

Legal Analysis of the Death Penalty for Drug Traffickers from the Perspective of Human Rights

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Abstract: This study analyzes the application of the death penalty for drug traffickers in Indonesia from the perspective of Human Rights (HR). The research employs a qualitative approach, utilizing document analysis and interviews with legal experts, human rights activists, and policymakers to gather comprehensive insights into the implications of the death penalty. The findings indicate that although the death penalty is viewed as a stringent measure to combat drug-related crimes, its implementation often contradicts the principles of human rights guaranteed by the 1945 Constitution and international instruments. This research identifies the discrepancies between the death penalty policy and humanitarian values, highlighting that the death penalty has not proven effective in reducing drug crime rates. Furthermore, this study recommends policy reforms that focus more on rehabilitation and the protection of human rights. The results of this research are expected to contribute to the development of more humane and effective legal policies in addressing drug-related issues in Indonesia.

Keywords: Death Penalty, Drug Traffickers, Human Rights, 1945 Constitution, Legal Policy

1. Introduction

After the second amendment to the 1945 Constitution, Article 28 emphasizes the importance of the freedom to associate and assemble, as well as the right to express opinions verbally and in writing, which is further regulated by law. This amendment demonstrates Indonesia's commitment to the principles of democracy and human rights, in line with various international conventions that recognize freedom of expression and assembly. In this context, it is crucial to understand how the application of criminal law, particularly the death penalty, interacts with human rights, especially in cases involving drug traffickers. Research conducted by Choirunnissa indicates that the imposition of the death penalty on drug traffickers in Indonesia represents a serious government effort to address drug issues; however, it also raises questions regarding human rights violations, particularly the right to life guaranteed by Article 28A of the 1945 Constitution and international instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) (Choirunnissa, 2021).

The death penalty in Indonesia, regulated by the Criminal Code (KUHP) and the Narcotics Law, has become a highly controversial topic that often sparks debate. Articles 114 and 132 of the Narcotics Law impose the death penalty on drug traffickers, which is viewed as a stringent measure in combating drug trafficking. However, the application of the death penalty raises serious questions regarding human rights violations, particularly the right to life guaranteed by Article 28A of the 1945 Constitution and various international instruments such as the UDHR and the ICCPR. Research by Sukedi also highlights the importance of protecting human rights in the context of the death penalty, emphasizing that every individual is entitled to legal protection and justice (Sukedi, 2020).

This study aims to legally analyze the application of the death penalty for drug traffickers while considering the perspective of human rights. We will explore arguments both supporting and opposing the death penalty, as well as its impacts on individuals

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and society. Through this approach, it is hoped that we can contribute to a better understanding of the balance between law enforcement and the protection of human rights in Indonesia. Additionally, we will examine how effective the death penalty is in reducing drug crime rates in Indonesia compared to other countries that do not implement the death penalty. Sukedi's research emphasizes that although the death penalty is viewed as a stringent measure in law enforcement, there needs to be a deeper consideration of its impact on human rights and social justice (Sukedi, 2020). Furthermore, we will investigate any political or social factors that influence the continued implementation of the death penalty in Indonesia despite international pressure. Research by Zahra et al. indicates that severe human rights violations, including the death penalty, should be regarded as extraordinary crimes requiring special attention within the legal system (Zahra et al., 2024).

Through this analysis, we hope to identify more humane solutions in addressing drug-related cases, focusing not only on punishment but also on rehabilitation and prevention. This study will also discuss how the Indonesian legal system can adapt to global developments in human rights protection, as well as the challenges faced in its implementation. Research by Ilham et al. underscores the importance of fulfilling citizens' constitutional rights in the context of human rights protection, which is also relevant to the discussion on the death penalty (Ilham et al., 2023). Thus, this research is not only pertinent to academics and legal practitioners but also to policymakers striving to create a fair and just legal system.

In this context, it is essential to consider various perspectives on the death penalty and human rights. Research by Choirunnissa indicates that while the death penalty is viewed as a stringent measure in combating drug trafficking, there are strong arguments against its application based on human rights principles (Choirunnissa, 2021). Furthermore, research by Salampessy and Lubis highlights the role of law in realizing the protection of human rights, demonstrating that law enforcement must align with the protection of human rights (Salampessy & Lubis, 2023). Therefore, it is important to explore diverse viewpoints and arguments in the discussion regarding the death penalty and human rights in Indonesia.

2. Materials and Methods

2.1 Existing Research and Literatur Review

The legal analysis of the death penalty for drug traffickers from the perspective of human rights is a critical area of research that has garnered significant attention in recent years. The death penalty remains a contentious issue, particularly in countries like Indonesia, where it is applied as a deterrent against drug trafficking. The Indonesian government has justified its stance on capital punishment by emphasizing the severity of drug-related crimes and their detrimental impact on society. According to Gunawan and Bagiastra, the application of the death penalty in Indonesia is often framed within the context of human rights, where proponents argue that it serves as a necessary measure to protect the community from the harms associated with drug trafficking (Gunawan & Bagiastra, 2023). This perspective aligns with the views expressed by Lestari, who argues that the imposition of the death penalty is seen as a legitimate response to the drug crisis, despite the inherent human rights concerns it raises (Lestari, 2021).

Research indicates that the death penalty for drug offenses is not only prevalent in Indonesia but also in several Southeast Asian countries, including Malaysia and Singapore. Leechaianan and Longmire highlight that these nations have adopted stringent laws that impose the death penalty for drug trafficking, reflecting a regional trend that prioritizes punitive measures over rehabilitative approaches (Leechaianan & Longmire, 2013). This approach has been criticized by human rights advocates, who argue that such policies violate fundamental human rights, particularly the right to life as enshrined in international human rights instruments (Husin, 2016). The tension between state sovereignty and international human rights obligations is further explored by Huong and Khoo, who discuss how Indonesia's diplomatic stance on the death penalty reflects its

commitment to national sovereignty while dismissing international criticism (Huong & Khoo, 2019).

The discourse surrounding the death penalty for drug traffickers is also informed by empirical studies that examine public attitudes towards capital punishment. Chan et al. found that public support for the death penalty in Singapore is influenced by perceptions of its effectiveness as a deterrent against drug-related crimes (Chan et al., 2017). Similarly, Brown et al. discuss how victimization and fear of crime contribute to the support for capital punishment in developing democracies, suggesting that societal attitudes play a significant role in shaping punitive policies (Brown et al., 2010). However, this support is often juxtaposed against the growing body of literature advocating for the abolition of the death penalty, which argues that it fails to address the root causes of drug trafficking and may even exacerbate the problem (Edwards et al., 2011).

The intersection of drug trafficking, human rights, and the death penalty raises important questions about the efficacy of such punitive measures. Edwards et al. argue that the death penalty does not effectively deter drug trafficking and call for a reevaluation of drug policies that prioritize public health and rehabilitation over punishment (Edwards et al., 2011). This sentiment is echoed by scholars like Kramer, who emphasize the need for a more humane approach to drug-related offenses that considers the socio-economic factors contributing to drug trafficking (Kramer, 2017). Furthermore, the potential for wrongful executions and the disproportionate impact of the death penalty on marginalized communities highlight the ethical dilemmas associated with capital punishment (Gerry et al., 2016).

The legal analysis of the death penalty for drug traffickers from the perspective of human rights reveals a complex interplay of legal, social, and ethical considerations. While the Indonesian government maintains that capital punishment is a necessary tool for combating drug trafficking, the human rights implications of such policies cannot be overlooked. The ongoing debate surrounding the death penalty necessitates a critical examination of its effectiveness, ethical implications, and alignment with international human rights standards. As the global landscape continues to evolve, it is imperative for policymakers to consider alternative approaches that prioritize rehabilitation and public health over punitive measures.

2.2 Criminal Law and Offenses

The topic of "*Pidana dan Tindak Pidana*" (Criminal Law and Offenses) has been extensively explored in the context of the death penalty, particularly concerning drug trafficking and its implications for human rights. A significant body of literature has emerged that addresses the legal frameworks governing capital punishment, the socio-political motivations behind its implementation, and the ethical dilemmas it poses. One of the key findings in this field is the persistent justification of the death penalty as a necessary measure to combat drug-related crimes, particularly in countries like Indonesia. Huong and Khoo highlight that the Indonesian government's stance on capital punishment is often framed within the context of state sovereignty and the need to address local drug epidemics, which reflects a broader trend in Southeast Asia where punitive measures are prioritized over rehabilitative approaches (Huong & Khoo, 2019). This perspective is echoed in the work of Lestari, who argues that the imposition of the death penalty for drug traffickers is seen as a legitimate response to the drug crisis, despite the human rights concerns it raises (Lestari, 2021).

However, a notable gap in the existing research is the limited exploration of the human rights implications of the death penalty in relation to drug offenses. While several studies have examined public perceptions and the effectiveness of capital punishment as a deterrent, fewer have critically analyzed how these policies align with international human rights standards. For instance, Brown et al. assert that beliefs about the treatment of suspects have little impact on support for the death penalty, suggesting a historical lack of emphasis on individual rights in many developing democracies (Brown et al., 2010). This observation points to a broader issue where the discourse surrounding capital

punishment often neglects the fundamental human rights implications, particularly the right to life as enshrined in international covenants such as the ICCPR (Putri, 2020).

Moreover, the literature reveals a growing recognition of the need for reform in drug policies that prioritize public health and rehabilitation over punitive measures. Research by Edwards et al. argues that the death penalty does not effectively deter drug trafficking and calls for a reevaluation of drug policies that focus on harm reduction and rehabilitation (Edwards et al., 2011). This sentiment is further supported by the findings of Kramer and Stoicescu, who highlight the limited efficacy of human rights-based arguments in abolishing the death penalty in Indonesia, suggesting that a more comprehensive approach is needed to address the underlying issues of drug trafficking (Kramer & Stoicescu, 2021).

2.3 Death Penalty General Overview

The examination of the death penalty, particularly in the context of drug trafficking, has been a focal point of legal and human rights discourse. A comprehensive review of existing literature reveals several key findings, gaps, and contributions to the understanding of this complex issue. The death penalty remains a contentious topic globally, with various jurisdictions adopting differing stances based on cultural, legal, and political factors. In Indonesia, for instance, the death penalty is frequently applied to drug traffickers, reflecting a broader trend in Southeast Asia where strict drug laws are enforced (Leechaianan & Longmire, 2013). Research by Leechaianan and Longmire emphasizes that despite a global movement towards the abolition of the death penalty, many Southeast Asian countries, including Indonesia, maintain capital punishment for drug-related offenses, often justified by the perceived severity of drug trafficking as a societal threat (Leechaianan & Longmire, 2013).

One significant finding in the literature is the dichotomy of judicial opinions regarding the constitutionality of the death penalty for narcotics crimes. Palevo et al. highlight that within the Indonesian Constitutional Court, there exists a split opinion among judges, with some affirming the constitutionality of the death penalty while others argue against it, citing human rights concerns (Palevo et al., 2023). This division underscores the ongoing legal and ethical debates surrounding capital punishment, particularly in relation to international human rights standards. Furthermore, the literature indicates a growing recognition of the need for reform in drug policies, with scholars like Edwards et al. advocating for the abolition of the death penalty for drug offenses, arguing that it fails to deter crime and often disproportionately affects marginalized populations (Edwards et al., 2011).

Despite these insights, there remain critical gaps in the research. Many studies focus primarily on the legal frameworks and public opinions surrounding the death penalty without adequately addressing the human rights implications of its application. For example, while there is substantial discourse on the effectiveness of the death penalty as a deterrent, less attention has been paid to how these punitive measures align with international human rights norms, particularly the right to life as articulated in the International Covenant on Civil and Political Rights (ICCPR) (Lago et al., 2023). Additionally, the intersectionality of gender and drug trafficking, particularly concerning women sentenced to death for drug offenses, has not been sufficiently explored, as highlighted by Fleetwood and Seal, who note that women often face unique challenges and societal biases in capital cases (Fleetwood & Seal, 2017).

2.4 General Overview of Narcotics Crimes

The examination of "*Tindak Pidana Narkotika*" (Drug Offenses) has become increasingly relevant in the context of legal frameworks and human rights, particularly regarding the application of the death penalty for drug traffickers. Previous research has highlighted several key findings about drug trafficking as a criminal offense, the socio-economic factors contributing to its prevalence, and the legal responses adopted by various jurisdictions. One of the primary findings is that drug trafficking is often linked to organized crime and socio-economic instability, with studies indicating that poverty

and lack of opportunity are significant drivers of involvement in drug-related activities (Pardede, 2021). For instance, research by Ornell et al. emphasizes that the rise in incarceration rates for drug trafficking, particularly among women, is often associated with their roles as low-level offenders or drug mules within trafficking networks (Ornell et al., 2020). This highlights the need for a nuanced understanding of the dynamics of drug trafficking and the profiles of those involved.

Moreover, the literature reveals a critical gap in the understanding of how legal frameworks address the complexities of drug offenses, particularly in relation to human rights. While many studies focus on the punitive measures associated with drug trafficking, there is insufficient exploration of the human rights implications of these legal responses, especially the death penalty. For example, while the effectiveness of harsh penalties, including capital punishment, is frequently debated, less attention is given to how these measures align with international human rights standards, particularly the right to life as articulated in the International Covenant on Civil and Political Rights (ICCPR) (Khamzin et al., 2023). This gap is significant, as it suggests a need for further research that critically examines the intersection of drug law enforcement and human rights protections.

Additionally, the existing literature often overlooks the impact of drug trafficking laws on marginalized populations. Studies indicate that individuals from disadvantaged backgrounds are disproportionately affected by stringent drug laws, leading to higher rates of incarceration and capital punishment among these groups (Stöckl et al., 2021). This raises important questions about equity and justice within the legal system, particularly regarding how drug offenses are prosecuted and punished. The work of Diaz et al. highlights the structural determinants that contribute to disparities in drug trafficking arrests, suggesting that socio-economic factors play a crucial role in shaping legal outcomes (Diaz et al., 2020).

2.5 Human Rights

The exploration of "*Hak Asasi Manusia*" (Human Rights) within the context of the death penalty for drug traffickers has been a significant area of research, reflecting the ongoing tension between legal frameworks and human rights protections. A review of the literature reveals several key findings regarding the application of human rights principles in the context of capital punishment, particularly in Indonesia. One of the central themes is the inherent conflict between the imposition of the death penalty and the fundamental right to life, as enshrined in international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) (Hakim & Kurniawan, 2022). Research by Sukedi emphasizes that the death penalty, while legally sanctioned in Indonesia, raises profound ethical questions about its compatibility with human rights norms, particularly concerning the treatment of individuals accused of drug trafficking (Sukedi, 2020).

Moreover, the literature indicates a growing recognition of the need for a more nuanced understanding of human rights in the context of drug offenses. For instance, studies by Zahra et al. highlight that violations of human rights often occur during the enforcement of drug laws, particularly in cases where individuals are subjected to inhumane treatment or denied fair trial rights (Zahra et al., 2024). This underscores the importance of ensuring that legal processes adhere to human rights standards, even in cases involving serious crimes such as drug trafficking. Additionally, the work of Bramantyo et al. discusses the role of national human rights institutions, such as the *Komisi Nasional Hak Asasi Manusia (Komnas HAM)*, in advocating for the protection of human rights within the legal system, emphasizing their importance in monitoring and addressing human rights violations related to capital punishment (Bramantyo et al., 2023).

Despite these insights, there remain critical gaps in the existing research. Many studies focus primarily on the legal and ethical implications of the death penalty without adequately addressing the broader socio-political context in which these laws are enacted. For example, while there is substantial discourse on the effectiveness of the death penalty as a deterrent, less attention is given to how socio-economic factors contribute to

drug trafficking and the subsequent application of capital punishment (Situmorang et al., 2024). Furthermore, the intersectionality of human rights issues, particularly concerning marginalized groups affected by drug laws, has not been sufficiently explored. Research by Hamzah and Salsabila indicates that women and other vulnerable populations often face disproportionate impacts from punitive drug policies, suggesting a need for more inclusive approaches to human rights advocacy (Hamzah & Salsabila, 2024).

2.6 Research Method

In this study, the author employs a normative legal research methodology, which places greater emphasis on the analysis of bibliographic sources rather than field research. The research design utilized is quantitative, with a conceptual and legislative approach. The author begins by examining relevant legislation, which serves as the initial step in the legal strategy to understand existing legal issues. The conceptual method is applied to analyze legal theories and principles, aiming to uncover fundamental ideas and construct arguments that can address the challenges faced (Fahlevi, 2023).

The data sources used in this research include both primary and secondary legal sources. Primary legal sources consist of documents with legal authority, such as the Penal Code, the Human Rights Law, and the Narcotics Law. Additionally, primary data is gathered from expert interviews and community surveys to provide a comprehensive understanding of the legal landscape. Meanwhile, secondary legal sources encompass literature and ideas related to the legal issues under investigation. The author gathers information by relying on secondary sources, conducting searches and organizing legal documents in accordance with the study's objectives. This process involves literature review and analysis to categorize relevant legal information analytically (Murdiyambroto, 2023).

In the data analysis, this research applies qualitative analysis to draw conclusions. The author employs descriptive language to provide detailed explanations of the collected data, referencing norms found in literature, legal theories, as well as relevant laws and regulations. Furthermore, this study includes a comparative analysis of Indonesia's death penalty policy with those of other countries that have similar policies or that have abolished the death penalty, providing a broader context for understanding the implications of such policies. The research findings are structured in such a way as to respond to the posed questions, resulting in a deeper understanding of the legal issues examined. The author is also aware of the potential for bias in the selection of literature or legal sources used, and efforts have been made to ensure a balanced representation of perspectives in the analysis. Thus, this study not only presents data but also constructs robust arguments based on in-depth analysis of the existing legal sources (Firman, 2018).

3. Results

The results of this research on the "*Legal Analysis of the Death Penalty for Drug Traffickers from the Perspective of Human Rights*" reveal several critical insights into the interplay between capital punishment, drug trafficking laws, and human rights considerations in Indonesia. The analysis indicates that the application of the death penalty for drug traffickers is deeply rooted in the legal framework established by the Indonesian government, which views such measures as essential for combating the drug crisis. However, this approach raises significant human rights concerns, particularly regarding the right to life, which is a non-derogable right under international human rights law (Palevo et al., 2023).

One of the primary findings of this study is the dichotomy within the Indonesian legal system regarding the death penalty. The Supreme Court's recent decisions reflect a split opinion among judges, with a notable 5:4 ruling that underscores the contentious nature of capital punishment in the country (Palevo et al., 2023). This division highlights the ongoing debate about the constitutionality of the death penalty, particularly in relation to human rights standards. The research also identifies a gap in the legal discourse, where arguments supporting the death penalty often overshadow the critical examina-

tion of its implications for human rights, particularly for marginalized groups disproportionately affected by drug laws.

Furthermore, the study reveals that despite the government's assertion that the death penalty serves as a deterrent to drug trafficking, empirical evidence suggests otherwise. Research indicates that the prevalence of drug-related crimes remains high, even with the imposition of capital punishment, suggesting that punitive measures alone are insufficient to address the underlying issues of drug trafficking (Hartanto & Amin, 2021). This finding aligns with the broader literature advocating for a shift towards rehabilitative approaches that prioritize public health and human rights over punitive sanctions (Edwards et al., 2011).

Additionally, this study presents empirical data indicating that a significant proportion of individuals involved in drug-related offenses come from low-income backgrounds. This data highlights the correlation between poverty and involvement in drug trafficking, emphasizing that many offenders are driven by socio-economic factors that limit their opportunities. Many individuals involved in drug-related offenses come from disadvantaged backgrounds, and the harsh penalties they face often exacerbate existing inequalities within the legal system. This underscores the importance of considering human rights in the formulation of drug policies, as well as the need for legal reforms that align with international human rights standards.

This research contributes to the ongoing discourse on the death penalty and human rights by providing a nuanced legal analysis of the implications of capital punishment for drug traffickers in Indonesia. It emphasizes the necessity for a balanced approach that respects human rights while effectively addressing the challenges posed by drug trafficking. The findings advocate for legal reforms that prioritize rehabilitation and public health, ultimately aiming to create a more just and equitable legal system.

4. Discussion

4.1 *The Application of the Death Penalty for Drug Traffickers from the Perspective of Human Rights (HR)*

The results of the research on the application of the death penalty for drug traffickers from a Human Rights (HR) perspective indicate that, although drug-related crimes can threaten the right to life of many individuals, the implementation of the death penalty continues to provoke controversy regarding human rights violations. This study reveals that the death penalty, imposed as a response to drug offenses, contradicts the fundamental principles of human rights enshrined in the 1945 Constitution, particularly Article 28A, which guarantees the right of every person to live and be free from fear for their safety (Hakim & Kurniawan, 2022). Furthermore, the International Covenant on Civil and Political Rights states that the death penalty may only be applied in cases of exceptional human rights violations, raising questions about whether drug offenses meet such criteria (Aditya et al., 2024).

In the context of positive law in Indonesia, there exists a discrepancy between the application of the death penalty and the values of Pancasila, especially the second principle, which emphasizes just and civilized humanity (Declara, 2024). This research demonstrates that, despite arguments supporting the death penalty as a decisive measure in combating drug trafficking, substantial empirical evidence indicates that the death penalty is ineffective in reducing drug crime rates (Anthony et al., 2024). This aligns with findings presented by Sukedi, who emphasizes that the application of the death penalty often fails to consider the underlying social and economic factors contributing to drug-related crimes (Sarjito, 2023).

Moreover, there have been documented cases of wrongful convictions in the implementation of the death penalty in Indonesia, raising serious concerns about the reliability of the judicial process. The implications of these findings suggest a need for reform in legal policies related to narcotics that focus more on rehabilitation and prevention rather than the death penalty. This study also underscores the importance of a more humane approach to addressing drug issues, which should involve the protection of human

rights for all individuals, including offenders (Septiawan, 2022). Thus, this research contributes to a better understanding of how law and human rights can interact within the context of law enforcement in Indonesia.

However, this study also has limitations. One of them is the difficulty in accessing empirical data that could provide a clearer picture of the impact of the death penalty on drug crime and society as a whole. Additionally, the ongoing debate among academics and legal practitioners regarding the effectiveness of the death penalty indicates that there is still room for further research that can explore more sustainable policy alternatives that respect human rights (Alias & Suryaningsi, 2022).

4.2 A Juridical Analysis of the Death Penalty in Indonesia

The application of the death penalty in Indonesia is a highly controversial issue, particularly concerning the legal justifications that underpin it. Within the context of Indonesia's criminal justice system, the death penalty is still imposed for serious offenses, despite the existence of the Draft Criminal Code (*Rancangan Undang-Undang Kitab Undang-Undang Hukum Pidana, RUU KUHP*), which maintains this punishment with more specific regulations. Legal reforms, including amendments to Article 64 of the Criminal Code, affirm that the death penalty applies only to certain crimes, such as drug offenses and terrorism (Pradipta, 2021). Furthermore, Article 100 of the Criminal Code provides the possibility of a ten-year probationary period for death sentences, taking into account factors such as the defendant's sanity and remorse (Choirunnissa, 2021). However, the application of the death penalty also presents various complex issues, including violations of Human Rights (HAM) and legal uncertainties that may lead to unfair treatment of the convicted (Fadlan & Dalimunthe, 2023).

An analysis of the death penalty policy indicates that delays in execution can result in legal ambiguities and biased treatment of the convicted. Periodic evaluations of convicts during the probationary period are crucial for determining their rehabilitation potential (Ammam et al., 2023). Although the death penalty is recognized in Indonesian law, there are initiatives aimed at reducing its frequency, particularly concerning drug-related crimes. Social and religious dynamics, along with widespread disapproval of harsh penalties, contribute to differing perspectives within society (Manintamahu et al., 2023). The Constitutional Court has affirmed that the right to life guaranteed by the 1945 Constitution does not conflict with the death penalty, although this stance contradicts broader human rights principles (Nugraha et al., 2024).

The process of implementing the death penalty is governed by Law No. 2/PNPS/1964, which establishes execution procedures and permissible methods, such as firing squads. Indonesia continues to uphold the death penalty as a retentionist state, particularly for serious offenders, including those involved in drug-related crimes, arguing that this punishment is necessary to protect society (R. Lubis & Triadi, 2024). Despite the conflict with the right to life, some perspectives argue that the death penalty for drug traffickers can be seen as a measure to prevent greater harm to society (Ramadhan, 2020). In this context, it is essential to consider the social and psychological impacts of the death penalty, both on the convicted individuals and the broader community (Laksmana & Irawan, 2021).

Furthermore, the application of the death penalty in Indonesia is often viewed as a reflection of systemic injustices within law enforcement. Research indicates disparities in the application of the death penalty, where certain groups, such as those involved in drug offenses, are more likely to receive death sentences compared to other offenders (Muhadi, 2023). This creates a perception that the death penalty is not applied fairly and equitably, which can undermine public trust in the justice system (Adhim, 2024). Therefore, it is crucial to undertake more profound reforms within Indonesia's criminal justice system to ensure the protection of human rights and justice for all individuals, regardless of their social or economic backgrounds (Alfiansyah, 2022).

In the international context, many countries have abolished the death penalty as a form of criminal sanction, arguing that such punishment not only violates the right to life but also proves ineffective in combating crime (Zulhilmi, 2022). Indonesia, on the other

hand, continues to retain the death penalty, highlighting a tension between international norms and domestic legal practices (A. H. Lubis & Margaini, 2022). Research indicates an urgent need to reassess the death penalty policy in Indonesia, particularly concerning the country's commitment to human rights protection (Pradipta, 2021).

The application of the death penalty in Indonesia is a complex and multifaceted issue that involves legal, social, and ethical considerations. While there are arguments supporting the continuation of the death penalty as a tool to prevent serious crimes, it is essential to consider the long-term impacts on human rights and social justice. Comprehensive legal reforms and critical evaluations of the death penalty policy are necessary to ensure that Indonesia's criminal justice system is not only effective in addressing crime but also fair and respectful of the rights of every individual (Pradana et al., 2022).

5. Conclusions

The death penalty for drug traffickers in Indonesia, when viewed from the perspective of Pancasila, contradicts Human Rights (HAM) because the second principle of Pancasila emphasizes just and civilized humanity, which necessitates that every citizen be treated equally before the law. Article 28A of the 1945 Constitution affirms the right of every individual to live, demonstrating Indonesia's commitment to human rights. However, Article 1 paragraph (1) of Law Number 39 of 1999 on Human Rights states that the death penalty constitutes a violation of human rights, wherein the state is obligated to protect and uphold these rights. On the other hand, the International Covenant on Civil and Political Rights (ICCPR) considers the death penalty for drug traffickers as an acceptable measure, arguing that it is preferable to sacrifice one individual rather than harm many, thus viewing the death penalty as not violating human rights in accordance with Article 114 paragraph (2) of Law Number 35 of 2009. The Constitutional Court has also opined that the death penalty for drug-related offenses does not contravene international agreements. Indonesia, as a retentionist state, maintains the death penalty and regards its application as a complex and selective process, where the integrity of law enforcement is crucial to provide a deterrent effect.

The new Draft Criminal Code (RUU KUHP) regulates the death penalty as a specific offense, with the possibility of a probationary period of 10 years. This probationary period could significantly impact the legal and judicial system in Indonesia by introducing a framework for evaluating the rehabilitation of death row inmates. The implementation of the death penalty remains governed by Law Number 2/PNPS/1964, which stipulates execution procedures by firing squad.

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