

The Conditional Death Penalty in Indonesia's New Criminal Code: Between Criminal Law Reform and Non-Derogable Rights

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Abstract

The enactment of Law No. 1 of 2023 concerning the National Criminal Code, as amended by Law No. 1 of 2026, marks a paradigm shift from absolute punishment to conditional punishment, where the death penalty is repositioned as an alternative special punishment with a ten-year probationary period. This research uses a normative (doctrinal) legal method with a statutory, conceptual, case-based, and human rights approach. The research gap that is filled is the absence of studies that simultaneously analyze the paradigm shift after Law No. 1 of 2026 and its compliance with the principle of non-derogable rights as guaranteed by Article 28I of the 1945 Constitution. The novelty of this research lies in the integrated analysis of Article 100 and its amendments, which repositions the probationary period as a form of respect for the right to life. Theoretically, the results of the study indicate that this mechanism reflects a combined theory of punishment, retributive and rehabilitative, as evidenced in the ratio decidendi of the Tanjung Redeb District Court Decision in the Julius case. However, the absence of objective parameters to assess "commendable attitudes and actions" has the potential to create legal uncertainty. Practically, this study recommends the issuance of PERMA by the Supreme Court and the formation of an independent multidisciplinary evaluation team.

INTRODUCTION

Pancasila is not just a symbol of the state, but a fundamental foundation that helps determine the direction and form of the legal system that applies in Indonesia. Consequently, every legislative product, including provisions in the field of criminal law, must be sourced and based on the values contained in Pancasila, so that it does not come out of the character and identity of the nation. This mandate is in line with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which expressly places Indonesia as a state of law. Therefore, every imposition of criminal sanctions on a person cannot be done carelessly, but must always pay attention to the principles of justice, ensure legal certainty, and uphold human rights as values that cannot be overlooked.¹

In the context of the rule of law, the criminal justice system holds a strategic position because it carries out two functions simultaneously, on the one hand regulating law enforcement mechanisms, and on the other hand ensuring that human rights remain protected throughout the legal process. In Indonesia, the system relies on two legal instruments that are its foundation, namely the material criminal law outlined in the Criminal Code (KUHP) and the formal criminal law regulated through the Criminal Procedure Code (KUHAP). These two instruments cannot stand alone, but rather complement each other in a single system. The Criminal Code functions to establish normative limits by formulating which acts are categorized as criminal acts along with the sanctions that can be imposed. The Criminal Procedure Code regulates the procedures and procedures for the application of these criminal provisions in practice, covering the entire series of processes starting from the initial investigation to the implementation of court decisions. The very close relationship between the two emphasizes that effective criminal law enforcement is not enough to rely only on clear material norms, but also requires a legal process that can guarantee justice, provide certainty, and protect the rights of all parties involved in a case.

Historically, the Criminal Code that has been in force so far was born from efforts to reform the law in the early days of independence as a replacement for the criminal procedure law of the Dutch colonial legacy, namely the *Wetboek van Strafrecht voor Nederlands-Indie*. However, over time, social changes that continue to occur, crime patterns that are increasingly developing, and increasing awareness of the importance of human rights protection, make the old Criminal Code considered to be starting to show

¹ Sulistiya Zilpana et al., "Comparison of Death Penalty Arrangements between the Colonial Criminal Code and the National Criminal Code," *Didactic: PGSD Scientific Journal STKIP Subang* 11, no. 4 (2025): 274–83.

various limitations. A number of studies that have been conducted reveal that at the practical level, law enforcement still faces various problems, including inequality in the relationship between law enforcement officials and suspects, weak existing supervision mechanisms, and inadequate guarantees of rights protection since the early stages of the judicial process.²

The death penalty is the most severe criminal sanction that can be imposed by a judicial institution on a person as a consequence of his actions. Among the various legal debates that have developed in society, the issue surrounding the application of the death penalty to criminals has always been the one that has attracted the most public attention. This reflects the fact that the death penalty is still applied in a number of countries, including China and Indonesia, while about 130 other countries have taken moratorium measures or even abolished the death penalty entirely from their legal systems.³ Among the various debates that accompany the development of the Indonesian criminal law system, the issue surrounding the death penalty is probably one of the most complex and often triggers prolonged polemics. Its existence is still maintained on the grounds that the sanctions are needed as the most decisive response to crimes categorized as extraordinary crimes, including narcotics crimes. However, the current of modern legal thought that increasingly places human dignity, the right to life, and the proportionality of punishment as values that cannot be ignored, is slowly encouraging the emergence of various reform discourses on the application of the death penalty in the national legal system. From the tension between the two poles of thought, the concept known as the "conditional death penalty" emerged. This concept has now obtained a concrete normative foundation, namely through the provisions of Article 99 and Article 100 of Law Number 1 of 2023 concerning the Criminal Code (KUHP), which is then further refined in the 2026 Criminal Adjustment Law. The existence of this conditional death penalty formulation reflects a fundamental shift in the perspective of punishment from an absolute and final model, towards a more adaptive, proportional, and harmonious approach to social dynamics, the development of moral values, and the spirit of restorative justice.⁴

² Reno Apri Dwijayanto, "Comparative Juridical Review of the Old Criminal Code and the New Criminal Code in the Indonesian Criminal Justice System," *Journal of Social and Technology (SOSTECH)* 6, no. 2 (2026): 746–54.

³ Agus Sugiyatmo and Listyowati Sumanto, "Legal Comparison of the Death Penalty in Indonesia with the People's Republic of China (China)," *INNOVATIVE: Journal Of Social Science Research* 4, no. 2 (2024): 8042–57.

⁴ Ilham Faturrahman Mohamad, "Transformation of the Paradigm of Conditional Death in Narcotics Crimes (Jurisprudence Study of the Supreme Court Pre-Post-Reform 2026)," *Al-Zayn: Journal of Social Sciences & Law* 4, no. 2 (2026): 534–50.

The 1945 Constitution explicitly guarantees the right of every citizen to live, maintain his or her survival, and obtain a decent life in accordance with its underlying human values. The guarantee of the right to life was then emphasized and expanded in Law Number 39 of 1999 concerning Human Rights, which clearly affirms that everyone has the right to fair recognition, protection, guarantee, and legal certainty in all matters related to their human rights. Interestingly, the state's commitment to protecting the right to life is also reflected in the determination of heavy sanctions for serious crimes. Through the Criminal Code, the state imposes the death penalty on a number of acts that are considered to directly threaten the lives of others or have the potential to shake the stability of public order and state security. The application of the death penalty does not stop at the scope of the Criminal Code alone, but also penetrates into the realm of special legislation, namely terrorism crimes regulated in Law Number 15 of 2003 concerning the Eradication of Terrorism Crimes, as well as narcotics crimes regulated through Law Number 35 of 2009 concerning Narcotics.⁵

The long journey of criminal law reform in Indonesia has now reached a chapter that can be called a historic turning point, marked by the enactment of the National Criminal Code (KUHP) based on Law Number 1 of 2023 which will effectively come into effect on January 2, 2026. At the same time, Law Number 20 of 2025 concerning the new Criminal Procedure Code (KUHP) was also promulgated, as well as Law Number 1 of 2026 concerning Criminal Adjustment which was specifically formulated to bridge and resolve various disalignments that still remain in the existing legal norm order. This fundamental change in the normative framework does not solely reflect a paradigm shift from the approach of retribution (retribution) of the Dutch colonial era legacy, which has been known to be rigid and lacking in favor of human values, to a restorative justice approach rooted in the values of Pancasila as the basic philosophy of the state. Furthermore, this transformation also brought a revolutionary breakthrough in terms of the placement of the death penalty as a last resort or ultimum remedium, namely through the mechanism of the conditional death penalty as formulated in Article 99 and Article 100 of the National Criminal Code.⁶

Article 100 of Law Number 1 of 2023 gives judges the authority to impose the death penalty with a probation period of ten years. The granting of the probation period is

⁵ Rasina Padeni Nasution et al., "The Abolition of the Death Penalty in the Criminal Justice System in Indonesia Due to the Birth of Law No. 1 of 2023 concerning the Criminal Code," *Journal of Law, Politics and Social Sciences (JHPIS)* 3, no. 1 (2024): 225–32.

⁶ Novita Hatiku, "Transformation of the Sentence of Conditional Death (Articles 99-100 of the Criminal Code): Ultimum Remedium and Rehabilitation in Narcotics," *Al-Zayn: Journal of Social Sciences & Law* 4, no. 2 (2026): 1650–62.

based on the consideration of whether or not there is remorse from the defendant and the prospects of improving himself in the future, as well as the extent of the defendant's contribution to the criminal act suspected of him. If during the probation period the convict shows real remorse accompanied by a consistent change in attitude for the better, then the death penalty imposed can be transferred to life imprisonment. On the other hand, if the expected changes are not realized, the execution of the death penalty will still be carried out in accordance with applicable regulations. This kind of mechanism has fundamentally changed the perspective on punishment, from the previous absolute and inviolable punishment to punishment that opens up a space for *conditional punishment*, so that consideration of the humanitarian aspect of the convict can be taken into account. From a certain point of view, the death penalty can be seen as a form of respect for the right to life that in principle should not be revoked under any circumstances, given that this mechanism provides an opportunity for the convict to escape execution through the process of self-rehabilitation. However, this mechanism cannot be separated from problems at the normative level that have the potential to create legal uncertainty. Until now, there is no objective and measurable benchmark to assess whether the behavior of the convict has met the criteria worthy of being called commendable, nor has it been clearly determined which institution has the authority to evaluate the change in behavior. The ambiguity of this arrangement carries the risk of the emergence of non-uniform and potentially discriminatory practices in their application in the field.

Several previous studies have touched on this issue from various perspectives. Manoppo, Pongoh, and Bawole emphasized that the death penalty in the new Criminal Code is special and alternative, no longer a main crime and reflects the values of Pancasila as a middle way between the abolitionist and retributionist camps.⁷ Hatiku, examined the transformation of the conditional death penalty in the context of narcotics crimes and found that rehabilitative approaches proved to be more empirically effective, characterized by a decrease in recidivism rates from 70% to 35%.⁸ Meanwhile, Martio, Putra, and Wibisono highlighted the disparity between normative reform and judicial practice, referring to ICJR data in 2024 which noted that there are still 462 prisoners on

⁷ Gabrielle Aldy Manoppo, Jolly K. Pongoh, and Grace Yurico Bawole, "Analysis of the Death Penalty Based on Article 100 of Law Number 1 of 2023 concerning the Criminal Code," *Lex Administratum* 12, no. 1 (2023): 1-12.

⁸ Hatiku, "Transformation of the Sentence of Conditional Death (Articles 99-100 of the Criminal Code): Ultimum Remedium and Rehabilitation in Narcotics."

the execution waiting list.⁹ Suprawoto et al. strengthen this argument by reminding of the risk of *death row phenomenon* during a long trial period and the potential for subjectivity in the assessment of "commendable deeds" if not supported by standardized parameters.¹⁰

Although they are thematically rich, these studies have not simultaneously examined three things at once, namely the paradigm shift from *absolute punishment* to *conditional punishment* after Law No. 1 of 2026 concerning Criminal Adjustment; the conformity of the mechanism of the conditional death penalty with the principle of *non-derogable rights* as guaranteed by Article 28I of the 1945 Constitution; and test it through examples of real court decisions as a reflection of the application of the combined criminal theory. This gap is the starting point of this research. The novelty of this research lies in three aspects that have not been found in an integrated manner in previous research. First, this study integrates the normative analysis of Article 100 of Law No. 1 of 2023 with the changes brought by Law No. 1 of 2026 concerning Criminal Adjustment, a dimension that has not been studied at all in the existing literature, resulting in a more up-to-date and comprehensive mapping of the construction of the conditional death penalty law in Indonesia. Second, this study presents an analysis that specifically brings together the *mechanism of conditional punishment* with the framework of *non-derogable rights* based on natural law and Article 28I of the 1945 Constitution, which results in the argument that the granting of probation is actually a form of state respect for the right to life that cannot be reduced. Third, this study uses the Tanjung Redeb District Court Decision in the Julius case as the first concrete case study that analyzes the application of the conditional death penalty after the enactment of the National Criminal Code, showing how the theory of combined, retributive and rehabilitative punishment works in real judges' decisions.

Based on the description above, this study is titled "Conditional Death Penalty in Indonesia's New Criminal Code: Between Criminal Law Reform and *Non-Derogable Rights*". This study aims to examine in depth the paradigm shift in the penal system through the construction of the conditional death penalty as stipulated in Article 100 of the National Criminal Code, as well as test the suitability of the mechanism with the principles of *non-derogable rights* in the applicable national legal framework, using the Tanjung Redeb District Court Decision in the Julius case as a concrete case study.

⁹ Pratama Alifiandi Martio, Fani Martiawan Kumara Putra, and Hari Wibisono, "Analysis of the Death Penalty as a Special Crime in the New Criminal Code through the Perspective of Substantive Justice and the Purpose of Modern Criminality," *UNES LAW REVIEW* 8, no. 4 (2026): 1231–42.

¹⁰ Suprawoto et al., "The Death Penalty Paradigm in the New Criminal Code: Between the Deterrent Effect and Protection of Non-Derogable Rights," *Ulil Albab: A Multidisciplinary Scientific Journal* 5, no. 6 (2026): 901–9.

This research is based on the argument that the mechanism of the death penalty, instead of being seen as a mere political compromise, is actually a legal instrument that can be philosophically harmonized with the theory of natural law and the principle of *non-derogable rights*. The granting of a probationary period of ten years is a form of state respect for the right to life which in principle cannot be revoked under any circumstances, as guaranteed by Article 28I of the 1945 Constitution. Within this framework, the retributive and rehabilitative elements do not have to be dichotomous, but can work synergistically in one coherent legal construction.

METHODS

In the implementation of this research, a qualitative approach is used as the main methodological basis. The purpose of the qualitative approach here is a research procedure that focuses more on efforts to obtain descriptive and in-depth data. Such data can come from various sources, for example from the writings made by the research subjects, from oral descriptions delivered directly by them, or from the results of observations of the behavior that appears to the subjects when they are in a certain situation or context. The type of research used in this study is doctrinal research, which is often referred to as normative legal research. What is meant by doctrinal research here is research that is carried out or directed solely on written regulations and on available legal materials.¹¹ This approach was chosen because the problems studied are normative, namely examining the construction of the parole death penalty law as stipulated in Article 100 of Law Number 1 of 2023 and its conformity with the principle of *non-derogable rights*.

This study uses four integrated approaches. First, the *statute approach*, which is to review all regulations related to the death penalty and human rights. Second, the *conceptual approach*, which is to examine relevant legal doctrines and theories, especially the theory of combined crime, the theory of natural law, and the concept of *ultimum remedium*, in order to build a coherent analytical framework. Third, the *case approach*, which is to analyze the Tanjung Redeb District Court Decision in the Julius case as the first concrete case study of the application of the conditional death penalty after the enactment of the National Criminal Code, to see how legal norms work in real judicial practice. Fourth, the *human rights approach*, which is to test the suitability of the mechanism for the conditional death penalty with *the standard of non-derogable rights*.

¹¹ Muhaimin, *Legal Research Methods*, 1 ed. (Mataram: Mataram University Press, 2020).

guaranteed by Article 28I of the 1945 Constitution and *the International Covenant on Civil and Political Rights* (ICCPR).

The data sources used in this study come from secondary data or literature data which is divided into three, namely primary legal materials, secondary legal materials and tertiary legal materials. First, primary legal materials consisting of laws and regulations, especially the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023, Law Number 1 of 2026 and various other regulations related to the death penalty and human rights. In addition, secondary legal materials include scientific books, various research results that have been carried out previously, official reports, various supporting documents, and so on. Then, tertiary legal materials are materials that provide instructions or explanations of primary legal materials and secondary legal materials, such as legal dictionaries, language dictionaries, general encyclopedias, and legal encyclopedias. Internet media is also used as a source of complementary data in this study. The analysis technique used is descriptive analysis. What is meant by descriptive analysis here is a procedure to solve the problem under study by describing the state of the subject or object of research according to their current condition, that is, based on facts that appear or as they are.¹²

The analysis was carried out through two techniques simultaneously. First, legal interpretation, which includes grammatical interpretation to understand the meaning of the norm text, systematic interpretation to see the relationship between articles in a regulatory unit, and teleological interpretation to reveal the purpose and spirit behind the formation of the norm.¹³ Second, drawing conclusions, using the deductive conclusion method, which is drawing conclusions from a problem that is general to the concrete problem faced.¹⁴ This method is used to build an argument regarding the suitability and tension between the mechanism of the conditional death penalty and the principle of *non-derogable rights* within the applicable national legal framework.

RESULTS AND DISCUSSION

1. The Transformation of the Criminal System in Law No. 1 of 2023 Reflects a Paradigm Shift from *Absolute Punishment* to *Conditional Punishment*

Before the enactment of Law Number 1 of 2023, which marked a new chapter in national law, the penal system in Indonesia was still heavily dependent on *the Wetboek van Strafrecht (WvS) voor Nederlandsch-Indie*. This legal product is a pure legacy of the

¹² Muhaimin.

¹³ Peter Mahmud Marzuki, *Legal Research*, Revised (Jakarta: Kencana Prenada Media Group, 2005).

¹⁴ Muhaimin, *Legal Research Methods*.

colonial era of the Dutch East Indies which has historically been maintained post-independence. In order to provide a legal juridical basis in the realm of independence, the government then passed Law Number 1 of 1946 concerning Criminal Law Regulations. It was through this regulation that *WvS* was adopted into the Criminal Code (KUHP) that we have known so far. However, it should be noted that in the early days of independence, the scope of the implementation of the Criminal Code did not touch all corners of the country, but was limited only to the Java and Madura regions. The uniformity or unification of criminal law so that it applies collectively throughout the sovereign territory of the Republic of Indonesia was only successfully realized on September 20, 1958. This occurred in line with the issuance of Law Number 73 of 1958, which served to clarify and expand the implementation of Law Number 1 of 1946 to all regions in the country without exception.

After going through a long journey for more than a century under the shadow of the codification of colonial law, Indonesia finally reached a new milestone through a consensus between the government and the House of Representatives in completely reforming the national criminal law. This concrete step is realized by the promulgation of Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) which is positioned as a replacement for *the Wetboek van Strafrecht*. Based on the transitional provisions, this regulation will take effect in its entirety three years after it is promulgated, which is exactly in early January 2026. The most fundamental transformation in the national Criminal Code can be seen in the doctrinal repositioning of the death penalty. In contrast to the old Criminal Code which places the death penalty as one of the main types of crimes, Article 67 of the New Criminal Code repositions it by establishing it as a special crime. This brings juridical consequences where the death penalty is now always threatened alternatively. Another significant difference lies in the execution mechanism and the existence of a transition period. If under the old legal framework the execution of death can be carried out immediately after the request for clemency is rejected by the President, the New Criminal Code actually introduces legal innovations in the form of probation periods for convicts. During the duration of the probation, the behavior of the convict becomes a determining variable; Execution can only be carried out if the convict is proven to have behaved badly during the observation period and his request for clemency is still not granted by the Head of State. This change reflects an effort to harmonize the interests of retributive (retribution) with respect for more modern human values.

In the old Criminal Code, Article 10 of the old Criminal Code positioned the death penalty as an integral part of the main type of crime, which in the Indonesian legal order

is recognized as the most severe form of sanction. However, this paradigm has undergone a fundamental shift in Law Number 1 of 2023. In the new codification of the criminal law, the death penalty is no longer classified as a principal crime, but is repositioned as a special crime that is always threatened alternatively. The affirmation of this special position is enshrined in Article 67 of the New Criminal Code, which is then described more technically in the range of Article 98 to Article 102. The most striking characteristic of this new arrangement is the integration between the death penalty and probation for ten years. The granting of the probationary period is not without philosophical reasons; The state provides a space for evaluation for convicts in the hope of positive behavioral changes and manifestations of regret for the criminal acts committed. Thus, this probation period serves as a correction instrument that allows for a review of the execution of the execution, depending on the sociological and moral dynamics of the convict during the supervision period.¹⁵

Article 100 of Law Number 1 of 2023 provides a normative basis that the death penalty can be imposed with a probation period of ten years.¹⁶ Article 100 of Law Number 1 of 2023 has also been amended by Article 7 number 17 of Law Number 1 of 2026, which reads:

"The provisions of paragraph (2) and paragraph (5) are deleted and the provisions of paragraph (1), paragraph (4), and paragraph (6) of Article 100 are amended, so that Article 100 reads as follows:

Article 100

- 1) The judge imposed the death penalty with a probation period as referred to in Article 99 for 10 (ten) years.
- 2) Deleted.
- 3) The grace period of 10 (Ten) years begins 1 (one) day after the court decision obtains permanent legal force.
- 4) If the convict during the probation period as referred to in paragraph (1) shows commendable attitudes and deeds, the death penalty is changed to life imprisonment by Presidential Decree after obtaining the consideration of the Supreme Court.
- 5) Deleted.

¹⁵ Nasution et al., "The Abolition of the Death Penalty in the Criminal Justice System in Indonesia Due to the Birth of Law No. 1 of 2023 concerning the Criminal Code."

¹⁶ Central Government of Indonesia, "Law Number 1 of 2023 concerning the Criminal Code," Pub. L. No. 1 (2023).

- 6) During the probation period as referred to in paragraph (1), the death penalty cannot be carried out."¹⁷

Through this new rule, a convict now has a real opportunity to show a change in his behavior. These changes will later become the main indicator for the state in evaluating whether the death penalty still needs to be carried out or not. We can call this mechanism a very important legal breakthrough, because it succeeded in changing the rigid and absolute nature that has been attached to the death penalty in Indonesia. This regulation also brings a new perspective to our national legal system, where it becomes more in line with the values of humanity that are upheld. The presence of the concept of the conditional death penalty is clear evidence of a major shift in our penal system. Indonesia is stepping out of the old system that only focused on retribution, towards a more modern legal system that prioritizes self-improvement or rehabilitation for convicts (rehabilitative).

In the framework of the new National Criminal Code, the applied penal model no longer positions the death penalty as an absolute final sanction. The emergence of this rule on the death penalty is proof that lawmakers are trying to absorb the development of modern criminal law, which now focuses more on achieving substantive justice than just formal legal certainty. Philosophically, the new Criminal Code places the death penalty in a lower or *subordinate* position. This is done to respect the basic principle of the right to life and to open up space for prisoners to improve themselves. Thus, the main focus is no longer just to punish, but to provide opportunities for a person to be accepted again and adapt again in society through the process of resocialization.¹⁸ This proves a paradigm shift, from a retributive approach that focuses solely on revenge, to an approach that provides more space for convict self-evaluation. This concept contains a profound ethical and legal dimension, as our penal system now officially recognizes human values as an integral part.

This step is also very much in line with the principle of subsidiarity in criminal law. This principle affirms that severe sanctions should only be imposed as a last resort when other legal remedies are considered inadequate. In other words, in the new National Criminal Code, the death penalty is placed as the *ultimate remedium*. This means that the

¹⁷ Central Government of Indonesia, "Law Of The Republic Of Indonesia No. 1 Of 2026 Concerning Criminal Adjustment," Pub. L. No. 1 (2026), <https://peraturan.bpk.go.id/Details/337869/uu-no-1-tahun-2026>.

¹⁸ Nurhafiza et al., "Review of Siyasa Dusturiyah Related to the Death Penalty Based on Law No. 1 of 2023 Criminal Code," *Aladalah: Journal of Politics, Social, Law and Humanities* 2, no. 1 (2024): 203–22.

death penalty is positioned as the last resort that will only be used in truly emergency or absolutely necessary conditions.¹⁹

One example of a case where the death penalty with a probation period of ten years was imposed is in the case of a defendant named Julius, who was proven to have committed the crime of premeditated murder. The panel of judges noted that the defendant's actions were carried out in several phases systematically. First, the defendant attacked his wife, Norviana (34 years old) while cooking, by swinging a machete right on the nape of the victim's neck. Second, the defendant then killed his two toddler children, namely NJ (5 years old) and NS (4 years old), in the bedroom by swinging a machete many times towards the children's bodies, and to ensure that both of them were really dead, the defendant also slit the throats of his children. Third, the defendant again stabbed his wife, who was pregnant with a five-month-old fetus at the time. Fourth, the defendant moved the bodies of his two children to the kitchen and arranged them side by side next to the wife's body. All these facts show that the action was carefully planned which in legal terms is called *voorbbedachte rade* and was carried out with full awareness at every stage. The panel of judges also denied the defendant's confession at trial that he felt hallucinations, confusion, or fear. This rebuttal is based on the results of the Visum et Repertum Psychiatric which definitively concludes that the defendant does not suffer from psychiatric disorders such as schizophrenia (psychotic). As an aggravating circumstance, the panel of judges considered that the defendant's actions were classified as sadistic, cruel, and had exceeded the limits of humanity. Moreover, as the head of the family, the defendant actually took the lives of his own wife and children, which ultimately caused very deep suffering to the victims' extended family and caused psychological trauma to the surrounding community.²⁰

The Tanjung Redeb District Court's decision to sentence the death penalty to the death penalty with a probation period of ten years for the crime of premeditated murder against his wife and two children reflects an important change in the way Indonesia views and applies the death penalty. This change moves from the concept of *absolute punishment*, which is the death penalty that can be carried out immediately after a court decision with permanent legal force, to the concept of *conditional punishment*, which is the death penalty whose implementation depends on the behavior of the convict during the probation

¹⁹ Aqmarina Khusnul Baiti, "The Death Penalty in the Perspective of Law Number 1 of 2023: A Juridical Review of Alternative Criminal Models," *In Concerto Law Journal* 3, no. 1 (2024): 114–29.

²⁰ Andi Ramdhan, "Murder of Pregnant Wife & Child: Julius Sentenced to Death by Tanjung Redeb District Court," dandapala.com, 2026, <https://dandapala.com/article/detail/bunuh-istri-hamil-anak-julius-divonis-mati-oleh-pn-tanjung-redeb>.

period. With such a legal framework, Julius' future fate is not solely determined by the seriousness of the act he has committed, namely the premeditated murder of his wife who was pregnant with a five-month-old fetus and two children who were still toddlers, but also by how he behaved and behaved during his ten-year probation period in the penitentiary. This legal construction reflects that punishment not only aims to provide a commensurate punishment for the crimes committed, but also to provide space for the possibility of rehabilitation and human development, even though the crimes committed are very serious. The Tanjung Redeb District Court's decision in the Julius case thus became one of the early markers of the implementation of a new paradigm of Indonesian criminal law that seeks to balance the demands of justice for victims and their families on the one hand, and recognition of the possibility of self-change of the convict on the other.

In general, there are three main theories in the discussion of punishment, namely the theory of retaliation which is often referred to as the absolute theory, the theory of purpose or relative theory, and the combined theory. The absolute theory is based on the idea that criminals have no practical orientation, such as efforts to improve the morals or behavior of convicts. On the contrary, sanctions are seen as an absolute juridical imperative; Criminal punishment is not just an option, but a consequence that must be enforced. The essence of this thinking lies in the principle of *revenge*. In line with Muladi's thought, this absolute view affirms that punishment is a form of reciprocity for the wrongs that have been committed, so that the main focus is rigidly on the criminal act itself and past events. In this perspective, punishment is imposed solely because a criminal act has occurred. The sanction is present as an instrument to retaliate for the mistakes of the perpetrators in order to meet the demands of justice that are retributive.

On the other hand, relative theory or objective theory is based on the view that crime functions as a strategic instrument to maintain law and order in society. As explained by Muladi, the main orientation of criminalization in this thinking is not revenge for past mistakes, but efforts to achieve future benefits, namely community protection and improvement of social welfare. The focus of sanctions is no longer on the satisfaction of absolute justice, but on the prevention aspect so that criminal acts do not recur. This fundamental distinction is often formulated through the doctrine that punishment is imposed not just *quia peccatum est* (because someone has done evil), but *ne peccatum* (so that one no longer does evil). Although the theory of retribution and the theory of relative retribution both aim to impose sanctions on violators of the law, they have a very contrasting philosophical character. In a more modern perspective, punishment should not be interpreted as a means of inflicting suffering or a means of revenge to provoke fear. On the contrary, the suffering that arises from sanctions should be viewed more

wisely as a cure. The goal is for convicts to have space to reflect on their mistakes, experience an inner repentance process, and build a strong commitment not to fall back into criminal acts in the future.

Combined theory, often identified with modern criminal theory, views that the purpose of imposing sanctions is plural or plural. This theory seeks to integrate the relative principle (goal) and the absolute principle (retribution) into a comprehensive whole. With a double twist, punishment in this perspective still contains an element of retribution to the extent that the sanction serves as a form of moral criticism for the violation of the law committed. However, on the other hand, moral criticism has a future orientation, namely as an instrument to encourage reform of convict behavior. Therefore, according to this theory, the essence of punishment is not only limited to the provision of physical and psychological suffering, but much more fundamental is the function of education and coaching. As a conclusion from the presentation of the above theories, it can be understood that the essence of the purpose of punishment is actually to seek self-improvement for the perpetrators of crimes. This is especially emphasized in the category of criminal offenses that are lighter in nature, where the opportunity for convicts to return to being a productive and correct part of society is still very wide open.²¹

The absolute theory views that the imposition of a criminal sentence is seen as a logical consequence that must be present as a form of retribution or retribution against the criminal. This perspective affirms that punishment is not an instrument to achieve a certain social benefit, but rather a moral demand that arises immediately after a crime has occurred. The manifestation of this theory is clearly seen in the consideration of the Panel of Judges of the Tanjung Redeb District Court when imposing the death penalty on Julius. The legal step was based on the judge's assessment of the cruelty of the defendant's actions, which sadistically took the life of his wife who was five months pregnant, as well as his two children who were still toddlers. The Panel of Judges considered the act to be a very cruel act and completely violated human values. Therefore, when viewed from the perspective of absolute theory, the death sentence handed down to Julius is considered a balanced, just, and proportionate form of legal accountability, given the gravity of the extraordinary crimes that have been committed.

In contrast to the previous view, relative theory or purpose theory argues that the essence of punishment does not lie in retribution of the past, but rather in preventive efforts and improvement of future behavior. In the context of Julius' case, the

²¹ In the Dawn of the Dawn, *Penology and Theory of Crime*, ed. by Fajar Ari Sudewo, 1 ed. (Tegal: PT. Djawa Sinar Perkasa, 2022).

implementation of this theory manifests itself through the provision of probation periods that provide opportunities for convicts to demonstrate positive changes in attitudes. If during the transition period Julius is able to show commendable behavior, then juridically the death penalty can be annulled to life imprisonment. This mechanism is in line with the procedure in Article 100 paragraph (4) of the New Criminal Code, where the change in criminal status is determined through a Presidential Decree after receiving consideration from the Supreme Court. Philosophically, this provision reflects a deep legal belief that no matter how serious the crime has been, each individual is still seen as having an inherent potential for self-recovery and behavioral transformation. Thus, the law no longer functions only as a tool of retribution, but also as a means of rehabilitation that respects the humanitarian dimension.

Thus, the decision of the Tanjung Redeb District Court in the Julius case is a real reflection of the implementation of the combined criminal theory which is now the spirit of the National Criminal Code. The death sentence handed down serves as a retributive response that is proportional to the severity of the crime committed by the defendant against his own family members. However, the inclusion of a probationary period of ten years simultaneously represents the essence of the relative theory; a view that criminalization is not just retribution, but a strategic instrument to achieve social benefits and community protection. This juridical construction is a historical marker that the criminal law system in Indonesia as stipulated in Law No. 1 of 2023 which has been updated through Law No. 1 of 2026 has undergone a paradigm shift. Our legal construction is now moving from a rigid *absolute punishment* model to a more adaptive *conditional punishment* model. This approach is much more humane because it provides space for rehabilitation, but is still firmly grounded in the principle of proportional justice.

In measuring the extent to which Indonesia's breakthrough is meaningful in the context of comparative criminal law, it is important to compare it with Asian countries that have similar arrangements but with different characters. Japan maintains the death penalty without a structured probation mechanism. Executions in Japan are carried out in secret, and death row inmates are only notified a few hours before execution, while families and lawyers are only notified after the execution takes place. There is no formal mechanism that gives convicts the opportunity to change their sentence through the evaluation of behavior change.²² Amnesty International has repeatedly criticized Japan's

²² Japan Today, "Japan Today Spotlight #53 | The death penalty in Japan," [japantoday.com](https://japantoday.com/category/spotlight/53-the-death-penalty-in-japan), 2026, <https://japantoday.com/category/spotlight/53-the-death-penalty-in-japan>.

shrouded execution practices.²³ Compared to Japan, Indonesia's mechanism is much more transparent and provides procedural certainty for convicts. South Korea has de facto stopped executions since 1998, with the last execution carried out on December 30, 1997, although the death penalty is still legally retained in its penal code. Amnesty International categorizes South Korea as an *abolitionist in practice country*, which is a country that has not carried out executions for more than ten years and is believed to have a well-established policy or practice not to carry out executions.²⁴ Taiwan is taking a more rigorous approach. Taiwan's Constitutional Court on September 20, 2024, ruled that the death penalty is constitutional with stricter protections, including requiring a unanimous verdict from a panel of judges and prohibiting the death penalty for defendants with psychosocial disabilities.²⁵ The court stipulated that the application of the death penalty must be limited to the most serious cases and meet the *strictest legal standards*, taking into account the principle of proportionality between crime and sanction. There is no mechanism for probation that provides an opportunity for sentence conversion based on the evaluation of the convict's behavior.²⁶ Singapore has the most relevant approach to direct comparison. In November 2012, Singapore's penal code was revised so that mandatory death sentences for drug convicts were revoked under certain conditions, and judges were given discretionary powers to impose life imprisonment as an alternative. A criminal reduction from mandatory execution to life imprisonment applies if the convict only acts as a courier, not a supplier or distributor and substantially cooperates with law enforcement officials in uncovering narcotics networks.²⁷ Although not a *post-sentencing* probation mechanism, this reform reflects the same spirit as Indonesia, shifting the death penalty from mandatory and absolute sanctions to more conditional and proportionate sanctions.

²³ Amnesty International, "Japan: Cruel execution a stain on country's human rights record," [amnesty.org](https://www.amnesty.org/en/latest/news/2025/06/japan-cruel-execution-a-stain-on-countrys-human-rights-record/), 2025, <https://www.amnesty.org/en/latest/news/2025/06/japan-cruel-execution-a-stain-on-countrys-human-rights-record/>.

²⁴ Oh Young-jin, "Amnesty Int'l categorizes Korea as death penalty 'abolitionist in practice,'" [koreantimes.co.kr](https://www.koreatimes.co.kr/southkorea/globalcommunity/20230516/amnesty-intl-categorizes-korea-as-death-penalty-abolitionist-in-practice?utm_source=legacy_url&utm_medium=redirect&utm_campaign=news_manager_id), 2023, https://www.koreatimes.co.kr/southkorea/globalcommunity/20230516/amnesty-intl-categorizes-korea-as-death-penalty-abolitionist-in-practice?utm_source=legacy_url&utm_medium=redirect&utm_campaign=news_manager_id.

²⁵ Human Rights Watch, "Taiwan: Top Court Upholds Death Penalty with Protections," [hrw.org](https://www.hrw.org/news/2024/09/23/taiwan-top-court-upholds-death-penalty-protections), 2024, <https://www.hrw.org/news/2024/09/23/taiwan-top-court-upholds-death-penalty-protections>.

²⁶ Lawasia, "Introduction to the Constitutional Court of Taiwan's Death Penalty Judgment," lawasiahumanrightsblog.com, 2025, <https://lawasiahumanrightsblog.com/introduction-to-the-constitutional-court-of-taiwans-death-penalty-judgment/>.

²⁷ Chad de Guzman, "Singapore Executed Another Drug Offender: Why the Country Clings to the Death Penalty – and Why Advocates Say It's Wrong," time.com, 2023, <https://time.com/6274565/singapore-death-penalty-drugs/>.

This comparison shows that the mechanism for the conditional death penalty introduced by Indonesia through Article 100 of Law No. 1 of 2023 is a relatively unique legal innovation in the Asian region. Indonesia does not choose the path of a moratorium without formal regulations like South Korea, nor does it maintain an absolute model like Japan, nor is it limited to procedural tightening like Taiwan, but puts itself in the unique position of maintaining the death penalty but making it a conditional instrument that opens up the space for normative rehabilitation. This position also reflects a commitment to harmonize the national penal system with the development of international criminal law, without abandoning the values of Pancasila as the philosophical foundation of the nation.

2. Analysis of Article 100 of Law No. 1 of 2023 in the Perspective of Non-Derogable Rights as Guaranteed by Article 28I of the 1945 Constitution

In the criminal law system, the imposition of the death penalty has always been the most controversial material and triggered a long debate. This is especially evident when the legality of the death penalty is faced with the state's commitment to providing protection for human rights, especially the fundamental right to life. The tension between the state's authority to punish and the obligation to protect human rights makes the death penalty a never-ending discourse, both at the normative and philosophical levels.²⁸ Human rights are essentially natural rights that are inherently inherent in every individual regardless of space and time. The main characteristic of this right is its inalienable nature, since it is a fundamental part that is integrated with the dignity of one's humanity. Juridical recognition of this principle has been widely affirmed in a wide range of legal instruments, ranging from laws and regulations at the national level to internationally applicable international conventions.²⁹ In principle, every country bears a constitutional responsibility to protect, fulfill, and uphold human rights for every citizen. However, in legal practice, the implementation of these rights is not always absolute without exceptions. This is due to the categorization of rights, where there are rights whose fulfillment can be limited under certain conditions, and there are also absolute rights that know no limits in any situation. The juridical basis regarding this limitation is explicitly affirmed in Article 28J paragraph (2) of the Second Amendment to the 1945 Constitution, which gives the state the authority to regulate restrictions on rights in order

²⁸ Ade Arga Wahyudi, Wami Irma Suryani, and Zul Fahmi, "The Death Penalty and the Right to Life in Indonesia: A Human Rights Review of Law Number 1 of 2023," *Sosmaniora: Journal of Social Sciences and Humanities* 4, no. 3 (2025): 880–89, <https://doi.org/10.55123/sosmaniora.v4i3.5924>.

²⁹ Mia Gisella Kartika, "Restrictions on Human Rights Freedom in Freedom of Speech," *Honeste Vivere Journal* 35, no. 1 (2025): 1–10.

to ensure recognition and respect for the rights of others, which reads: "In exercising his rights and freedoms, every person shall be subject to the restrictions established by law with the sole intention of guaranteeing the recognition and respect of the right to freedom of others and to fulfilling fair demands in accordance with moral considerations, religious values, security, and public order in a democratic society".

The classification of limitations in the field of human rights can be described in several fundamental categories. First, the group of rights is classified as non-derogable rights. This category includes absolute human rights, so that even in an emergency, the fulfilment of them should not be reduced, restricted, or suspended by any authority, including the state. In the Indonesian legal system, the guarantee of these inalienable rights is constitutionally enshrined in Article 28I paragraph (1) of the Second Amendment to the 1945 Constitution, which includes: "The right to life, the right not to be tortured, the right to freedom of mind and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced in any circumstance. anything". This foundation is emphasized by the interpretation that the phrase 'under any circumstances' includes even the most extreme situations, such as armed conflict, war, and national emergency status. This affirmation is explicitly outlined in Article 4 of Law Number 39 of 1999 concerning Human Rights. In line with that, Indonesia's commitment is also reflected in the ratification of international instruments in Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR). The second category is derogable rights, which are human rights groups that are within the scope of civil and political rights but are not absolute. Unlike the previous group, the fulfilment of rights in this category can be limited by the state. However, such restrictions are only allowed if there is an urgency or special situation that legally justifies the existence of restrictive measures in the public interest or national security.³⁰

Substantively, when a judge sentences a defendant who is proven to have committed a criminal act, the judicial authority has indirectly intervened in the most fundamental right for human beings, namely the right to life. In the discourse of human rights, the right to life is classified as a group of non-derogable rights, which means that these rights are absolute and are not allowed to be restricted or diminished under any circumstances. This means that the right to life cannot be violated through any mechanism, including by

³⁰ Tika Widyaningsih and Suryaningsi, "A Study on Legal Protection of Children's Digital Personal Data as a Right to Privacy in Indonesia," *Number: Journal of Legal Research* 2, no. 3 (2022): 93-103.

the state. Therefore, the state bears a great constitutional responsibility to ensure that this primary right gets maximum legal protection. This situation has sparked a deep legal debate about the extent to which the state can justify the taking of a person's life amid its obligation to uphold human values.³¹ With the regulation that places the death penalty as a conditional penalty in the National Criminal Code, it can be interpreted as a form of effort by the state to respect a person's right to life. This is because in this mechanism, the state does not absolutely or directly take away the life of the convict, but still provides space for evaluation through the provision of probation.³²

The formulation contained in Article 100 of the Criminal Code was born from the consideration of two views that are diametrically opposed to each other with relatively balanced power, namely the views of the retentionists who want to maintain the death penalty and the views of the abolitionists who want to abolish it. The presence of this article serves as a middle ground that seeks to bridge the two points of thought. This adjustment is very much in line with the modern criminal law paradigm that has begun to abandon the retributive (retributive) aspect and shift the focus to a broader dimension of justice, namely corrective, restorative, and rehabilitative justice. In the new formulation, the death penalty still exists, but its position has been downgraded from a basic crime to a special and alternative crime. This is in stark contrast to Article 10 letter a of the old Criminal Code which places the death penalty as the main instrument. Now, the death penalty is only positioned as a last resort (*ultimum remedium*) which is threatened alternatively with the prison sentence of a certain time or life. The most basic innovation is the ten-year probation period, which provides space for convicts to transform into better individuals. If the requirements for a change in behavior are met within that deadline, the death sentence can be overturned into a prison sentence. This mechanism ultimately aims to realize rehabilitative justice, which provides a second chance for perpetrators to improve themselves.³³

In order to test how the construction of Article 100 works in real judicial practice, it is important to analyze *the ratio decidendi* based on the legal considerations that are at the core of the verdict in the Tanjung Redeb District Court Decision against the defendant

³¹ Rahmat Indra Putra Mbuina, Adi Tirto Koesoemo, and Taroreh Hironimus, "The Application of the Death Penalty in the Perspective of Law Number 39 of 1999 concerning Human Rights," *Lex Privatum* 14, no. 3 (2024): 1-12.

³² Joko Cahyono dan Faisal Santiago, "Reconstruction of Conditional Death Penalty Norms In The Perspective of Renewing Indonesian Criminal Law," *Journal of Edunity: Social and Education Studies* 2, no. 1 (2023): 47-55.

³³ Kiki Kristanto et al., "The Death Penalty and the Right to Life as Non-Derogable Rights in Indonesia with Legal Certainty," *Morality: Journal of Legal Science* 10, no. 1 (2024): 129-41.

Julius. From the reconstruction of the facts of the trial, there are legal considerations that form *the ratio decidendi* of the panel of judges, namely consideration of the gravity of the act and the nature of the crime. The panel of judges found that the defendant Julius committed premeditated murder (*voorbedachte rade*) in several systematic and planned phases against his wife who was pregnant with a five-month-old fetus and his two children who were still toddlers. The rebuttal of the defendant's psychiatric disorder is based on *the Psychiatric Visum et Repertum* which definitively concludes that the defendant does not suffer from psychotic disorders. This consideration reflects the element of absolute theory (retributive) that the severity of the sanction must be proportional to the severity of the act. Based on one of the judges' considerations, it can be concluded that the Tanjung Redeb District Court's decision is not just the imposition of the heaviest sanctions mechanically, but is the implementation of the combined criminal theory (*verenigingstheorie*) which simultaneously accommodates the retributive and rehabilitative elements in one decision. This construction is in line with the philosophy of Article 100 of Law No. 1 of 2023 which is indeed designed to bridge the two criminal orientations.

According to the view of natural law theory, natural law is understood as a part of divine law that can be reached by human reason. This theory assumes that human rights are a gift from God that has been attached to man since he was born. Such rights, because they are part of every individual, cannot be changed or abolished, regardless of a person's religious background, ethnicity, social status, or sexual orientation.³⁴ Based on the theory of natural law, the right to life is a right inherent to every human being from birth, not something given by the state and therefore cannot be arbitrarily taken away by the state. This thinking is in line with the provisions of Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which expressly states that the right to life is a human right that cannot be reduced under any circumstances. Article 100 of Law Number 1 of 2023 as amended by Law Number 1 of 2026 which is basically in line with Article 28I of the 1945 constitution, in the perspective of natural law, this provision can be interpreted as an acknowledgment that even though an act of crime has exceeded the limits of humanity, the human dignity of the perpetrator is not necessarily completely lost, so the state is obliged to make room for the possibility of repentance and recovery before taking appropriate steps irrecoverable, i.e. dead execution.

³⁴ Kiki Karsa et al., "John Locke's Legal Thought and the Foundations of Human Rights," *Das Sollen: Journal of Contemporary Studies of Law and Society* 2, no. 1 (2023): 1-19.

CONCLUSION

The enactment of the National Criminal Code through Law Number 1 of 2023, which was then further adjusted to Law Number 1 of 2026, has brought fundamental changes in the Indonesian penal system, especially regarding the death penalty. If in the old Criminal Code, the death penalty was placed as an absolute principal penalty and could be executed immediately after the clemency application was rejected, then in the new Criminal Code, the death penalty was changed to a special penalty, threatened alternatively, and equipped with a mechanism of probation period for ten years. This shift shows that there has been a paradigm transformation from *absolute punishment* to *conditional punishment*, where the death penalty is no longer seen as the only goal of retribution, but as a last resort or *ultimum remedium* that still provides space for evaluation of changes in the behavior of the convict.

The mechanism of the conditional death penalty as stipulated in Article 100 of Law No. 1 of 2023 as amended by Law No. 1 of 2026 reflects the state's efforts to balance two competing interests, on the one hand maintaining the death penalty in response to extraordinary crimes, and on the other hand respecting the right to life as a *non-derogable right* by not necessarily taking the life of the convict before the evaluation process during the probation period is completed. Based on the perspective of *non-derogable rights* as guaranteed by Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the conditional death penalty has normative conformity because the right to life is still respected through this conditional mechanism. However, this study also found significant normative gaps, the lack of objective parameters to assess "commendable attitudes and deeds" and the lack of a clearly defined institution that is authorized to evaluate changes in convict behavior, two vacancies that have the potential to give birth to legal uncertainty, discriminatory practices, and non-uniform application between one jurisdiction and another.

The Tanjung Redeb District Court's decision in the Julius case is a historical marker of the first implementation of the conditional death penalty mechanism after the enactment of the National Criminal Code. This verdict shows the real implementation of the theory of joint punishment (*verenigingstheorie*), the retributive element is present through a death sentence that is proportional to the severity of the premeditated murder committed, while the rehabilitative element is realized through a ten-year probation period that opens up space for the evaluation of the behavior of the convict, this is a construction that simultaneously respects the demands of justice for the victim and recognizes the humanitarian dimension of the convict.

This research provides three theoretical contributions to the development of Indonesian criminal law. First, this study offers a conceptual repositioning of the mechanism of the conditional death penalty, instead of being seen as a mere political compromise between abolitionists and retentionists, the conditional death penalty can be interpreted as a legal instrument that is philosophically coherent with the legal theory of nature and the principle of *non-derogable rights*. The granting of probation is a normative recognition that even the most serious perpetrators of human dignity are not necessarily completely lost, so the state has an obligation to provide space for possible recovery before taking irreversible steps. Second, this study enriches the development of combined criminal theory by showing that in the context of the National Criminal Code, the retributive and rehabilitative elements do not have to be dichotomous. The two can work synergistically in a coherent legal construction as evidenced by the judge's *ratio decidendi* in the Julius case which simultaneously considers the proportionality of the sanctions to the severity of the crime (retributive) and the prospect of the convict's self-change (rehabilitative). Third, this study contributes to the comparative discourse of Asian criminal law by showing that Indonesia's position in the death penalty policy spectrum that maintains the death penalty but institutionalizes its conditionality through written legal norms, this is a relatively unique approach compared to Japan, South Korea, Taiwan, and Singapore.

The findings of this study produce three concrete and urgent policy implications. First, the Supreme Court must immediately issue a Supreme Court Regulation (PERMA) which sets out in detail objective and measurable indicators to assess "commendable attitudes and deeds" as referred to in Article 100 paragraph (4) of the Criminal Code. These indicators at least include consistency of participation in coaching programs in correctional institutions, absence of disciplinary violations during probation, psychological assessments that show authentic remorse, and activeness in religious and psychosocial activities. Without standardized guidelines, the risk of subjective and discriminatory enforcement is inevitable. Second, the Ministry of Law and Human Rights needs to establish an independent multidisciplinary evaluation team consisting of supervising judges, forensic psychologists, community counselors, and correctional officers who are specifically tasked with conducting periodic assessments of changes in the behavior of death row inmates during probation. This institutional clarity is important to ensure that the evaluations produced are objective, comprehensive, and legally accountable, as well as to prevent inconsistencies between jurisdictions. Third, the government together with academic institutions and civil society organizations need to strengthen socialization and legal education to the wider community, law enforcement

officials, and judges regarding the philosophy and mechanism of the conditional death penalty. This is important to build a common understanding that the conditional death penalty is not a form of softening of crimes, but an effort to place respect for the right to life within the framework of proportional, rehabilitative, and dignified justice, this is in line with the values of Pancasila as the philosophical foundation of the national legal system.

This research opens up three research agendas that need to be followed up by the next researcher. First, empirical research is needed that systematically documents and analyzes the decisions of judges who impose the death penalty on parole after the enactment of the National Criminal Code on January 2, 2026, in order to identify patterns of consistency or inconsistency in the application of Article 100 in various district courts in Indonesia. This kind of research will generate the necessary database for more comprehensive policy evaluation. Second, more in-depth comparative research is needed on the effectiveness of death row behavior evaluation mechanisms in countries with similar systems, including a study of the institutional model of evaluation that can best ensure objectivity and prevent transactional practices. The results of this comparative research can be a reference for the preparation of implementing regulations for Article 100 in Indonesia. Third, interdisciplinary research that integrates the perspectives of forensic psychology, criminology, and criminal law is needed to formulate valid, reliable, and operationalized assessment instruments for the change in the behavior of convicts in the context of the Indonesian correctional system. Without such an instrument, the parameter of "commendable attitudes and deeds" will continue to be a source of uncertainty that has the potential to undermine the integrity of the overall conditional death penalty mechanism.

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