



*Juridical Review on Death Penalty in Indonesia  
(A Critical Review of the New Criminal Code)*

**Tinjauan Yuridis tentang Pidana Mati di Indonesia  
(Tinjauan Kritis Atas KUHP Baru)**

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**Abstrak**

*Penerapan hukuman mati masih menjadi isu yang diperdebatkan di seluruh dunia, termasuk di Indonesia, di mana hukuman mati masih terus memicu perdebatan dan kontroversi. Dengan pemberlakuan KUHP Baru yang akan segera diberlakukan, pemeriksaan kritis terhadap aspek-aspek yuridis seputar hukuman mati menjadi sangat penting. Tujuan penelitian ini adalah Secara khusus, penelitian ini bertujuan untuk menafsirkan makna frasa "penyesalan" dan "memperbaiki diri", dan untuk mengevaluasi signifikansinya dalam penentuan pertanggungjawaban pidana dan penghukuman dalam kasus-kasus hukuman mati. Penelitian ini menggunakan pendekatan yuridis normatif, yang melibatkan analisis dan interpretasi prinsip-prinsip hukum, undang-undang, dan putusan pengadilan yang relevan dengan hukuman mati di Indonesia. Analisis ini mengungkapkan bahwa interpretasi istilah "penyesalan" dan "perbaikan diri" dalam konteks hukuman mati memiliki banyak nuansa dan beragam. Meskipun konsep-konsep ini merupakan bagian integral dari penilaian kesalahan pidana dan potensi rehabilitasi, sifat subyektif mereka menimbulkan tantangan dalam penerapan hukum*

**Kata kunci:** Ambiguitas Hukum; Hukuman Mati; KUHP Baru

**Abstract**

The application of the death penalty remains a contentious issue throughout the world, including in Indonesia, where the death penalty continues to spark debate and controversy. With the imminent enactment of the New Criminal Code, a critical examination of the legal aspects surrounding the death penalty becomes imperative. The purpose of this study is Specifically, this study aims to interpret the meaning of the phrases "regret" and "improve oneself", and to evaluate their significance in determining criminal responsibility and sentencing in death penalty cases. This study uses a normative legal approach, which involves the analysis and interpretation of legal principles, statutes, and court decisions relevant to the death penalty in Indonesia. This

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analysis reveals that the interpretation of the terms “regret” and “improve oneself” in the context of the death penalty is nuanced and diverse. Although these concepts are integral to the assessment of criminal culpability and potential for rehabilitation, their subjective nature poses challenges in the application of the law

**Keywords:** Legal Ambiguity; *Death Penalty*; *New Criminal Code*

## Introduction

The death penalty is a subject that has long generated debate, both from an ethical, legal and social perspective in various countries, including in Indonesia. This debate reflects the conflict between the desire to punish serious crimes and the need to protect fundamental human rights, particularly the right to life. In many countries, especially those that still retain the death penalty, there are efforts to balance the interests of justice and human rights through more progressive legal reforms.<sup>2</sup> With the imminent enactment of the New Criminal Code in Indonesia, an in-depth review of the death penalty provisions becomes even more relevant, as the New Criminal Code offers a different legal approach and provides room for various interpretations in judicial practice.

The death penalty has long been a controversial issue around the world, with debates covering legal, ethical, human rights and social impact aspects. Indonesia, as one of the countries that still imposes the death penalty, is now facing important changes with the implementation of the Criminal Code (KUHP). This Criminal Code introduces a new approach to the application of the death penalty, one of which is by regulating a 10-year probation period for defendants who show remorse and potential for self-improvement, as contained in Article 100 paragraph (1) letter a of Law Number 1 of 2023. This policy shows a shift from a retributive approach towards an approach that considers more aspects of rehabilitation, but still generates a lot of discussion in the related scientific and legal fields.<sup>3</sup>

Historically, the death penalty in Indonesia has been applied to a variety of serious criminal offenses, particularly cases deemed to undermine public order and threaten state security. However, legislative changes in the New Criminal Code signify an

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<sup>2</sup> Saharuddin Daming, “Konfigurasi Pertarungan Abolisionisme Versus Retensionisme Dalam Diskursus Keberadaan Lembaga Pidana Mati Di Tingkat Global Dan Nasional,” *YUSTISI* 3, no. 1 (1 Maret 2016): 37, <https://doi.org/10.32832/yustisi.v3i1.1120>.

<sup>3</sup> Arvandi Rahmansyah, “Pergeseran Pidana Mati Sebagai Pidana Pokok Menjadi Pidana Eksepsional Dalam Kuhp Baru (Perspektif Teori Absolutisme Pidana)” (bachelorThesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2024), 78, <https://repository.uinjkt.ac.id/dspace/handle/123456789/81937>.

important shift, where the death penalty is no longer the only option for serious crimes, but is accompanied by probation and certain conditions that allow for sentence reduction. This provision is reflected in Article 100 paragraph (1) which requires the defendant's sense of "remorse" and hope to "improve himself" as important factors considered in granting probation for death penalty. This shows a shift in the legal approach in Indonesia, from retributive to restorative, as well as a step towards meeting international human rights standards.<sup>4</sup>

A review of the existing literature shows that the death penalty has been examined from various dimensions, including historical, cultural, and social, and is closely related to human rights. The literature shows that the death penalty has been a long debate in the context of human rights. Effendi (2005) firmly states that the right to life is a human right that is inherent in every individual from birth and cannot be revoked.<sup>5</sup> This view is in line with Budiardjo (1977) who emphasizes that human rights are inherent in humans from birth.<sup>6</sup> Setiardja (1993) further explains that human rights are rooted in human nature.<sup>7</sup> In this context, the death penalty can be seen as a form of violation of the most fundamental human rights, namely the right to life. Thus, the application of the death penalty, which directly deprives the right to life, is contrary to the basic principles of human rights. The New Criminal Code, in this context, needs to be critically evaluated to see to what extent its provisions are consistent with the views of these experts and with international standards such as the ICCPR. However, a research gap is seen in the aspect of critical evaluation of the New Penal Code in the context of the death penalty, especially in relation to international principles. This study aims to fill the gap by providing a comprehensive juridical analysis, particularly in looking at the consistency of the provisions of the New Criminal Code with international standards such as the ICCPR (International Covenant on Civil and Political Rights) and its relevance to the development of criminal justice in Indonesia.<sup>8</sup>

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<sup>4</sup> Dian Ekawaty Ismail dkk., "Collocation of restorative justice with human rights in Indonesia," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (20 September 2024): 395, <https://doi.org/10.22219/ljih.v32i2.35374>.

<sup>5</sup> A.M. Effendi, *Perkembangan dimensi hak asasi manusia (HAM) & proses dinamika penyusunan hukum hak asasi manusia* (Bogor: Ghalia Indonesia, 2005), 17.

<sup>6</sup> Miriam Budiardjo, *Dasar-dasar ilmu politik*, Cet. pert. rev (Jakarta: Gramedia Pustaka Utama, 2008), 120.

<sup>7</sup> A.G. Setiardja, *Hak-hak asasi manusia berdasarkan ideologi Pancasila* (Yogyakarta: Kanisius, 1993), 73.

<sup>8</sup> Anang Shophan Tornado, "Evaluating the Convergence in International Human Rights and Criminal Procedures Law: An Indonesian case study. | EBSCOhost," 1 Juli 2022, 324, <https://doi.org/10.5281/zenodo.4756128>.

This research has great significance as it provides insights that can inform public discourse, as well as strengthen the basis for policy-making in determining the relevance and effectiveness of the death penalty in Indonesia. In addition, this research is also important in relation to global efforts in promoting justice, human rights and legal reform. Through this approach, it is hoped that understanding of the death penalty can be improved, and policymakers, legal practitioners, and human rights activists can take concrete steps in developing a more just and human rights-respecting legal system.

The purpose of this research is to conduct a comprehensive analysis of the provisions of the New Criminal Code related to the death penalty, particularly Article 64 and Article 100 paragraph (1). This research focuses on the consistency of the New Penal Code with international human rights standards as well as its potential impact on judicial practice and human rights protection in Indonesia. Through this research, it is hoped that constructive insights can be provided to policy makers and stakeholders in legal reform.

A review of the existing literature shows gaps in critical studies regarding the application of these concepts in the context of Indonesian criminal law. For example, emphasizing that the effectiveness of the death penalty in deterring crime is questionable, while human rights must still be protected at every stage of the trial.<sup>9</sup> While many scholars discuss the death penalty in general, there is a lack of literature examining specifically the application of Indonesia's New Penal Code, particularly in relation to the interpretation of phrases such as "remorse" and "self-improvement." In line with these findings, this study aims to fill this gap by providing an in-depth review of the new concepts in the KUHP and analyzing their impact on fairness in the administration of justice as well as their consistency with international human rights standards.

## **Method**

The research method used in this study is juridical-normative, in accordance with the understanding that legal research is a systematic effort to find legal rules, principles, and legal doctrines that are relevant to answer legal issues that arise in the context of death penalty in Indonesia.<sup>10</sup> This research approach relies on two main methods: statute

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<sup>9</sup> Roger Hood dan Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (New York: OUP Oxford, 2015), 47.

<sup>10</sup> Peter Mahmud Marzuki, *Penelitian hukum: Edisi Revisi* (Jakarta: Kencana Prenada Media Group, 2005), 209.

approach and conceptual approach. The statutory approach focuses on analyzing the hierarchy and conformity of regulations related to the right to life and death penalty<sup>11</sup> as stipulated in the 1945 Constitution of the Republic of Indonesia, the UDHR<sup>12</sup>, the ICCPR, and various related laws, including Law No. 1 of 2023 on the Criminal Code, to assess their validity and application in Indonesian criminal law.<sup>13</sup>

The conceptual approach, on the other hand, plays a role in examining legal theories and basic concepts on the right to life and the death penalty, which are important to identify the underlying philosophy of these legal provisions and to understand their potential impact on human rights protection. Primary legal materials<sup>14</sup> consist of relevant legislation, while secondary legal materials include academic research and legal journals from national and international sources. Tertiary legal materials, such as legal dictionaries, provided additional information that supported the analysis. The analysis was conducted using grammatical and descriptive interpretation methods, which enabled a clear and systematic presentation of the research results.<sup>15</sup>

## Result and Discussion

The death penalty in Indonesia is an issue that has long sparked debate between those who support and oppose it. Juridically, the death penalty is applied as the highest form of punishment in the applicable Criminal Code, serving as an effort by the state to provide appropriate punishment to perpetrators of serious crimes, such as premeditated murder and large-scale drug offenses.<sup>16</sup> However, the application of the death penalty also includes a number of controversies that are not only based on law, but also involve human rights and moral perspectives.

The debate on the death penalty in Indonesia is increasingly relevant with the introduction of the New Criminal Code, which offers a different approach to the

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<sup>11</sup> Hendro Siburian, "The Death Penalty In Indonesia From A Human Rights Perspective," *Fox Justi : Jurnal Ilmu Hukum* 12, no. 2 (30 Januari 2022): 112, <https://doi.org/10.58471/justi.v12i2.647>.

<sup>12</sup> Tsania Miratush Sholichat, Ali Maskur, dan Ayu Monica Putri, "Perbandingan Pengaturan Pidana Mati Perspektif Hak Asasi Manusia Dan Prinsip Qishash," *Jurnal EL-QANUNY: Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial* 9, no. 2 (16 Desember 2023): 297, <https://doi.org/10.24952/el-qanuny.v9i2.9618>.

<sup>13</sup> Tri Jata Ayu Pramesti, "Dilema Hak untuk Hidup dan Hukuman Mati di Indonesia | Klinik Hukumonline," 16 Juni 2022, <https://www.hukumonline.com/klinik/a/dilema-hak-untuk-hidup-dan-hukuman-mati-di-indonesia-lt4efo39a2doc28/>.

<sup>14</sup> Jonaedi Efendi, Jhonny Ibrahim, dan Prasetyo Rijadi, *Metode Penelitian Hukum: Normatif dan Empiris* (Jakarta: Prenada Media, 2016), 21.

<sup>15</sup> Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021), 1.

<sup>16</sup> Myres Smith McDougal, Harold Dwight Lasswell, dan Lung-chu Chen, *Human Rights and World Public Order: The Basic Policies of an International Law of Human Dignity* (New York: Oxford University Press, 2019), 104.

implementation of the death penalty. One of the significant changes introduced by the New Criminal Code is the existence of a 10-year probation period for death row prisoners, as stipulated in Article 100 paragraph (1). This probation period allows the court to consider factors such as "remorse" and the potential to "improve" the defendant before deciding on execution. This change shows an effort to introduce rehabilitation elements in the Indonesian criminal system, shifting the purely retributive approach to be more humanistic and inclusive of human aspects.<sup>17</sup>

From a social perspective, the application of the death penalty in Indonesia also faces various challenges, especially in the context of cultural and religious values. Some Indonesians see the death penalty as a valid form of punishment and necessary to maintain public order, while others highlight the importance of protecting the right to life as an inalienable human right.<sup>18</sup> In addition, international standards such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) emphasize the importance of the right to life and protection against disproportionate death penalty measures.

The New Criminal Code reflects an attempt to strike a balance between domestic law and international human rights standards, although the challenge of implementing it consistently remains great. Understanding this context is important for future legal studies, especially in evaluating its impact on the justice system and legal governance in Indonesia.<sup>19</sup>

#### **A. Legal Interpretation of the Phrases "Regret" and "Correct Yourself" in the Criminal Code**

Article 100 paragraph (1) of the New Criminal Code confirms that judges can impose the death penalty with a 10-year probation period for defendants who show "remorse" and "potential to improve themselves." This phrase reflects a significant change in approach to the death penalty, introducing an element of rehabilitation as a factor of consideration. The interpretation of "remorse" in this context focuses on evaluating the defendant's attitude after the crime has occurred, whether the defendant demonstrates an understanding of his or her guilt and its impact on the

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<sup>17</sup> Georg Rusche dan Otto Kirchheimer, *Punishment and Social Structure* (New York: Columbia University Press, 2019), 43, <https://doi.org/10.7312/rusc92484>.

<sup>18</sup> Hugo Adam Bedau, *The Death Penalty in America* (New York: Oxford University Press, 1998), 177.

<sup>19</sup> William A. Schabas, "International law and the abolition of the death penalty," dalam *Comparative Capital Punishment*, ed. oleh Carol S. Steiker dan Jordan M. Steiker (USA: Edward Elgar Publishing, 2019), 219, <https://doi.org/10.4337/9781786433251.00022>.

victim and society.<sup>20</sup> It also reflects a more humanistic shift in the approach to sentencing in Indonesia, signaling that acknowledgement of the defendant's guilt and moral responsibility is an important element in sentencing.

"Self-repair" further includes an assessment of the defendant's capacity to undergo behavioral change. This can be seen as an attempt to integrate the principle of rehabilitation into the criminal justice system. However, the subjective nature of this phrase poses a challenge, in that the evaluation will largely depend on the judge's perception of the defendant's intention and ability to transform.<sup>21</sup>

In a juridical context, this approach opens up room for interpretation for judges to assess the depth and sincerity of remorse and the potential for self-improvement of the defendant. This principle is in line with the theory of restorative justice, where the main goal is the reintegration of the defendant into society after showing moral awareness and better behavior.<sup>22</sup> However, this approach also presents challenges regarding objectivity and consistency in its application. Variations in interpretation can lead to non-uniformity in the application of sentences, so more detailed guidelines are needed so that it can be applied equally in Indonesian courts.

Overall, the emphasis on remorse and the potential for self-improvement demonstrates an attempt to consider the human aspect of the death penalty, although the practical application of these concepts still requires close scrutiny so as not to obscure substantive justice.<sup>23</sup>

## **B. Consistency with International Human Rights Standards**

In the context of global human rights, the application of the death penalty in Indonesia, particularly with the reform of the New Criminal Code, demands an evaluation of its consistency with international standards. Article 100 paragraph (1) of the New Penal Code, which provides an opportunity to postpone the execution of the death penalty for defendants who demonstrate remorse and potential for self-improvement, is a significant step towards fulfilling the principles of protecting the

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<sup>20</sup> Lode Walgrave, *Restorative Justice, Self-interest and Responsible Citizenship* (London: Willan, 2008), 179, <https://doi.org/10.4324/9781843925668>.

<sup>21</sup> Michael Radelet, *Facing the Death Penalty: Essays on a Cruel and Unusual Punishment* (Philadelphia: Temple University Press, 2014), 203.

<sup>22</sup> John Braithwaite, *Restorative Justice and Responsive Regulation* (New York: Oxford University Press, 2002), 90.

<sup>23</sup> Antony Duff, "Punishment, Communication, and Community," dalam *Debates in Contemporary Political Philosophy* (London: Routledge, 2002), 90.

right to life as mandated by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).<sup>24</sup> Article 6 of the ICCPR specifically prohibits arbitrary taking of life and encourages states that have not abolished the death penalty to strictly limit its application.

In Indonesia, this new provision in the Criminal Code can be seen as a form of harmonization with international trends that place the right to life as a fundamental right that cannot be reduced, even in emergency conditions.<sup>25</sup> The 10-year postponement provision in Article 100 paragraph (1) of the New Criminal Code is a mechanism that allows for a reassessment process of defendants sentenced to death, which is in line with the ICCPR recommendation that the death penalty only be applied in very limited conditions and considers the possibility of rehabilitation. In some cases, such as in Japan, similar mechanisms are implemented to allow time for re-evaluation of death row defendants, reducing the risk of irreversible death penalty decisions.<sup>26</sup>

However, there are still criticisms that the application of the death penalty in Indonesia has not been fully consistent with the principles of the UDHR and ICCPR, especially regarding the guarantee of non-discrimination and the principle of fair trial.<sup>27</sup> The New Penal Code retains the death penalty as the main punishment in certain cases, which is in contrast to the international trend where more and more countries are abolishing the death penalty completely. This poses challenges in achieving a balance between the goals of justice and the protection of the right to life.

Therefore, although the New Criminal Code has included progressive steps towards the protection of human rights, its consistency with international standards still requires close scrutiny in its implementation, especially in ensuring the protection of the right to life and the principle of non-discrimination for all defendants.

### **C. Social and Legal Implications for the Administration of Justice**

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<sup>24</sup> Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR commentary*, 2nd rev. ed (Japan: N.P. Engel, 2005), 4.

<sup>25</sup> Nigel Rodley dan Matt Pollard, *The Treatment of Prisoners Under International Law* (New York: OUP Oxford, 2009), 367.

<sup>26</sup> Roger Hood dan Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (New York: OUP Oxford, 2015), 461.

<sup>27</sup> Schabas, "International law and the abolition of the death penalty," 220.



The implementation of the New Criminal Code in Indonesia, particularly in relation to the death penalty provisions, has significant implications for the criminal justice system and legal governance. By introducing a 10-year probation period for defendants who demonstrate remorse and the ability to improve themselves (Article 100 paragraph (1)), the New Criminal Code opens up opportunities for a more humanitarian and rehabilitation-oriented application of the law. This step not only strengthens the rehabilitative aspect of criminal law, but can also change public perceptions of justice and legal certainty in serious cases, including the death penalty.<sup>28</sup>

From a criminal justice perspective, the implementation of the New Criminal Code requires adaptation from law enforcement officers and courts in assessing remorse and the potential rehabilitation of defendants. This may increase the complexity of decision-making and bring challenges for judges who have to evaluate the subjective aspects of these phrases. As a result, the New Penal Code also demands the development of clearer interpretative guidelines to ensure consistent application and avoid excessive subjectivity, which may create a perception of unfairness.<sup>29</sup>

Socially, this change may alter the public perception of the death penalty as a form of absolute punishment. Some groups of people, especially those who support the death penalty as a deterrent measure against serious crimes, may see this measure as a weakness. On the other hand, human rights advocates will see this new provision as a more humanist effort in the justice system, bringing Indonesia closer to international standards that prioritize the right to life.<sup>30</sup>

In addition, legal governance is also affected as the New Penal Code requires more comprehensive evaluation and mentoring procedures for death row defendants during probation. This may increase the administrative and budgetary burden on the justice system, but is in line with the principle of restorative justice which emphasizes rehabilitation and social reintegration.<sup>31</sup> In the long run, the New

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<sup>28</sup> Michael Tonry, *Retributivism Has a Past: Has It a Future?* (USA: Oxford University Press, 2011), 204.

<sup>29</sup> Andrew Ashworth, *Sentencing and Criminal Justice* (Cambridge University Press, 2015), 67, <https://doi.org/10.1017/CBO9781107415270>.

<sup>30</sup> Paul M. A. Baker dkk., "Barriers to Employment Participation of Individuals With Disabilities: Addressing the Impact of Employer (Mis)Perception and Policy," *American Behavioral Scientist* 62, no. 5 (Mei 2018): 659, <https://doi.org/10.1177/0002764218768868>.

<sup>31</sup> David Garland, *The Culture of Control Crime and Social Order in Contemporary Society* (Britania raya: Oxford University Press, 2002), 110.

Criminal Code has the potential to create a legal system that is more balanced between legal certainty and humanitarian aspects, although challenges in implementation and consistency remain key issues.

#### **D. Policy Recommendations and Directions for Improvement**

Based on the findings related to the application of the death penalty in the New Criminal Code and its implications for human rights, several recommendations can be put forward for policymakers to strengthen fairer and more humanistic legal governance. First, clear interpretative guidelines need to be developed regarding the assessment of "remorse" and "self-improvement" in the context of the death penalty. As discussed in Article 100 paragraph (1) of the New Criminal Code, both terms are subjective, and without firm guidelines, judges could potentially have difficulty in making consistent assessments. These guidelines should be developed through collaboration between legal experts, psychologists, and sociologists to ensure that the standards used include a thorough assessment of changes in the defendant's behavior.<sup>32</sup>

In addition, it is necessary to establish a special institution or commission responsible for evaluating the implementation of the death penalty, including the 10-year probation period given to defendants. This institution is tasked with monitoring changes in the behavior and rehabilitation of the defendant during the probation period, ensuring that the evaluation process is objective and in accordance with humanitarian principles.<sup>33</sup> This approach can prevent excessive subjectivity in evaluations that are only left to the judiciary without a check and balance mechanism.

From a human rights perspective, Indonesia should consider gradually limiting the scope of application of the death penalty, particularly for offenses that do not involve an immediate threat to life. Several countries have taken similar steps, reducing the death penalty for cases that do not involve violence or a real threat to public security. This approach is consistent with the recommendations of the UN

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<sup>32</sup> Jeff Latimer, Craig Dowden, dan Danielle Muise, "The Effectiveness of Restorative Justice Practices: A Meta-Analysis," *The Prison Journal* 85, no. 2 (1 Juni 2005): 141, <https://doi.org/10.1177/0032885505276969>.

<sup>33</sup> Yohanes Gemilang Febrian dan Tanudjaja, "Delay of Death Crime Execution With A 10 Year Probation Period From A Human Rights Perspective," *YURISDIKSI: Jurnal Wacana Hukum dan Sains* 20, no. 1 (30 Juni 2024): 22, <https://doi.org/10.55173/yurisdiksi.v20i1.227>.

Human Rights Committee, which suggested that the death penalty, if it remains in use, should be limited to "the most serious crimes".<sup>34</sup>

Updates in education and training for judges and law enforcement officers are also essential so that they understand the implications of the New Penal Code in the context of international human rights and contemporary standards of justice. This training will equip them with the skills to thoroughly evaluate aspects of rehabilitation and the right to life, and build sensitivity to restorative justice principles.<sup>35</sup>

As part of a long-term measure, the Indonesian government also needs to consider a gradual repeal of the death penalty in line with international commitments and global trends moving towards abolition. This policy is not only in line with international trends, but also demonstrates Indonesia's commitment to the protection of human rights at the global level. The implementation of these recommendations requires support from the public and cooperation across sectors, including government agencies, academics, and human rights organizations, so that regulatory reforms can be oriented towards substantive justice and meet international standards.<sup>36</sup>

## Conclusion

Review of the application of the death penalty in Indonesia in the context of the Criminal Code, particularly focusing on the juridical interpretation of the phrases "remorse" and "self-repair" introduced in Article 100 paragraph (1). Based on the analysis, it can be concluded that the New Criminal Code brings a more humanistic approach to the Indonesian justice system, which reflects an attempt to balance between the principles of retributive justice and the need for rehabilitation. The 10-year probation policy for death row prisoners provides an opportunity for defendants to demonstrate positive changes that can be used as a basis for making death penalty decisions, although the application of this concept requires more consistent interpretative standards. From a human rights perspective, the New Criminal Code shows a step forward towards consistency with international standards, such as the UDHR and ICCPR, although

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<sup>34</sup> Thomas Pogge, "World Poverty and Human Rights," *Ethics & International Affairs* 19, no. 1 (Maret 2005): 5, <https://doi.org/10.1111/j.1747-7093.2005.tb00484.x>.

<sup>35</sup> Paul H. Robinson, *Intuitions of Justice and the Utility of Desert* (New York: Oxford University Press, 2013), 433.

<sup>36</sup> Franklin E. Zimring, *The Contradictions of American Capital Punishment* (New York: Oxford University Press, 2004), 104.

Indonesia has not yet fully abolished the death penalty. This step provides a stronger basis for the protection of the right to life, although challenges remain in its application, particularly regarding objectivity in assessing remorse and potential for self-improvement.

The social and legal implications of this new provision require further attention from the government and policymakers. Efforts to draft interpretative guidelines and establish specialized evaluation bodies can help ensure that the application of this law is fair and in accordance with humanitarian principles. In addition, education and training for law enforcement officials can strengthen their understanding of human rights values in the context of the application of the death penalty. Although the New Criminal Code presents significant changes in the application of the death penalty in Indonesia, fair and consistent implementation requires further attention. It is important to build a legal system that not only upholds justice, but also respects human rights and provides opportunities for the rehabilitation of the accused.

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