminal Law of the People's Republic of China* (hereinafter referred to as the Chinese Criminal Code) regulates the death penalty specifically, because it is only applied to perpetrators of very violent crimes. The death penalty must be upheld by the supreme court. The perpetrator who has not reached the age of 18 at the time of committing the act is not subject to the death penalty. The death penalty can be deferred for two years, the convict is given a job and supervised. If he behaves well during the two-year suspension, he can be reduced to imprisonment and not more than 20 years in prison. If during the period of delay he refused to amend by means of hatred, he was executed by shooting to death in accordance with the approval of the people's supreme court. The sanctions are given to perpetrators of corruption crimes as per Chapter VIII of the Chinese Criminal Code Articles 383, 384, 386.

Even though the death penalty already has limitations and is only carried out under special conditions and crimes that are categorized as very cruel or *extra ordinary crimes*, there is still a rejection of the death penalty. These are: (Anjari, 2020)

1. The death penalty is not only a matter of criminal law, but also encompasses broader socio-economic, political, and psychological issues;
2. the death penalty is contrary to human rights, especially the right to life;
3. the current criminal justice system is imperfect and vulnerable to corruption;
4. the death penalty has not proven to be a useful tool in the fight against corruption; and
5. The death penalty is not used as a tool to fight corruption.

These five reasons are derived from Human Rights (HAM) which is the most basic essence, namely the right to life. The justification for *imposing execution* sanctions on corruption convicts is actually not contrary to human rights when viewed from the point of view that corruption convicts have first violated human rights by resulting in state losses that have an impact on the lives of citizens and resulting in systemic impacts, namely poverty and ignorance due to the state failing to fulfill the basic rights of its citizens because state finances have been taken by corruptors. Therefore, sanctions are needed which are the *ultimum remedium* or the last effort to eradicate corruption in Indonesia, so the author is interested in raising the title "**Juridical Analysis of the Death Penalty for Perpetrators of Corruption as the *Ultimum Remedium* for Corruption Eradication in Indonesia**"

Problem Formulation:

1. How is the death penalty regulated in Indonesian criminal law?
2. How does the death penalty law compare between Indonesia and China?
3. How is the Implementation of the Death Penalty as the *Ultimum Remedium* for the eradication of corruption in Indonesia?

2. Methodology

This research uses normative legal research methods, namely research that provides an understanding of norm problems experienced by dogmatic legal science in its activities of describing legal norms, formulating legal norms (forming laws and regulations), and enforcing legal norms (judicial practice). This research uses the *statue approach* and conceptual *approach*. This type of research is descriptive analytical. The data used is secondary data because the author's legal writing method is normative. Secondary data is data obtained by a researcher indirectly from their research subject, but from other sources (Susanti & Efendi, 2015). In the secondary data, the author divides into 3 (three), namely: a. Primary Legal Sources, namely legal sources that are binding/legal basis such as the Constitution of the Republic of Indonesia in 1945, the Criminal Code, Law No. 31 of 1999 concerning the Eradication of Corruption, Law Number 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption, Law No. 35 of 2009



concerning Narcotics, Law No. 5 of 2018 concerning Amendments to Law No. 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law No. 1 of 2002 concerning the Eradication of Terrorism Crimes into Law, Law No. 30 of 2002, Law No. 10 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law No. 1 of 2015 concerning Amendments to Law No. 30 of 2002 concerning The Commission for the Eradication of Corruption Crimes Becomes Law, Law (UU) Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission, Law Number 26 of 2000 concerning the Human Rights Court, Law Number 1 of 2023 concerning the Criminal Code. b. Secondary legal materials, legal materials that are closely related to primary legal materials and serve to analyze and understand them. It includes literature on various topics such as criminal law, the death penalty, and corruption. Examples of secondary legal materials include books, journals, dissertations, theses, and other reference materials. c. tertiary legal materials, legal materials that contain various sources, such as the Great Dictionary of the Indonesian Language, the English Dictionary, the Popular Scientific Dictionary, the Legal Dictionary, the Legal Encyclopedia, the Official Website, and other reference materials, the source of this material provides guidance and explanation of primary legal materials and secondary legal materials (Soekanto & Mamudji, 2003). The data obtained will be analyzed through qualitative descriptive analysis.

3. Result and Discussion

Death Penalty Regulations in Indonesian Criminal Law

Indonesia is a country that still adheres to the death penalty or *execution*. This is stated in the articles contained in the Criminal Code as follows:

- a. Article 104 of the Criminal Code concerning the crime of treason against the president and vice president;
- b. Article 111 paragraph (2) of the Criminal Code concerning the criminal act of persuading a foreign country to be hostile or to go to war, if the hostility is carried out or becomes war;
- c. Article 124 paragraph (3) of the Criminal Code concerning acts of assisting enemies in time of war;
- d. Article 140 paragraph (3) of the Criminal Code concerning the crime of treason against the king or heads of friendly countries that are planned and result in death;
- e. Article 340 of the Criminal Code concerning the crime of premeditated murder;
- f. Article 365 of the Criminal Code paragraph (4) concerning the crime of theft with violence resulting in serious injury or death;
- g. Article 368 paragraph (2) of the Criminal Code concerning the crime of extortion with violence that results in serious injury or death;
- h. Article 444 of the Criminal Code concerning the crime of piracy in the sea, coast and river that results in death.

Uitvoering is imposed as a principal criminal punishment as per Article 10 of the Criminal Code apart from imprisonment, imprisonment, fines, and cover penalties (Chazawi, 2011). The death penalty is only imposed for very cruel crimes that can have an impact on the general public and state stability as well as crimes against humanity. Therefore, the death penalty has a special scope and few criminal acts that are threatened with the death penalty.

Apart from the Criminal Code, the death penalty is also located in special laws, including Law Number 35 of 2009 concerning Narcotics, Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes into Law, PTPK Law, Law Number 26 of 2000 concerning Human Rights Courts. The regulation of the death penalty law is as follows:

- a. Law Number 35 of 2009 concerning Narcotics
 - 1) Article 113 paragraph (2) : about producing, importing, exporting, or distributing Class I Narcotics as intended in Article 113 paragraph (1)
 - 2) Article 114 paragraph (2): about the act of offering to sell, sell, buy, become an intermediary in buying and selling, exchange, handing, or receiving Class I Narcotics as intended in Article 114 paragraph (1)
 - 3) Article 116 paragraph (2): regarding the use of narcotics against other people or the provision of Class I Narcotics for the use of others as referred to in Article 116 paragraph (1) resulting in the death or permanent disability of another person
 - 4) Article 119 paragraph (2): about the act of offering to sell, sell, buy, receive, become an intermediary in buying and selling, exchange, or handing over Class II Narcotics as referred to in Article 119 paragraph (1) weighing more than 5 (five) grams
 - 5) Article 121 paragraph (2): regarding the use of Narcotics against another person or the provision of Class II Narcotics for the use of others as referred to in Article 121 paragraph (1) resulting in the death or permanent disability of another person

- 6) Article 133 paragraph (1): about Every person who instructs, gives or promises something, gives an opportunity, encourages, provides convenience, coerces with threats, coerces with violence, commits deception, or persuades a minor child to commit a criminal act as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129
- b. Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes into Law
 - 1) Article 6: Any Person who deliberately uses Violence or Threats of Violence that creates an atmosphere of terror or fear against people widely, causes mass casualties by depriving others of their liberty or loss of life and property, or causes damage or destruction to Strategic Vital Objects, the environment or Public Facilities or international facilities shall be punished with imprisonment for a minimum of 5 (five) year and a maximum of 20 (twenty) years, life imprisonment, or the death penalty.
 - 2) Article 10 a : concerning Every Person who unlawfully enters into the territory of the Unitary State of the Republic of Indonesia, makes, receives, acquires, submits, controls, carries, has supplies to him or has in his possession, storing, transporting, concealing, or removing from the territory of the Unitary State of the Republic of Indonesia chemical weapons, biological weapons, radiology, microorganisms, nuclear, radioactive or their components, with the intention of committing the Crime of Terrorism Sentenced to a minimum prison sentence of 3 (three) years and a maximum of 20 (twenty) years, life imprisonment, or the death penalty.
- c. Law Number 26 of 2000 concerning Human Rights Courts
 - 1) Article 36: Any person who commits an act as referred to in Article 8 letters a, b, c, d, or e shall be sentenced to death or life imprisonment or imprisonment for a maximum of 25 (twenty-five) years and a minimum of 10 (ten) years.
 - 2) Article 37: Regarding Every person who commits an act as referred to in Article 9 letters a, b, d, e, or j shall be sentenced to death or life imprisonment or imprisonment for a maximum of 25 (twenty-five) years and a minimum of 10 (ten) years.
- d. PTPK Law
 - 1) Article 2 paragraph (2): regarding in the event that the criminal act of corruption as referred to in Article 2 paragraph (1) is carried out in certain circumstances, the death penalty can be imposed.
 - 2) Explanation of Article 2 paragraph (2): What is meant by "certain circumstances" in this provision is intended as a burden for the perpetrators of corruption crimes if the criminal act is committed when the state is in danger in accordance with applicable laws, when a national natural disaster occurs, as a repetition of corruption crimes, or when the country is in a state of economic and monetary crisis.

The death penalty as described above, is given to perpetrators of *extra-ordinary crimes*. Where the procedure for carrying out the death penalty, step by step is very clear from the attitude of the executioner in carrying out his duties. This can be seen from the target of the shooting squad which is the heart of the convict. The determination of the heart as the target of the shooting is intended so that after the bullet hits the heart of the convict and directly the convict dies. Related to the right not to be tortured as protected in Article 28I of the 1945 Constitution.

The procedure for carrying out the death penalty by shooting is the most effective way, the possibility of a convict who was shot dead about his heart is still alive. Therefore, this procedure does not violate the 1945 Constitution of the Republic of Indonesia because the convict is not tortured first and then dies. In special circumstances, where the shot turns out to be missed or with one shot that hits the heart, it turns out that the convict still shows signs of life, Law No. 2/Pnps/1964 has provided a regulation. After knowing that the convict is still alive, it does not mean that a second stage of shooting is held or a mass shooting is carried out. Article 14 paragraph (5) of Law No. 2/Pnps/1964 provides a strict procedure for the Squad Commander to immediately take the initiative to order the Shooting Squad Officer to immediately approach the convict, point the tip of the barrel at the victim's temple and shoot him. This action is carried out to avoid suffering from the convict before his death. Thus, the procedure for carrying out the death penalty by shooting to death has been proven not to violate the constitutional right not to be tortured as stipulated in Article 28I of the 1945 Constitution (Marcell et al., 2025).

In Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the 2023 Criminal Code), the death penalty is regulated as a serious crime with a stricter approach. Article 67 of the 2023 Criminal Code states that the death penalty is no longer the main punishment, but the last alternative after a 10-year probation period for death row inmates before being executed. Later, the assessment mechanism will be applied not only to death row inmates who are sentenced after the 2023 Criminal Code comes into effect, but also to current death row inmates who have been waiting for execution for more than 10 years. The death penalty or the death penalty, which is known as a form of punishment for extraordinary crimes, is considered a very frightening threat to anyone. These penalties are imposed as a result of serious

violations of regulations, norms, or prohibitions that have been established by a lawful authority. The death penalty is the most severe type of punishment because it means taking someone's life, so it is only applied to certain criminals (Marcell et al., 2025).

Comparison of the death penalty with China's

Reporting from *the World Coalition Against the Death Penalty*, there are 112 countries that have abolished the death penalty.¹ Outside of these countries that have abolished the death penalty, there are countries that still maintain the death penalty, especially for the eradication of corruption, namely China. The turning point of the death penalty for corruption convicts was known during the time of Prime Minister Zhu Rongji (who took office in 1998), where until mid-2004 4000 corruptors had been sentenced to death. This eradication of corruption was effective and had a scare effect on officials in the Chinese government and PM Zhu Rongji also strongly emphasized the death penalty with his motto "provide 100 coffins of which are 99 to punish corruptors and leave 1 coffin for me" (Zhu, 2013).

The Chinese Criminal Code is divided into 10 chapters, where Chapter I regulates crimes that threaten national security, Chapter II crimes that endanger public order, Chapter III crimes that endanger the socialist economy, Chapter IV crimes violations of democratic rights, Chapter V crimes crimes that violate property, Chapter VI crimes that undermine social administrative order, Chapter VII crimes that endanger interests in the defense of the state. Chapter VIII bribery and bribery, Chapter IX crime of dereliction of duty, and the last Chapter X crime of breach of duty committed by military personnel. The articles regarding the death penalty in the Chinese Criminal Code are as follows:

Article 383 :

Those who commit the crime of graft are to be punished according to the following stipulations depending on the seriousness of their cases:

(1) *Individuals who have engaged in graft with an amount of more than 100,000 yuan are to be sentenced to more than 10 years of fixed term imprisonment or life imprisonment and may, in addition, have their properties confiscated. In especially serious cases, those offenders are to be sentenced to death and, in addition, have their properties confiscated.*

The Chinese Criminal Code contains a special death penalty, because it is only applied to the perpetrators of very violent crimes. The death penalty must be upheld by the supreme court. The perpetrator who has not reached the age of 18 at the time of committing the act is not subject to the death penalty. The death penalty can be deferred for two years, the convict is given a job and supervised. If he behaves well during the two-year suspension, he can be reduced to imprisonment and not more than 20 years in prison. If during the period of delay he refused to amend by means of hatred, he was executed by shooting to death in accordance with the approval of the people's supreme court.

Meanwhile, the procedure for the death penalty procedure carried out by the Chinese State is that there are two methods regulated in the Chinese State Criminal Procedure Law to execute death row inmates. Article 212 of China's Criminal Procedure Code of 1979, which was amended on March 14, 2012, regulates two different methods of executing death row inmates. China's Criminal Procedure Law, which was amended in 2012, does not directly explain what methods are used to execute death row inmates. There are various methods that can be used to carry out the execution of the death penalty against convicted convicts. No matter if the convict was hanged to death, shot to death, electrocuted, put in a gas chamber to death, or injected to death, it all ended with the death of the convict. While in China, the execution of the death penalty can be carried out by shooting or injecting death, this is different from Indonesia where Indonesia only knows the execution of the death penalty by firing squad method.

Furthermore, the death penalty is not applied to the perpetrator who has not reached the age of 18 at the time he committed the act. If the death row inmate behaves well during the 2-year period of suspension, the death penalty can be reduced to imprisonment and not more than 20 years in prison. If during the period of suspension the death penalty defendant refuses to amend by means of hatred, the convict shall be executed by shooting to death in accordance with the approval of the Supreme People's Court (Manggalatama, 2023). Under article 6 paragraph (2) of the ICCPR and the Protection of the Rights of Those Facing the Death Penalty, the death penalty is imposed in China only for detention for the "most serious crimes". This international action is in line with China's 1997 Criminal Law, which limits the death penalty to the most serious crimes (Christianto, 2009).

In China it actually takes the position of the death penalty only to be detained for the "most serious crimes" on the direct basis of article 6(2) of the ICCPR and of the Protection of the Rights of Those Facing the Death Penalty. This international action is in line with Chinese criminal law, which in 1997 imposed the death penalty limited to the most

¹ "The Death Penalty Doesn't Protect Nobody: Stop the Death Penalty and Abolish It," *Amnesty International Indonesia*, accessed March 19, 2025, <https://www.amnesty.id/kabar-terbaru/siaran-pers/hukuman-mati-tidak-melindungi-siapapun-hentikan-pidana-mati-dan-hapuskan/10/2024/> .

serious crimes. Since the characterization of the most serious crimes is unclear at the international level including in the ICCPR, Chinese law imposes the death penalty for 68 types of crimes that are claimed to be still in the category of "most serious crimes" (Nur Heriyanto & Huang, 2016).

The various crimes punishable by the death penalty are a sign of the slow movement to abolish the death penalty. Such a law containing the death penalty is a complicated policy of the Chinese government, China to maintain the application of the death penalty because of the ICCPR's flexibility in the death penalty. Because the provisions of the state respecting and protecting human rights are contained in the Chinese Constitution, in a true sense, it is beginning to change the death of the penal system from the legislative and judicial aspects. China implements a death penalty policy of "maintaining the death penalty, but strict control and careful use of the death penalty". According to an Amnesty International report, "Chinese executions still number in the thousands every year and are the world's top executioners. In this regard, the death penalty reform in China will contribute greatly to human rights development in the world. In other words, if the death penalty in China is effectively limited and even repealed de facto and de jure, the movement to abolish the death penalty in the world will make great progress. So far, the Chinese government has taken three significant steps to reform the death penalty system since 2007.

On January 1 the power to review the death penalty was withdrawn by the Supreme People's Court of the PRC (SPC) from the local High Court in each province and the Military Court and then, on February 8, 2010, the SPC passed the Opinion on the Implementation of the Indonesian Criminal Police incorporating appropriate leniency and severity, which is contained in Article 29 that "strictly control and use the death penalty in accordance with the law, unifying the standards for settling capital cases, and so that the death penalty can only be imposed on a few of the perpetrators who commit the most serious crimes for the perpetrators of the most serious crimes and it would be the death penalty, the death penalty will be given by law for those offenders to be sentenced to death, if, as is law, immediate execution is unnecessary, he should not have been given an immediate execution" (Nur Heriyanto & Huang, 2016). Therefore, the granting of the death penalty or *execution* both in China and in Indonesia has undergone changes and does not contradict human rights, this is because the granting of the death penalty is limited, special and procedures that guarantee citizens' rights are protected by the constitution.

The Death Penalty as the *Ultimate Remedium* for Eradicating Corruption in Indonesia

Corruption cases in Indonesia continue to develop and form a so-called standings by the public. Standings are rankings that are commonly used in football or sports competitions in general to determine the ranking of the best teams in the league that takes place. Meanwhile, in the case of corruption, the ranking means the ranking of corruption with total state losses ranging from the highest to the lowest. The current corruption league standings show the following data: (Erwina Rachmi Puspapertiwi, 2025)

- a. Rank 1: Pertamina's Corruption (state losses are estimated at Rp 968.5 trillion). PT Pertamina Patra Niaga officials were involved in a corruption case in the governance of crude oil and refinery products at PT Pertamina Subholding and Cooperation Contract Contractors (KKKS) in 2018-2023.
- b. Rank 2: PT Timah corruption case (Rp 300 trillion). The tin trading system corruption case in the mining business license (IUP) area of PT Timah Tbk occurred in the 2015-2022 period.
- c. Rank 3: BLBI case (Rp 138 trillion). Bank Indonesia's Liquidity Assistance (BLBI) was provided during the 1997 monetary crisis to rescue 48 banks with an injection of funds of Rp 147.7 trillion.
- d. Rank 4: Land grabbing of PT Duta Palma Group (Rp 78 trillion). The owner of PT Duta Palma Group, Surya Darmadi, invaded 37 hectares of land in Riau assisted by the former Regent of Indragiri Hulu, R Thamsir Rachman. This action cost the state Rp 78 trillion.
- e. Rank 5: PT TPPI case (Rp 37.8 trillion). This case is related to illegal condensate processing at an oil refinery in Tuban, East Java in 2009-2011 involving PT Trans-Pacific Petrochemical Indotama (TPPI).
- f. Rank 6: PT Asabri Corruption (Rp 22.7 trillion). PT Asabri manipulated stock and mutual fund transactions with private parties, causing state losses of Rp 22.7 trillion.
- g. Rank 7: PT Jiwasraya case (Rp 16.8 trillion). PT Asuransi Jiwasraya (Persero) failed to pay the customer's policy. The state also lost Rp 16.8 trillion and six people have been convicted.
- h. Rank 8: Corruption of palm oil export permits (Rp 12 trillion). Officials of the Ministry of Trade and several large businessmen were involved in corruption in the provision of crude palm oil (CPO) export facilities and its derivatives in 2021-2022.
- i. Rank 9: LPEI Corruption (Rp 11.7 trillion). The KPK has named five suspects in the case of alleged corruption in the provision of credit facilities by the Indonesian Export Financing Institution (LPEI) to PT Petro Energy (PT PE).

j. Rank 10: Corruption in Garuda Indonesia aircraft procurement (Rp 9.37 trillion). There is an allegation of corruption in the procurement of CSJ-1000 and ATR 72-600 aircraft in 2011 in the form of price mark-ups and procurement that is not in accordance with operational needs.

This fantastic data shows that the majority of corruption cases that are at the top have occurred in the last 10 (ten) years. This is a setback from efforts to eradicate corruption in Indonesia. The factors that cause this are the weakening of the KPK on the KPK Law, a corrupt bureaucracy and low corruption sanctions for perpetrators of corruption crimes.

The low criminal sanctions for corruption do not reflect a deterrent effect or provide preventive efforts to prevent corruption. Therefore, maximum criminal sanctions are needed to eradicate corruption or known as *ultimum remedium* (last resort), which is the death penalty. The context of the application of the death penalty for corruptors in the criminal law system must include the fundamental reasons that justify the need for the death penalty for corruption crimes, which have a major impact on the state and society. This is because the death penalty is urgently needed, arguing that corruption causes very serious damage to national stability, the economy, and public trust in government institutions.

Corruption is a crime that has a very wide and destructive impact on the nation, not only has a direct impact on the entities involved, but also threatens the social, political, and economic stability of the country. This phenomenon undermines the state order systemically, creates widespread injustice, and hinders sustainable development. Corruption leads to inefficient resource allocation, exacerbates poverty, and reduces the quality of public services. In addition, corruption also undermines public trust in the government and state agencies, which in turn hinders efforts to achieve national development goals. Therefore, the application of the death penalty is seen by some as a decisive effort to tackle this destructive crime, although it still requires an in-depth evaluation of its long-term effectiveness (Munawar, 2025).

Corruption directly threatens the stability of the country, both in terms of politics, social, and law. Initially, corruption created injustice in public administration, undermining the foundations of a fair and transparent legal society. Government officials who are involved in corruption, they not only abuse the authority given to them, but also undermine public trust in public institutions. Public distrust of the government is often a direct result of the outbreak of corruption, when people feel that the government is failing to maintain integrity and carry out its duties efficiently, they begin to question the legitimacy of the current government. Corruption can lead to social instability, demonstrations, and even riots, which can hinder the democratic process.

Corruption has a significant negative impact on a country's economy. The disadvantages are clearly seen in the diversion of resources that should have been used for development, as well as the increase in business costs, to be damaged due to inefficient distribution of expenses. In addition, corruption reduces the attractiveness of foreign direct investment (FDI) which is crucial for economic growth. Countries with high levels of corruption are often considered high risk for investors, who end up choosing other countries that are more stable and transparent. The state's inability to create a clean and corruption-free investment climate will hinder sustainable economic growth (Al Hazmi, 2023).

Corruption is considered an extraordinary crime that is not only financially detrimental, but also hurts morality and the principles of social justice. Therefore, according to the views of supporters of the death penalty, strict and severe sanctions are needed to create a maximum deterrent effect, prevent further corruption, and strengthen the integrity and effectiveness of the country's legal system (Cahyani et al., 2023). However, in the study of criminal law, the idea of the death penalty is often questioned, especially from the perspective of justice, human rights, and the effectiveness of the execution of the death penalty.

Some argue that the death penalty has not been proven effective in reducing corruption, and that the current criminal justice system is still open to criminal acts. On the other hand, there is an incentive to adopt rehabilitation or restorative strategies, which give the perpetrator the opportunity to take responsibility and improve themselves, rather than demanding retribution through the death penalty. In addition, some argue that the death penalty should focus on restoring state losses and restoring public trust in the legal system, rather than simply seeking to impose a death sentence that is retributive in nature. This approach is in line with the concept of restorative justice that prioritizes the restoration of relationships between perpetrators, victims, and society, and provides room for improvement.

This can be seen from the example of a corruption case in the midst of the Covid-19 pandemic with the convicted Minister of Social Affairs of the Republic of Indonesia Juliari Peter Batubara with state losses of Rp250,000,000,000 (Two Hundred and Fifty Billion Rupiah) with the Central Jakarta Court Decision No. 29/Pid.Sus-Tpk/2021/PN.Jkt.Pst. *The tempus* of the case positions Juliari Peter Batubara's corruption occurred during the Covid-19 period which positions the state in a precarious situation, so that Juliari Peter Batubara has fulfilled the elements of Article 2 paragraph (2) of the PTPK Law, namely "in the event that the criminal act of corruption as referred to in Article 2 paragraph (1) is committed in certain circumstances, the death penalty can be imposed." Certain circumstances are interpreted as a burden for the perpetrators of corruption crimes if the criminal act is committed when the state is in danger in accordance with applicable laws, when a national natural disaster occurs, as a repetition of corruption crimes, or when the state is in a state of economic and monetary crisis.

However, instead of giving a death sentence to provide justice for the Indonesian people for the state's losses due to the corruption of the Indonesian Minister of Social Affairs Juliari Peter Batubara, the judge granted leniency to Juliari P. Batubara. Extenuating factors include the fact that the defendant has never been convicted of any criminal offense before, has suffered severe suffering from being slandered and insulted by society, and has been found guilty by public opinion,

although there has been no legal finding of guilt until the court renders a binding final decision. During the trial process of about four months, the defendant participated in an orderly manner, not making any disturbances. In particular, in addition to his own involvement, the defendant was also a witness in the case of Adi Wahyono and Matheus Joko Santoso (Wibisono & Hutabarat, 2025).

For this reason, the Minister of Social Affairs of the Republic of Indonesia, Juliari Peter Batubara, was convicted by a panel of judges of committing acts of corruption with a sentence of 12 (twelve) years in prison along with a fine of Rp500,000 (five hundred million rupiah). It is stipulated that if you do not pay the fine, you will be subject to an additional 6 (six) months of imprisonment. Juliar P. Batubara was sentenced to an additional penalty in the form of payment of compensation in the amount of Rp14,597,450,000.00 (fourteen billion five hundred and ninety-seven million four hundred and fifty thousand rupiah). Of course, the verdict still does not describe the maximum punishment for the perpetrators of corruption.

Therefore, the imposition of the death penalty as *the ultimate remedium* for corruptors in the criminal justice system is to create a strong deterrent effect for the community not to commit corruption, provide a sense of justice for victims of corruption, namely the nation and people of Indonesia, and maintain the integrity and survival of the nation and state. On the other hand, it is crucial to continue to evaluate whether the execution of the death penalty is truly effective and in line with the principles of human rights and universal justice. Therefore, debates about the purpose of the death penalty and more humane punishment options must continue to develop in Indonesia's criminal justice system.

4. Conclusion

The regulation of the death penalty in Indonesia is already contained in the Criminal Code, namely in Article 104, Article 111 paragraph (2), Article 124 paragraph (3), Article 140 paragraph (3), Article 340, Article 365 paragraph (4), Article 368 paragraph (2) and Article 444. Meanwhile, in the law on special crimes of the death penalty, there are also the Drug Law, the Terrorism Law, the Human Rights Court Law and PTPK. Both in general and special criminal law, the death penalty is only given to extra ordinary or very cruel crimes that have an impact on a wide audience. The procedure for carrying out the death penalty by shooting is the most effective way, the possibility of a convict who was shot dead about his heart is still alive. Therefore, this procedure does not violate the 1945 Constitution of the Republic of Indonesia because the convict is not tortured first and then dies. In special circumstances, where the shot turns out to be missed or with one shot that hits the heart, it turns out that the convict still shows signs of life, Law No. 2/Pnps/1964 has provided a regulation. After knowing that the convict is still alive, it does not mean that a second stage of shooting is held or a mass shooting is carried out. Article 14 paragraph (5) of Law No. 2/Pnps/1964 provides a strict procedure for the Squad Commander to immediately take the initiative to order the Shooting Squad Officer to immediately approach the convict, point the tip of the barrel at the victim's temple and shoot him. This action is carried out to avoid suffering from the convict before his death. Thus, the procedure for carrying out the death penalty by shooting to death has been proven not to violate the constitutional right not to be tortured as stipulated in Article 28I of the 1945 Constitution. In Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the 2023 Criminal Code), the death penalty is regulated as a serious crime with a stricter approach. Article 67 of the 2023 Criminal Code states that the death penalty is no longer the main punishment, but the last alternative after a 10-year probation period for death row inmates before being executed. Later, the assessment mechanism will be applied not only to death row inmates who are sentenced after the 2023 Criminal Code comes into effect, but also to current death row inmates who have been waiting for execution for more than 10 years. The death penalty or the death penalty, which is known as a form of punishment for extraordinary crimes, is considered a very frightening threat to anyone. These penalties are imposed as a result of serious violations of regulations, norms, or prohibitions that have been established by a lawful authority. The death penalty is the most severe type of punishment because it means taking someone's life, so it is only applied to certain criminals.

Indonesia has similarities in the application of the death penalty with China, including China provides the death penalty for corruption crimes and has executed more corruption convicts than Indonesia. Both countries prioritize human rights, so that the imposition of the death penalty has a waiting period and changes to life imprisonment if the convict shows efforts to improve commendable behavior and actions as well as the right to apply for clemency. In China it takes the position of the death penalty only to be detained for the "most serious crimes" on the direct basis of article 6(2) of the ICCPR and of the Protection Guaranteeing Protection of the Rights of Those Facing the Death Penalty. This international action is in line with Chinese criminal law, which in 1997 imposed the death penalty limited to the most serious crimes. Since the characterization of the most serious crimes is unclear at the international level including in the ICCPR, Chinese law imposes the death penalty for 68 types of crimes that are claimed to be still in the category of "most serious crimes". So that the death penalty does not apply to all criminal acts but is limited only to the most serious crimes that are a threat to the state and Human Rights itself.

The death penalty as the ultimate remedium in Indonesia has not been effective so that it cannot produce a deterrent effect for the eradication of corruption in Indonesia. Therefore, the imposition of the death penalty as the ultimate remedium for corruptors in the criminal justice system is to create a strong deterrent effect for the community not to

commit corruption, provide a sense of justice for victims of corruption, namely the nation and people of Indonesia, and maintain the integrity and survival of the nation and state. On the other hand, it is crucial to continue to evaluate whether the execution of the death penalty is truly effective and in line with the principles of human rights and universal justice. Therefore, debates about the purpose of the death penalty and more humane punishment options must continue to develop in Indonesia's criminal justice system.

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