

THE DEATH PENALTY IN THE DRAFT CRIMINAL CODE (RKUHP): WHAT ARE THE REGULATIONS AND MECHANISMS?

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Abstract: This article examines the death penalty provisions in the Draft Criminal Code (RKUHP), focusing on its regulation and application mechanisms. Using a normative juridical approach, the study provides a detailed analysis of the draft's stance on the death penalty. The RKUHP treats the death penalty as a special punishment, which can be alternatively imposed with life imprisonment or a maximum of 20 years in prison for crimes outlined in the Criminal Code and other specific laws. The research identifies a key issue: while the RKUHP aims to achieve various goals through punishment, the death penalty fails to meet some of these objectives, such as the social rehabilitation of convicts and the resolution of conflicts arising from criminal acts. The study suggests that imprisonment as an alternative to the death penalty has negative effects on convicts and proposes exploring other punitive alternatives. These alternatives should align with the goals of justice and rehabilitation outlined in the criminal law, offering solutions that do not harm the convict's prospects. This research highlights the need for a more effective and humane approach to punishment in the criminal justice system.

Keywords: Death Penalty; RKUHP; Special Punishment.

1. Introduction

Indonesia is a country that prioritises the equality of all citizens in intergroup interaction. An example is the value of harmony. The value of harmony is an unambiguous statement and indicates the existence of a strong relationship between stand-alone components. "Harmony indicates the existence of a reciprocal-based network, such as persistently accepting, acknowledging, and respecting the behaviour of others."¹ Harmony comes from the word "get along",² which means "healthy and attractive, do not clash, and "solid in everyday life."³ It can be said that harmony is "the process of getting along well."⁴ From the deepest heart, harmony is

¹ Ibnu Rusydi and Siti Zolehah, "Makna Kerukunan Antar Umat Beragama Dalam Konteks Keislaman Dan Keindonesian," *Al-Afkar, Journal For Islamic Studies*, 2018, 170–81.

² Li-ann Thio, "Rule of Law, Religious Liberty, and Harmony: Multiculturalism, Legal Pluralism, and the Singapore Model of Accommodative Secularism," *Journal of Law, Religion and State* 5, no. 3 (2017): 254–91.

³ Imam Syaukani, "Kompilasi Kebijakan Dan Peraturan Perundang-Undangan Kerukunan Umat Beragama," *Jakarta: Puslitbang*, 2008.

⁴ Said Agil Husain Al Munawar and Abdul Halim, "Fikih Hubungan Antar Agama," *Cet. III*, 2005.

“present to provide a sense of tranquillity to create social interaction without pressure from any party.”⁵

In Indonesia, the death penalty remains a highly debated issue, sparking ongoing controversy. The most recent polemic centred around the President's rejection of clemency proposed by death row inmates involved in drugs-related crimes and the execution of such offences. Those standing for the death penalty argue that for drug trafficking crimes, which have reached alarming levels, and other cases that fall into the category of extraordinary crimes, severe measures like the death penalty are necessary to protect the public. They believe that the death penalty can have a deterrent effect and prevent the recurrence of similar offences. They also contend that as long as the death penalty is imposed according to the law, this punishment cannot be said to contravene the Constitution. However, “supporters for the death penalty suggest that the legal systems, ranging from investigation to prosecution, be improved.”⁶

In various regions in Indonesia, poor conditions of law enforcement officials trigger conflict and crime, coupled with controversy-laden laws and regulations existing in the community. Discrimination and marginalisation in social, economic, political, and religious domains, among others, have also contributed to the emergence of continuous injustice and discontent, further escalating into conflict between people.”⁷

The RKUHP addresses the death penalty as a specific punishment, often substitutable with life imprisonment or a maximum of 20 years' imprisonment. Under the RKUHP, judges are granted the discretion to impose the death penalty with a 10-year probation period based on considerations such as the defendant's remorse and potential for rehabilitation, their role in the crime, or mitigating circumstances (Article 100 paragraph 1).”⁸

However, the approach to the death penalty in the RKUHP has been criticised for lacking substantive change from existing provisions. Furthermore, certain crimes remain regulated under the Criminal Code (KUHP) and other specific laws, raising questions about consistency. When examining the purpose of punishment outlined in the RKUHP, a disconnect becomes apparent between the intended goals and the methods employed.

The death penalty, for instance, fails to reach the main objectives, such as the reintegration of offenders into society or the resolution of societal tensions arising from crime. Given the negative impacts of prolonged imprisonment, which is often used as a substitute for the death penalty, there is an urgent need to develop alternative forms of punishment. These alternatives should not only align with the principles of the KUHP but also minimise harm to prisoners while fulfilling the broader goals of justice and rehabilitation.

⁵ Faisal Ismail, *Dinamika Kerukunan Antarumat Beragama: Konflik, Rekonsiliasi, Dan Harmoni* (PT Remaja Rosdakarya, 2014).

⁶ Lidya Suryani Widayati, “Pidana Mati Dalam R UUHP: Perlukah Diatur Sebagai Pidana Yang Bersifat Khusus?(Death Penalty In The Bill Of Criminal Code: Should Regulated As A Special Punishment?),” *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 7, no. 2 (2017): 167–194.

⁷ H Zainuddin Ali, *Sosiologi Hukum* (Sinar Grafika, 2023).

⁸ Supriyadi Widodo Eddyono et al., *Hukuman Mati Dalam R KUHP: Jalan Tengah Yang Meragukan* (Institute for Criminal Justice Reform, 2015).

The death penalty has a long history, tracing back to ancient times, and is widely practised throughout the world, especially during the Middle Ages. Historically, it was applied to a variety of offences without being limited to specific crimes. Methods of execution have evolved alongside societal developments, ranging from burning, beheading, and hanging to more modern methods such as firing squads, gas chambers, and the electric chair.

The death penalty raises pros and cons in its implementation. This is because the death penalty is the cruellest and the most severe punishment for the perpetrators. For offenders, the death penalty is a harrowing experience, leaving a lasting impression on society. While it elicits empathy and sorrow in some, for others, the suffering it causes is seen as a just response to heinous acts. This duality of emotion continues to stimulate the debate over its moral and ethical implications.⁹

The conflict between those for and against the death penalty and the lengthy process to execute the death penalty, along with its uncertain time for executions, are some issues to be resolved comprehensively in Indonesia. The resolution may start with formulating policies regulating the death penalty. Crimes punishable by the death penalty, such as terrorism, corruption, narcotics offences, and sexual crimes against children, have become increasingly pervasive, regardless of age and geographical differences. These offences are no longer confined to major cities but have infiltrated all levels of society, affecting both urban and rural communities. As a result, there is a growing demand for severe punishments, including the death penalty, to serve as a strong deterrent and prevent such crimes from continuing to spread.¹⁰

People who oppose the death penalty consider that the crime is inhumane and contrary to the principles of just and civilised humanity, thereby contravening Pancasila. One of the controversies regarding the death penalty arose following the second amendment to Articles 28A and 28I paragraph 1 of the 1945 Constitution, stating that everyone has the right to live and has the right to defend his life. These human rights (HAM) cannot be reduced under any circumstances, even by the state. In addition, the death penalty is considered incompatible with the purpose of punishment, which is to deter people from committing crimes and not revenge. Critics contend that it fails to eliminate crime or foster a harmonious society. The true measure of justice, they emphasise, lies not in how much crime decreases due to the death penalty, but in ensuring that justice is upheld and felt by the victims of crime.¹¹

People who agree with the death penalty consider that this crime deserves to be imposed on sadistic criminals, or similar offences will be repeated. This punishment is deemed in line with the purpose of criminal law in general—to prevent crime and protect individual interests. The death penalty is considered to have a deterrent effect on society. The death penalty is an exception to the right to life that is still

⁹ Tia Ludiana, “Eksistensi Pidana Mati Dalam Pembaharuan Hukum Pidana (Kajian Terhadap Pidana Mati Dalam RUU KUHP),” *LITIGASI* 21, no. 1 (2020): 60–79.

¹⁰ Roby Anugrah and Raja Desril, “Kebijakan Formulasi Pidana Mati Dalam Pembaharuan Hukum Pidana Indonesia,” *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021): 80–95.

¹¹ Tina Asmarawati, “Hukuman Mati Dan Permasalahannya Di Indonesia,” *Yogyakarta: Deepublish*, 2013.

recognised in many countries. This punishment is the most severe sanction for perpetrators of crimes that severely violate the human rights of others. Article 28 of the 1945 Constitution states that everyone is obliged to respect the human rights of others. In addition, in exercising their rights and freedoms, everyone must comply with the law so as not to violate the rights and freedoms of others. The Law Number 39 of 1999 concerning Human Rights also mentions the restriction of one's human rights with the rights of others for the creation of public order. Therefore, the death penalty is expected to create respect for the human rights of others.¹²

The policy of implementing a type of criminal sanction is not necessarily the beginning of a strategic plan. An important stage of criminal politics is deciding which goals to achieve. "The purpose of the punishment set can be a reference to ascertain the method, tool, or action to be used."¹³ The wisdom of deciding what punishment is best for achieving the goal, at least close to the goal, is not free from the problem of determining various substitutes. Selecting appropriate substitutes for punishment presents significant challenges, especially when viewed from a political perspective. An improperly formalised punishment can fail to address crime and even exacerbate the problem. Therefore, this discussion aims to explore the death penalty as outlined in the RKUHP by delving into its regulations and mechanisms.

2. Method

This research uses a normative-juridical method to observe positive legal norms or rules."¹⁴ Peter Mahmud Marzuki points out that normative legal research or literature is an effort aimed at finding doctrines, principles and legal rules to answer legal problems.¹⁵ This method is used with the aim of examining legal objectives, legal sources, legal rules and legal norms relevant to the discussion of the death penalty in RKUHP. Using the normative juridical approach method, this research seeks to elaborate on the main aspects of the research, such as the regulation of the death penalty in the RKUHP and the mechanism of its application. This research is qualitative-based, using literature supported by primary, secondary, and tertiary data.

3. Discussion

3.1. Death Penalty Regulation in the Draft Criminal Code (RKUHP)

The death penalty is a sanction carried out by taking the choice of deadly actions against perpetrators of criminal acts that have been declared guilty under a court decision with permanent legal force. This criminal sanction has been introduced since the Dutch colonial period, precisely when the Governor-General of the Dutch East Indies, Henry Willem Daendels, came to power in Indonesia in 1808 AD. The

¹² Asmarawati.

¹³ Mei Susanto and Ajie Ramdan, "Kebijakan Moderasi Pidana Mati," *Jurnal Yudisial* 10, no. 2 (2017): 193–215.

¹⁴ Joanedi Effendi and Johny Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris* (Jakarta: Prenada Media, 2018).

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, ed. PRENADAMEDIA GROUP, Edesi Revi (Jakarta, 2016).

death penalty would be given to natives who refused to be an errand or failed to obey Daendels' orders. Since this punishment involves taking someone's life, many stand against it. In the current KUHP, the death penalty is regarded as the most severe form of punishment, standing as the primary criminal sanction. However, under the RKUHP, it is no longer treated as the foremost punishment but rather as an alternative measure for specific crimes outlined by law. This shift is reflected in Article 98 of the RKUHP, which emphasises that the death penalty should only be used as a last resort to protect society. Table 1 shows the comparison between the death penalty arrangements of KUHP and RKUHP.

Table 1. Types of Criminal Sanctions in the KUHP and RKUHP¹⁶

Types of Criminal Sanctions in the KUHP		
Principal Crime (Article 10)	Additional Crime (Article 10)	
1. Death penalty	1. Deprivation of certain rights	
2. Imprisonment	2. Confiscation of certain objects	
3. Criminal confinement	3. Announcement of the judge's ruling	
4. Criminal fines		
5. Criminal cover-up		
Types of Criminal Sanctions in the RKUHP		
Principal Crime (Article 65)	Additional Crime (Article 66)	Crime of a special nature for a certain crime specified in the Law (Article 67)
a. Imprisonment	a. Revocation of certain rights	The death penalty which is always threatened alternatively (Article 98-102)
b. Criminal cover-up	b. Seizure of certain goods	
c. Criminal surveillance	c. Announcement of the judge's verdict	
d. Criminal fines	d. Payment of indemnity	
e. Criminal social work	e. Revocation of certain permissions	
	f. Fulfilment of local customary obligations	

According to Barda Nawawi, a member of the RKUHP Drafting Team, the reclassification of the death penalty from a primary punishment to an alternative (exceptional) punishment is established in the following three main considerations:

1. From the perspective of the purpose of punishment, the death penalty is not considered a primary tool for regulating, organising, or rehabilitating individuals or society. Instead, it is regarded as an exceptional measure akin to amputation or surgery in medicine. Just as these procedures are not the first line of treatment but are used only as a last resort, the death penalty is viewed as a final option when all other measures have proven insufficient;

¹⁶ Puguh Wiyono, "Hukuman Mati Dalam Rancangan KUHP," Kemenkumham Sulawesi Selatan, 2022, https://sulsel.kemenkumham.go.id/attachments/article/8014/hukuman_mati_dalam_Rancangan_KUHP.pdf.

2. The concept of the death penalty as a special crime departs from the idea of mono-dualistic equilibrium. This idea is oriented towards balancing the public interest or protection of society and also takes into account the interests or protection of individuals. That is, in addition to protecting the death penalty community, it also pays attention to individual interests, such as provisions for postponing the implementation of the death penalty for pregnant women and mentally ill people (Article 81, paragraph (3)). Another example is the possibility of postponing the execution of the death penalty, otherwise known as the "conditional death penalty", with a probation period of 10 years (Article 82, paragraph (1));
3. The defence of the death penalty, despite a special crime, is based on the idea of avoiding prosecution or public reaction towards revenge or extra-legal execution. This means that the provision of the death penalty in the Law is intended to avoid public outcries.¹⁷

The implementation of the death penalty in the RKUHP has several stages. In the first stage, Wherever possible, the death penalty is avoided by opting for alternative punishments such as life imprisonment or a fixed-term sentence of up to 20 years. In the second stage, the postponement of the death penalty, the death penalty may be deferred with a probation period of 10 years. During this time, the sentence can be converted to life imprisonment or a maximum of 20 years' imprisonment if deemed appropriate. In the third stage, the convict has the right to request clemency. Execution of the death penalty is postponed until the President has formally rejected the clemency request. If clemency is denied and the death penalty is not executed within 10 years, the sentence may be altered to life imprisonment.¹⁸

Indonesia, as a nation founded on the rule of law and guided by the principles of Pancasila, views the death penalty from the perspective of equal values among its precepts. Barda Nawawi confirms this perspective, stating that Pancasila upholds a balance between its principles.¹⁹ However, when Pancasila is interpreted narrowly or with emphasis on a single precept, opinions on the death penalty diverge. Some argue that it contradicts Pancasila, while others see it as parallel to its values. In terms of purpose, the death penalty is not seen as a primary tool for guiding, reforming, or justifying citizens. Instead, it is regarded as a measure of last resort or an exceptional response.²⁰ For this reason, the inclusion of the death penalty in the RKUHP must always be grounded in Pancasila, ensuring it is congruous with the broader vision of Indonesia's development as a just and humane state.

The death penalty serves as a tool within the framework of criminal policy, employed as a last resort to safeguard society. Its enforcement requires a careful, thorough, and deliberate approach, ensuring that criminal sanctions are applied effectively and within strict limits as part of a broader policy strategy. According to

¹⁷ Barda Nawawi Arief, "Bunga Rampai Kebijakan Hukum Pidana:(Perkembangan Penyusunan Konsep KUHP Baru)," 2011.

¹⁸ Puguh Wiyono, "Hukuman Mati."

¹⁹ Teguh Syuhada Lubis, "Reformulasi Hukum Penanganan Tindak Pidana Kekerasan Di Lingkungan Pendidikan Dalam Upaya Perlindungan Profesi Guru," *De Lega Lata: Jurnal Ilmu Hukum* 6, no. 1 (2021): 191–207.

²⁰ Romli Atmasasmita, *Rekonstruksi Asas Tiada Pidana Tanpa Kesalahan* (Gramedia Pustaka Utama, 2017).

Nigel Walker, the following restrictive conditions must be considered when implementing criminal law

1. Do not use punishment purely as a response to anger;
2. Do not use punishment to penalise misconduct or harmful acts;
3. Refrain from imposing punishment to achieve a goal that could be achieved more efficiently through simpler methods;
4. Do not impose penalties if their harm or risks are greater than the loss or threat posed by the crime itself;
5. Ensure that the taboos listed in the punishment are not greater than the attempted action;
6. Punishment should not contain taboos that lack significant support from society.²¹

Addressing criminal behaviour, including the application of the death penalty, requires a thoughtful approach that integrates both penal and non-penal strategies, such as rehabilitation and prisoner reformation programmes. The factors contributing to criminal behaviour often stem from socio-economic inequality, unemployment, lack of education, poverty, racial and social discrimination, and family issues, among others.

Punishment serves multiple purposes: holding perpetrators accountable, rehabilitating them, and deterring others from engaging in similar offences. It plays a role in repairing or mitigating the harm caused to victims. A truly effective approach to crime prevention and resolution involves a comprehensive correctional policy that combines individual rehabilitation with systemic and structural reforms. This approach includes community engagement and efforts to foster healing, even in cases involving the death penalty.

From the perspective of legal politics, the concept of criminal policy is relevant to the moderate defence of the death penalty. This is because the Indonesian National Law policy is a product of national legal creation and has a special purpose to create a comprehensive national legal system in Pancasila and the 1945 Constitution of the Republic of Indonesia.²² Legal policy must work in accordance with the goals of the country, the wishes of the nation, the wishes of the law and the rules of instructors stated in the 1945 Constitution of the Republic of Indonesia. Bagir Manan divides legal policy into two: fixed and dynamic. Fixed legal policy refers to foundational principles that consistently underpin the legal framework, including the following:

1. There is a unified national legal system;
2. There is no law that distributes exclusive rights to the people of a particular country based on race, ethnicity or religion if there is also a comparison based solely on national needs in the chart of unity and national alliances;
3. The national legal system was formed based on and to strengthen the joints of Pancasila and the 1945 Constitution of the Republic of Indonesia;
4. Lawmaking observes the heterogeneity of citizens;

²¹ S H Barda Nawawi Arief, *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Prenada Media, 2018).

²² Arif Hidayat and Zaenal Arifin, "Politik Hukum Legislasi Sebagai Socio-Equilibrium Di Indonesia," *Jurnal Ius Constituendum* 4, no. 2 (2019): 147–59.

5. Customary law and other non-recorded legal rules are considered complementary principles of the national legal code throughout daily life and are upheld by the general public;
6. Laws are based on and upheld for the sake of human rights;
7. Temporary legal policy evolves and adapts to current priorities and needs. This includes efforts such as prioritising the making of new laws and regulations or eliminating outdated colonial-era legislation.²³

From a legal perspective, the death penalty policy in the RKUHP remains consistent with both permanent and changing aspects of legal policy.²⁴ First, the death penalty is integrated into Indonesia's legal framework, reflecting the principles of Pancasila and the 1945 Constitution. Second, it complies with the state's legal and constitutional governance, as evidenced by Constitutional Court Decision No. 2-3/PUU-V/2007, which aims to provide clarity and structure to the death penalty policy. Third, the policy takes into account the diversity of Indonesia's citizens, recognising differences in race, culture, religion, and traditions.

Based on these considerations, the death penalty is positioned as a preventive measure against serious crimes. However, this policy has not been implemented arbitrarily. It undergoes thorough deliberation, factoring in Pancasila, judicial rulings, and cultural and religious sensitivities. As such, the death penalty serves as an alternative punishment, intended to act as a deterrent while respecting the nation's legal and cultural framework.

3.2. Death Penalty Mechanism in the Draft Criminal Code (RKUHP)

According to Tarde, the death penalty should be reserved exclusively for cases of murder. Death resulting from such a crime is inherently unnatural. He argued that anything unnatural will eventually be rejected by society, regardless of compelling utilitarian justification.²⁵ Instead of the guillotine, Tarde proposed severe corporal punishment, allowing the convicted individual to choose their method of execution. He suggested that this might lead to a more humane approach to deterring serious crimes. In places where the death penalty is absent, its role is reduced to mere intimidation or serving as a symbolic example.

Although the death penalty has long been a topic of discussion in Indonesia, it will still be used as an alternative in the RKUHP in the coming years. Some argue that the death penalty is a necessary tool, particularly in addressing severe crimes such as human trafficking. They believe it provides justice for victims and their families, embodying the principle of "a life for a life."

On the other hand, opponents view the death penalty as incompatible with the defence of human dignity. They argue that even those on death row are still human beings and deserving of humane treatment. Furthermore, they highlight the irreversible nature of the punishment, pointing out that errors in judicial decisions cannot be rectified once an execution has taken place.

²³ Bagir Manan, "Politik Perundang-Undangan," *Penataran Dosen FH/STH PTS Se-Indonesia. Bogor: Makalah*, 1993.

²⁴ Tobias Smith and Daniel Pascoe, "Suspended Execution beyond China's Borders," *Asian Journal of Law and Society* 9, no. 1 (2022): 133–167.

²⁵ Piers Beirne, "On Gabriel Tarde, Penal Philosophy," in *Classic Writings in Law and Society* (Routledge, 2017), 21–29.

The procedures for carrying out the death penalty, as described above, reflect a deliberate and meticulous approach by the execution team. This is evident in the choice of the convict's heart as the target for the firing squad. The heart is selected to ensure that the individual dies instantly upon being struck, minimising suffering. Execution by shooting, with the heart as the target, is considered one of the most efficient and humane methods of capital punishment. It is highly unlikely that a person shot directly in the heart would survive. Therefore, this method is believed to align with the 1945 Constitution, as it avoids subjecting the convict to prolonged suffering before death. In rare instances where the initial shot fails to strike the heart or the convict survives despite the shot, Law No. 2/PNPS/1964 has provided guidelines for addressing such situations.²⁶

The continued use of the death penalty as a carefully applied alternative punishment, particularly for serious crimes like murder, highlights complexities within its implementation. The inclusion of the death penalty in legal provisions represents a compromise, balancing opposing perspectives. On one hand, it addresses the gravity of certain offences, ensuring that the most severe crimes, such as murder, face equally severe consequences. On the other hand, it acknowledges the irreversible nature of the death penalty, where such a punishment leaves no room for correction once a judge's decision has been rendered and the sentence becomes legally binding.

The Constitutional Court of Indonesia has ruled that the death penalty does not violate the right to life guaranteed by the 1945 Constitution, as the Constitution does not adopt an absolute approach to human rights. According to the Court, the fundamental rights outlined in Articles 28A to 28I of Chapter XA must be balanced with the provisions of Article 28J. This primary article emphasises that the personal responsibility of a person must be upheld while the responsibility of others must be enforced in accordance with laws and social norms. The judge's view in determining the death penalty is essentially to defend the basic rights of people to victims taken by the accused.

Article 53, paragraphs (1) and (2) of the RKUHP emphasise judges must prioritise law and equality when examining criminal cases. If there is a conflict between legal certainty and fairness, judges are instructed to prioritise fairness. This principle is evident in the case of Ferdy Sambo, a former two-star Police General, who was sentenced to death for the premeditated murder of Novriansyah Yosua Hutabarat.

The South Jakarta District Court found Ferdy Sambo guilty of meticulously planning the murder. Evidence presented at trial revealed that he had not only orchestrated the crime but also enlisted others to carry out his plan. He carefully considered the method and tools to be used and even issued specific instructions. He initially ordered his assistant, Ricky Rizal, to kill Yosua, but when Ricky refused, the task was passed to Richard Eliezer, a police officer with the rank of Bharada.

The court also noted critical evidence, including Sambo's use of a Glock firearm and the fact that he wore dark gloves during the crime. Based on the evidence and testimonies, the judges concluded that Sambo's actions were intentional and premeditated.

²⁶ Gina Olivia, "Perbandingan Pelaksanaan Pidana Mati Berdasarkan Kuhp Dan Peraturan Perundang-Undangan Indonesia Dan China," *Varia Hukum* 3, no. 1 (2021): 21–36.

Murder is an intentional attempt to kill another person in a series that threatens the life of another until their death. When such an act involves a prior plan, it is classified as premeditated murder, the most severe form of homicide. This is outlined in Article 340 of the KUHP: “*Whoever wilfully and premeditatedly takes the life of another shall be punished with wrongful premeditated murder, with the death penalty or imprisonment for life or temporary imprisonment for not more than twenty years.*”²⁷

In a verdict in court, there are three meaningful aspects that need to be observed: the defendant, the victim, and also the community. In Ferdy Sambo's case, the judge recognised his actions as serious crimes. Article 58, paragraph (1) of the RKUHP highlights factors that can aggravate a sentence, including situations where “officials commit criminal acts so as to violate certain office obligations or carry out criminal acts by abusing power, opportunity, or means given to him because of position.” This provision directly applied to Ferdy Sambo, whose role as the Head of the Police Propam Division at the time of the crime significantly worsened his sentence. He was found to have abused his authority, the opportunities, and the resources afforded by his position to commit the crime and then attempted to cover it up. These factors contributed to the court's decision to impose the death penalty.

The death penalty is not carried out immediately upon sentencing. Suspects have the opportunity to pursue several legal remedies, including:

1. Resistance or *Verzet* is a legal opinion given to a group of jurists without any doubt (*verstek*). According to the current situation, this law is offered to affected parties. For the plaintiff, this stage of *verstek* can include filing an appeal.
2. An appeal involves requesting a higher court to review and reassess a decision made by a lower court, typically when one or both parties are dissatisfied with the initial judgment. The process is governed by Law No. 20 of 1947 on retrials and detailed in Articles 7 to 15. Appeals must be filed within 14 days of the judgment being pronounced. If the appellant was present when the judgment was delivered, the countdown begins from that date. If the appellant was absent, the 14-day period starts from the date the decision is officially notified. For pro bono cases, the time limit begins when the pro bono determination is communicated. Appeals must be submitted to the court registrar who issued the initial ruling.
3. Cassation is a review process, not a third-level legal assembly. It is strictly limited in scope and only addresses specific issues outlined in Article 30 of Law Number 14 of 1985.

If the prisoner, during the 10-year experimental period, proves to have done good deeds and actions, the death penalty can be replaced with life imprisonment by the Decree of the Head of State after obtaining the evaluation of the Supreme Court. Conversely, If the prisoner fails to meet these standards during the probation period, the death penalty can be carried out by order of the Attorney General. Meanwhile, if the president's request for clemency is rejected, the death penalty is carried out publicly, typically by firing squad or by another method prescribed by law. The use of a firing squad is currently deemed the most humane approach.

²⁷ Keren Shallom Jeremiah and Karina Hasiyanni Manurung, “Analisis Perbuatan Obstruction Of Justice Yang Dilakukan Oleh Aparat Kepolisian Dalam Perkara Pembunuhan Berencana,” *Jurnal Esensi Hukum* 4, no. 2 (2022): 99–111.

However, if more humane methods become available in the future, the execution process will be adapted accordingly to align with these advancements.

4. Conclusion

In conclusion, the death penalty is a legal sanction applied to perpetrators of serious crimes, as determined by a court ruling with permanent legal force. Under the RKUHP, it is typically carried out by execution performed by a firing squad, with the process conducted carefully and methodically. This precision is evident in the targeting of the convict's heart. The death penalty serves as a compromise, addressing the seriousness of specific crimes—such as premeditated murder—while fulfilling its role as a substitute punishment in extreme cases. However, such a punishment fails to contribute to the rehabilitation or reintegration of convicts and to address the broader societal conflicts caused by criminal acts. Recognising the negative effects of long-term imprisonment as an alternative to the death penalty, it is essential to explore other solutions. These alternatives should be parallel to the penal objectives set out in the KUHP while ensuring they minimise harm to the convict.

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