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Legal Certainty in the Execution of Death Sentences after Indonesia's 2023 Criminal Code: Probationary Death Sentence, Lex Favor Reo, and Transitional Governance

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ABSTRACT
This article examines the legal certainty of death-sentenced prisoners in Indonesia after the enactment and entry into force of Law Number 1 of 2023 concerning the Criminal Code. The new Code does not abolish capital punishment, but relocates it outside the category of principal punishments and defines it as a special, alternative, and last-resort sanction. The most significant innovation is the ten-year probationary death sentence under Article 100, which allows commutation into life imprisonment when the prisoner demonstrates commendable conduct and a realistic prospect of rehabilitation. Using normative legal research, this article applies statutory, conceptual, case-based, and comparative human rights approaches to analyse Articles 3, 67, 98-102, 618, and related provisions of the National Criminal Code, the Clemency Law, the new Criminal Procedure Code, selected judicial decisions, policy reports, and international human rights materials. The article argues that Article 100 is structurally attached to the sentencing stage because the probationary period must be expressly stated in the judgment. Consequently, it cannot automatically govern prisoners whose death sentences became final before the new Code took effect, unless an implementing or transitional statute creates a specific conversion mechanism. The article contributes to the literature by distinguishing three legal pathways: prospective probation under Article 100, post-clemency conversion after ten years of non-execution under Article 101, and limited retroactive adjustment under Article 3(7) based on lex favor reo. It concludes that legal certainty requires an implementing statute under Article 102 that establishes objective assessment criteria, competent institutional authority, procedural safeguards, reasoned decisions, and a transitional regime for existing death row prisoners.
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Keywords: death penalty; death row phenomenon; legal certainty; lex favor reo; Indonesian Criminal Code; probationary sentence; transitional justice.

INTRODUCTION

Capital punishment remains one of the most contested issues in Indonesia's criminal law reform. On the one hand, the State continues to retain the death penalty for offences considered exceptionally serious, including narcotics trafficking, terrorism, premeditated murder, certain corruption-related offences, and gross human rights violations. On the other hand, the retention of capital punishment must be reconciled with the right to life, the prohibition of cruel, inhuman, or degrading treatment, the principle of legality, legal certainty, proportionality, and the State's duty to avoid inflicting suffering beyond that authorised by a final judicial decision.

The debate became more complex after the enactment of Law Number 1 of 2023 concerning the Criminal Code, commonly referred to as the National Criminal Code. The Code entered into force three years after its promulgation, namely on 2 January 2026. Its reform is not abolitionist. Rather, it restructures capital punishment by removing it from the ordinary list of principal punishments and relocating it as a special

punishment that must be threatened alternatively and used as a last resort. This regulatory choice produces a distinctive hybrid model: capital punishment is retained, yet its execution is conditioned by a probationary and conversion framework.

Several recent cases illustrate why the issue is not merely doctrinal. Mary Jane Fiesta Veloso, a Philippine national, was arrested in Yogyakarta in 2010 after heroin was found in her suitcase and was later sentenced to death by the Sleman District Court. After more than a decade of imprisonment and sustained diplomatic engagement, Indonesia agreed to her transfer to the Philippines in December 2024, while the Indonesian conviction remained part of the legal background of the transfer arrangement (Reuters, 2024a, 2024b). A comparable pattern appeared in the case of Lindsay June Sandiford, a British national sentenced to death for cocaine smuggling in Bali. In November 2025 she was transferred to the United Kingdom together with Shahab Shahabadi under a humanitarian repatriation arrangement (ANTARA News, 2025; Reuters, 2025). These cases demonstrate that some death row cases may be resolved through diplomacy, but diplomatic arrangements are case-specific and cannot substitute for a general legal framework applicable to all death-sentenced prisoners.

The policy problem is systemic. The Institute for Criminal Justice Reform recorded 562 death row prisoners in Indonesia as of 31 December 2024, with narcotics and psychotropic offences dominating the death row population (Abdullah et al., 2025). Civil society monitoring later cited data from the Directorate General of Corrections showing 596 death-sentenced prisoners as of 9 October 2025 (LBH Masyarakat, 2025). These figures must be read together with the fact that Indonesia has not carried out an execution since 2016. The result is an expanding death row population, combined with uncertainty over whether, when, and under what standard execution or commutation should occur.

The prolonged waiting period gives rise to what comparative literature calls the death row phenomenon: the psychological and existential suffering produced by long-term uncertainty, isolation, and the anticipation of state-inflicted death. In Soering v. United Kingdom, the European Court of Human Rights treated the risk of exposure to the death row phenomenon as relevant to the prohibition of inhuman or degrading treatment. In Pratt and Morgan v. Attorney General for Jamaica, the Judicial Committee of the Privy Council held that extreme delay in carrying out a death sentence could render execution cruel and inhuman. Although these decisions are not formally binding in Indonesia, they supply comparative reasoning for assessing the relationship between capital punishment, excessive delay, and legal certainty (European Court of Human Rights, 1989; Judicial Committee of the Privy Council, 1993).

Against this background, the central question is whether the probationary mechanism under Article 100 of the National Criminal Code can benefit prisoners whose death sentences became final before the new Code entered into force. The answer cannot be derived merely from the humanising spirit of the new Code. It requires a systematic interpretation of Article 100, the lex favor reo rule under Article 3, the transitional provision under Article 618, and the mandate in Article 102 requiring further statutory regulation of the implementation of death sentences.

This article addresses two research questions. First, how does the National Criminal Code regulate capital punishment after Law Number 1 of 2023? Second, what

are the implications of that regulation for the legal certainty of prisoners whose death sentences obtained permanent legal force before the new Code became applicable? The article's novelty lies in distinguishing between three mechanisms that are often conflated in public discussion: prospective probation under Article 100, post-clemency conversion after ten years of non-execution under Article 101, and limited retroactive adjustment based on lex favor reo under Article 3(7).

Literature Review and Analytical Framework

Existing Indonesian scholarship has examined the waiting period for execution, legal certainty, and the human rights implications of capital punishment. Siregar (2022) focuses on the legal uncertainty created by an indefinite waiting period after a death sentence becomes final. Arwansyah et al. (2020) argue that a legally certain and just capital punishment system requires a definite time limit for implementation. Yuliana (2017) examines the psychological effects of execution procedures and death row conditions on prisoners. More recent scholarship has begun to examine the National Criminal Code, including the probationary model and the death row phenomenon (Elvarina & Tongat, 2025; Mubarok, 2025).

Despite those contributions, several questions remain insufficiently specified. First, the legal nature of Article 100 is frequently treated as if it automatically governs all death row prisoners, while the text requires the probationary period to be included in the judgment. Second, Article 101 is sometimes merged with Article 100, even though it operates at a different stage: after clemency is rejected and execution has not occurred for ten years. Third, the scope of lex favor reo under Article 3(7) is not unlimited; it operates where a subsequent law decriminalises conduct or lowers the applicable maximum punishment. These distinctions are essential for legal certainty because they determine which institution has authority, what procedure must be followed, and which prisoners may benefit from the reform.

The analytical framework of this article rests on four concepts. The first is legal certainty, understood as the requirement that legal norms be publicly knowable, sufficiently clear, non-arbitrary, and capable of guiding both citizens and officials (Fuller, 1969; Raz, 1979). The second is legality in criminal law, including the prohibition of retroactive criminalisation and the controlled use of more favourable subsequent law. The third is lex favor reo, which permits the application of a later, more favourable criminal law to the accused or convicted person within the boundaries set by legislation. The fourth is the death row phenomenon, which strengthens the argument that legal uncertainty in the execution stage is not a mere administrative deficiency, but a rights-related problem.

Table 1. Prior Research and the Article's Contribution

Author / Year	Focus	Limitation	Contribution of this Article
Arwansyah et al. (2020)	Time limits for implementing the death penalty from the perspective of legal certainty and justice.	Does not examine the ten-year probationary model introduced by the 2023 Criminal Code.	Links the need for time limits to Article 100, Article 101, and transitional legal design.
Siregar (2022)	Legal certainty in the waiting period before execution.	Predates the final enactment and implementation of the National Criminal Code.	Explains the consequences of the new Code for prisoners with final death sentences.

Author / Year	Focus	Limitation	Contribution of this Article
Elvarina & Tongat (2025)	Reconstruction of capital punishment and the death row phenomenon under the 2023 Criminal Code.	Does not sufficiently separate prospective probation, post-clemency conversion, and lex favor reo.	Offers a systematic distinction among Article 100, Article 101, and Article 3(7).
This article	Legal certainty of death row prisoners after the National Criminal Code, with emphasis on transitional governance.	-	Argues that Article 100 is not automatically retroactive and that Article 102 requires an implementing statute with transitional safeguards.

METHOD

This study employs normative legal research, also known as doctrinal legal research. Normative legal research treats legal norms, principles, concepts, and authoritative legal materials as the primary object of analysis, and seeks to construct coherent legal arguments through interpretation and systematisation (Diantha, 2016). This method is appropriate because the central issue concerns the meaning, scope, and interaction of statutory norms governing capital punishment after the enactment of the National Criminal Code.

The research uses four approaches. The statutory approach analyses Articles 3, 51, 67, 98-102, 142, 618, and related provisions of the National Criminal Code; Law Number 22 of 2002 as amended by Law Number 20 of 2010 concerning Clemency; Law Number 2/PNPS/1964 concerning the Procedure for Implementing Death Sentences; and Law Number 20 of 2025 concerning the Criminal Procedure Code. The conceptual approach examines legal certainty, legality, lex favor reo, correctional sentencing, proportionality, and the death row phenomenon. The case approach uses selected domestic and international cases as illustrations of implementation problems. The comparative human rights approach draws on international jurisprudence and standards as persuasive interpretive materials rather than directly binding sources in Indonesian domestic law.

Primary legal materials consist of legislation, court decisions, and official legal documents. Secondary materials include books, journal articles, policy reports, civil society reports, and international human rights materials. The materials were collected through library research and analysed qualitatively by grammatical, systematic, teleological, and historical interpretation. Grammatical interpretation is used to read the phrase requiring the probationary period to be included in the court judgment. Systematic interpretation is used to connect Article 100 with Articles 3(7), 101, 102, and 618. Teleological interpretation is used to understand the purpose of the reform: balancing public protection, rehabilitation, legal certainty, and human rights safeguards.

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RESULTS AND DISCUSSION

1. Repositioning Capital Punishment in the National Criminal Code

Under the old Criminal Code, capital punishment was included in the list of principal punishments. It appeared across several offences, including treason against the President or Vice President, offences against state security, premeditated murder, robbery resulting in death, maritime offences, and aviation-related offences. Conceptually, the death penalty belonged to the ordinary architecture of principal sanctions alongside imprisonment, confinement, and fines.

The National Criminal Code changes that architecture. Article 67 provides that the special punishment is the death penalty, which is always threatened alternatively. Article 98 confirms that the death penalty is threatened alternatively as a last resort to prevent crime and protect society. The elucidation to Article 98 states that capital punishment is not included in the ordinary system of principal punishments and is placed separately to emphasise its exceptional character (Law Number 1 of 2023). The reform therefore does not abolish capital punishment; it exceptionalises it.

This repositioning has three normative consequences. First, death may not be formulated as the sole punishment without an alternative. Second, judges must consider lower sanctions, particularly life imprisonment or imprisonment for a maximum of twenty years, where the relevant offence allows such alternatives. Third, capital punishment must be read together with the sentencing objectives in Article 51, including rehabilitation, reintegration, restoration of social balance, conflict resolution, and the cultivation of remorse. The death penalty thus retains a public-protective function while being embedded in a more correctional and evaluative framework.

The Code creates a dual character. Capital punishment remains available for exceptionally serious offences, but its execution is no longer conceived as an immediate and automatic consequence of final conviction. Instead, the Code introduces a legal space for behavioural evaluation and possible commutation. This marks a shift from an exclusively retributive model toward a special sanction conditioned by individualised assessment.

Table 2. Normative Transformation of Capital Punishment

Aspect	Old Criminal Code	New Criminal Code
Position in the sanction system	Death penalty was a principal punishment.	Death penalty is a special punishment and must be threatened alternatively.
Normative character	Could appear as part of the ordinary principal punishment framework.	Expressly framed as a last-resort measure to prevent crime and protect society.
Probation	No ten-year probationary death sentence existed.	Article 100 introduces ten-year probation, which must be stated in the judgment.
Post-clemency conversion	No explicit ten-year non-execution conversion rule after clemency refusal.	Article 101 allows conversion to life imprisonment if death is not executed within ten years after clemency refusal, provided the delay is not due to escape.
Implementing legislation	Execution was governed mainly by Law No. 2/PNPS/1964, the Clemency Law, and technical practice.	Article 102 mandates further regulation of death penalty implementation by statute.

2. Article 100 and the Prospective Probationary Death Sentence

Article 100 is the most significant innovation in the National Criminal Code. It provides that a judge may impose a death sentence with a probationary period of ten years by considering the defendant's remorse and prospect of reform, or the defendant's role in the offence. The probationary period must be included in the court

judgment and begins one day after the judgment obtains permanent legal force. If the prisoner demonstrates commendable conduct during probation, the death sentence may be commuted to life imprisonment by Presidential Decree after consideration by the Supreme Court. Conversely, if the prisoner does not demonstrate commendable conduct and there is no prospect of reform, the death sentence may be executed upon the order of the Attorney General (Law Number 1 of 2023).

Conceptually, Article 100 introduces conditional capital punishment. The death sentence is no longer immediately equivalent to an executable order; it becomes a sentence subject to observation, correctional assessment, and possible commutation. This mechanism attempts to integrate individualisation, public protection, and correctional philosophy. It is consistent with the broader aim of the Code to move criminal punishment away from pure retribution and toward a more balanced model that considers the offender's conduct, culpability, social harm, and possibility of rehabilitation.

Nevertheless, Article 100 creates serious implementation issues. The phrase 'commendable attitude and conduct' is not operationally defined. Without objective indicators, assessment may become inconsistent, discretionary, and vulnerable to unequal treatment. A credible standard should include, at minimum, disciplinary record, participation in correctional programmes, psychological or psychiatric assessment, risk assessment, verified remorse, conduct toward prison staff and other prisoners, educational or vocational progress, and the views of victims or their families where relevant. Such criteria should not eliminate discretion, but should make it transparent, reviewable, and evidence-based.

The most important structural point is that Article 100 operates at the sentencing stage. The probationary period must be stated in the court judgment. This requirement indicates that Article 100 is designed for cases adjudicated after the National Criminal Code applies, or for pending cases governed by transitional provisions. It is not self-executing for prisoners whose judgments became final before the Code entered into force. Treating Article 100 as automatically retroactive would bypass the textual condition that the probationary period be judicially pronounced.

3. Article 101 and Post-Clemency Conversion after Ten Years of Non-Execution

Article 101 must be distinguished from Article 100. Article 101 provides that when a death-sentenced prisoner's clemency petition is rejected and the death sentence is not carried out for ten years after the rejection, for reasons other than the prisoner's escape, the sentence may be converted into life imprisonment by Presidential Decree. Unlike Article 100, Article 101 does not depend on a probationary period written into the original judgment. It is triggered by the post-clemency execution stage.

This distinction is crucial for existing death row prisoners. Article 101 may provide a more plausible doctrinal basis for resolving excessive post-clemency delay, provided that the statutory requirements are met. However, it still requires implementing rules. The law must identify which institution initiates the conversion process, what documents must be examined, whether the prisoner has a right to be heard, how the Supreme Court or other institutions provide consideration, what time limit applies to administrative processing, and how the Presidential Decree is reasoned and communicated.

Article 101 also raises questions where a prisoner has not filed a clemency petition or where the clemency process remains unresolved for a long period. Article 99 of the

National Criminal Code links execution to the refusal of clemency, while the Clemency Law prevents execution before the relevant presidential decision is received by the prisoner. If the law does not regulate the consequences of non-filing, delayed filing, or prolonged administrative processing, the waiting list will remain legally uncertain even after the new Code.

4. Lex Favor Reo and the Transitional Status of Final Death Sentences

The most difficult issue concerns prisoners whose death sentences obtained permanent legal force before the National Criminal Code became applicable. At first glance, Article 100 appears more favourable because it delays execution and creates a pathway to commutation. However, legal interpretation cannot stop at the perception of favourability. Article 100 expressly requires the probationary period to be included in the judgment. For final cases, the judgment has already been rendered under the old legal framework. Without a transitional mechanism, there is no procedural vehicle for inserting Article 100 probation into a final judgment.

Article 3 of the National Criminal Code provides the relevant lex favor reo framework. Article 3(1) states that if criminal legislation changes after the act was committed, the new law applies unless the old law is more favourable to the accused. Article 3(7) extends the favourable-law principle after a judgment becomes final by requiring the implementation of the judgment to be adjusted to the limit of punishment under the new law where the new law threatens the act with a lighter penalty. The wording is important. It does not create a general authority to reopen all final judgments; it creates a limited adjustment where the subsequent law decriminalises the act or lowers the applicable punishment.

Accordingly, the application of Article 3(7) to death sentences must be offence-specific. If the offence underlying a final death sentence is no longer punishable by death, or if the new legal regime lowers the maximum punishment, the implementation of the judgment must be adjusted to the new limit. If, however, the offence remains punishable by death as an alternative sanction under the National Criminal Code or a relevant special statute, Article 3(7) does not automatically convert the sentence. In that situation, Article 100 cannot be used retroactively without a legal mechanism because the probationary period was not part of the original judgment.

Article 618 does not fully resolve the issue. It governs offences still under judicial process when the National Criminal Code comes into force and provides that the new Code applies unless the law regulating the offence is more favourable to the suspect or defendant. Its focus is pending proceedings, not cases that have already reached the execution stage. Existing death row prisoners therefore occupy a transitional gap: they are affected by the reform's normative rationale, but not automatically incorporated into Article 100's sentencing mechanism.

The correct conclusion is not that existing death row prisoners can never benefit from the reform. Rather, Article 100 does not automatically apply to them. Benefit may arise through Article 3(7) if the new law is materially lighter for the offence, through Article 101 if post-clemency non-execution requirements are met, or through implementing legislation under Article 102 that expressly creates a transitional review and conversion mechanism. This reading preserves legality while still requiring the State to address prolonged uncertainty.

5. Death Row Phenomenon and Comparative Human Rights Standards

The National Criminal Code does not use the term death row phenomenon, but the substance of the concept is directly relevant. Death row phenomenon refers to the mental suffering caused by the combination of prolonged waiting, restrictive detention, isolation, uncertainty, and the expectation of execution. In comparative jurisprudence, this concept has been used not to abolish all death penalties in all circumstances, but to assess whether excessive delay or conditions of confinement transform execution into inhuman treatment.

In Soering v. United Kingdom, the European Court of Human Rights considered the applicant's potential exposure to the death row phenomenon in Virginia as part of its Article 3 analysis. The Court emphasised that extradition could engage the responsibility of the sending State where there was a real risk of inhuman or degrading treatment in the receiving State (European Court of Human Rights, 1989). In Pratt and Morgan, the Privy Council held that executing prisoners after extreme delay would be cruel and inhuman, and treated more than five years of delay as prima facie excessive in the Jamaican constitutional context (Judicial Committee of the Privy Council, 1993). Lackey v. Texas did not produce a substantive United States Supreme Court ruling abolishing execution after long delay, but the case reflects the seriousness of the constitutional question (Lackey v. Texas, 1995).

International standards reinforce the need for narrow, non-arbitrary, and procedurally rigorous application of capital punishment. The United Nations Human Rights Committee, in General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, states that States that have not abolished the death penalty must restrict it to the most serious crimes and apply it only in the most exceptional cases, subject to strict legality and fair trial guarantees (Human Rights Committee, 2018). Indonesia retains capital punishment, but international human rights standards may guide interpretation of domestic law, especially in designing safeguards for execution and commutation.

For Indonesia, the relevance of the death row phenomenon lies in recognising that indefinite delay is a legal problem in its own right. If the State retains capital punishment, it must provide clear time limits, transparent procedure, an opportunity to be heard, objective assessment standards, written reasons, legal assistance, and a reviewable administrative pathway. Without these guarantees, the National Criminal Code's humanising reform may fail to resolve the older problem: a death penalty that remains formally valid while leaving prisoners in prolonged uncertainty.

6. Designing Implementing Legislation and Transitional Governance

Article 102 mandates that further provisions on the implementation of the death penalty be regulated by statute. This mandate should not be read narrowly as a mere instruction to regulate execution by firing squad or another technical method. In the architecture of the National Criminal Code, implementation includes postponement, correctional evaluation, probation, conversion, interaction with clemency, institutional responsibility, and transitional treatment of prisoners already on death row before the Code became applicable.

The implementing statute should contain at least six components. First, it must define the scope of application, including whether and how it applies to death sentences imposed before the National Criminal Code came into force. Second, it must operationalise the indicators of 'commendable attitude and conduct' under Article

100. Third, it must regulate the conversion proposal process, including the responsible institution, required documents, assessment bodies, time limits, and participation rights. Fourth, it must clarify the relationship among the trial judgment, clemency, Supreme Court consideration, Presidential Decree, and execution order by the Attorney General. Fifth, it must provide accountability safeguards, including written reasons, access to legal assistance, record disclosure, and a mechanism for administrative or judicial review. Sixth, it must accommodate victims' rights without allowing victim participation to replace objective legal assessment.

The transitional component is the most sensitive. Since Article 100 is not automatically retroactive, the legislature may create a special administrative-judicial review mechanism for existing death row prisoners who have spent a substantial period awaiting execution. The trigger may be formulated by reference to ten years after clemency refusal, ten years after permanent legal force, or another clearly justified threshold. The process should involve the Directorate General of Corrections, forensic psychologists or psychiatrists, prosecutors, the Supreme Court as an advisory institution where required, and the President as the final commutation authority. Multi-institutional involvement is necessary not to complicate the process, but to prevent closed, arbitrary, or purely executive assessment.

Diplomatic repatriation cases such as Mary Jane Veloso and Lindsay Sandiford reveal the limits of ad hoc solutions. They may be defensible on humanitarian and diplomatic grounds, but they are unavailable to most Indonesian death row prisoners and depend on bilateral negotiation, media attention, or foreign government advocacy. Legal certainty must be generated by general, accessible, and predictable norms rather than case-by-case diplomacy.

Table 3. Implementation Matrix

Issue	Legal Risk	Regulatory Response
Undefined phrase "commendable attitude and conduct"	Subjective, inconsistent, or discriminatory assessment.	Establish objective indicators based on disciplinary record, rehabilitation participation, psychological assessment, risk assessment, verified remorse, and correctional progress.
Article 100 and final judgments under the old law	Uncertainty over automatic retroactivity.	State expressly that Article 100 is prospective, while creating a transitional review mechanism for existing death row prisoners.
Article 101 after clemency refusal	Unclear initiating authority and processing time.	Regulate the proposing institution, required evaluation documents, Supreme Court consideration, Presidential Decree, and strict time limits.
Prisoner does not file clemency petition	Execution may be blocked while conversion is not triggered.	Regulate notification of clemency rights, consequences of non-filing, and an alternative review pathway after a defined period.
Absence or delay of implementing statute	The National Criminal Code operates without procedural infrastructure.	Enact implementing legislation under Article 102 with clear transitional provisions and procedural safeguards.

CONCLUSION

The National Criminal Code fundamentally changes the legal position of capital punishment in Indonesia. It does not abolish the death penalty, but removes it from the category of principal punishments and defines it as a special, alternative, and last-resort sanction. This change reflects a shift from capital punishment as a primarily retributive and final sanction toward a special penalty that must be considered together with correctional aims, rehabilitation, remorse, and public protection.

Article 100 introduces a ten-year probationary death sentence and creates a route for commutation into life imprisonment. However, because the probationary period must be expressly stated in the judgment, Article 100 is structurally prospective. It does not automatically apply to prisoners whose death sentences became final before the National Criminal Code entered into force. Existing death row prisoners may benefit from legal reform only through specific pathways: adjustment under Article 3(7) where the new law provides a lighter punishment for the relevant offence, conversion under Article 101 where post-clemency non-execution requirements are fulfilled, or a transitional mechanism expressly created by implementing legislation.

Legal certainty for existing death row prisoners is therefore not yet fully secured. The most pressing uncertainties concern assessment standards, the relation between clemency and conversion, time limits for execution or commutation, and the status of prisoners who have already spent many years under the threat of execution. Article 102 should be implemented through a statute that regulates both execution and commutation, including objective standards, institutional authority, written reasons, legal assistance, review mechanisms, and transitional treatment. Without such legislation, the reform may leave Indonesia with a death penalty that is normatively exceptional but procedurally uncertain.

Policy Recommendations

a. The legislature should enact an implementing statute on the death penalty under Article 102 before the transitional uncertainty becomes entrenched in practice.
b. The statute should expressly regulate the status of prisoners whose death sentences became final before the National Criminal Code entered into force.
c. The criteria for evaluating commendable conduct, remorse, rehabilitation, and risk should be objective, evidence-based, and capable of review.
d. The relationship among clemency, Supreme Court consideration, Presidential Decree, and the Attorney General's execution authority should be clearly sequenced.
e. Every execution or commutation decision should include written reasons and be accessible to legal counsel, subject to appropriate confidentiality safeguards.
f. Victims and victims' families should be heard in a structured manner, but their participation should complement rather than replace objective legal assessment.

Limitations and Future Research

This article is limited to doctrinal and normative analysis. It does not conduct empirical fieldwork with prisoners, prison officials, prosecutors, judges, victims, or families. Future research should empirically examine how correctional institutions assess rehabilitation and risk, how death row prisoners experience legal uncertainty, and how victims' families perceive commutation after long periods of non-execution. Comparative research with jurisdictions that have converted or abolished capital punishment after prolonged moratoria would also strengthen the design of Indonesia's implementing statute.

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