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Implementation of the Death Penalty for Corruptors in Indonesia

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Abstract: The death penalty for corruptors in Indonesia is a controversial topic that has sparked debates among the public. Proponents argue that it serves as a deterrent for those engaging in corrupt practices, while opponents believe that it goes against human rights and does not address the root causes of corruption. As the government continues to grapple with this issue, the effectiveness and ethical implications of implementing such a severe punishment remain under scrutiny. While some argue that the death penalty is necessary to send a strong message against corruption, others believe that it is a violation of basic human rights. Additionally, many question whether the death penalty actually addresses the systemic issues that allow corruption to thrive in the first place. As the debate continues, it is crucial for policymakers to consider all perspectives and weigh the potential consequences of implementing such a drastic measure. Ultimately, finding a balance between justice and human rights is paramount in addressing corruption in Indonesia.

Keyword: Death penalty, Corruption in Indonesia, Controversial punishment, Human rights

INTRODUCTION

For a long time, corruption has been a major problem in Indonesia. A lot of politicians and other individuals engage in corrupt activities that hurt the nation and its people. To prevent corruption and have a jerk impact, certain companies have chosen to permit hukuman mati to be performed for dishonest officials in Indonesia. This harsh punishment serves as a deterrent to those who may consider engaging in corrupt activities. By implementing such strict measures, the government and companies are sending a strong message that corruption will not be tolerated in Indonesia. This move is aimed at promoting transparency, accountability, and integrity in both the public and private sectors, ultimately benefiting the country as a whole (Riyadi et al., 2020).

In Indonesia, the death sentence for corrupt officials is a contentious issue among the general public and legal professionals. While some contend that the death sentence can be a powerful deterrent for dishonest people, others are worried about the possibility of misuse of justice and power in its implementation. Nevertheless, it is indisputable that swift action is required to end the corruption that has long plagued the nation and its citizens (Hardianti, 2023).

One of the arguments that often arises in support of the death penalty for corruptors is that such a punishment can serve as a strong deterrent for those who commit corruption. With the threat of the death penalty, it is hoped that corrupt individuals will think twice before committing acts of corruption that harm the state and the people. In addition, the death penalty is also seen as a form of justice for the victims of corruption who have suffered due to the actions of corrupt individuals (Arjuna et al., 2024).

However, on the other hand, there are concerns that the implementation of the death penalty could lead to abuse of power and harm human rights. Therefore, the debate regarding the death penalty for corruptors continues and requires deep thinking and appropriate solutions to address the issue of corruption in Indonesia. For example, in some countries that impose the death penalty on corrupt individuals, there are cases where those who are actually innocent are unjustly executed. In addition, there are also cases where the death penalty is ineffective in eradicating corruption, as it fails to create a transparent and accountable system for those involved in corruption (Cahyani et al., 2023).

In addition, the use of the death penalty for corrupt individuals also raises controversy regarding human rights. Many parties oppose the death penalty because it is considered a violation of human rights (Ramadhan Adi Wijaya et al., n.d.). They argue that every individual has the right to life and should not be punished in extreme ways such as the death penalty. Moreover, the death penalty cannot guarantee that corruption will truly be resolved, as corruption itself is a complex issue that requires a more holistic and integrated approach. Therefore, it is important for the government and society to seek more effective solutions in combating corruption, without having to sacrifice human rights (Fadilah, n.d.).

This writing gathers information from several valid sources regarding whether the death penalty for corruptors is appropriate to be implemented in Indonesia. Many countries have abolished the death penalty as a form of punishment for corrupt individuals, replacing it with other penalties that are considered more effective in preventing and combating corruption (Fariduddin & Tetono, 2022). For example, several countries have strengthened their anti-corruption institutions, increased transparency in governance, and enacted stricter laws against corrupt actors. Thus, Indonesia should also consider these alternatives to create a more effective and fair law enforcement system in combating corruption (Derenov & Rizky, n.d.).

This is important to minimize corruption and allow the community to feel justice within the legal system. In addition, these measures can also enhance public trust in the government and the existing legal system (Setiawan & Jesaja, 2022). Therefore, changes and reforms in law enforcement must be carried out comprehensively and sustainably to achieve the desired goals. In addition, cooperation between the government, anti-corruption agencies, and the community is also essential to create an environment free from corruption (Politeknik Kesehatan Palangkaraya, n.d.).

However, there are cases where the law enforcement measures taken are actually exploited by corrupt parties to protect themselves and their interests. Real examples like this can be found in several countries where the legal system is still vulnerable to political intervention and oligarchic power (Syofyan et al., 2023).

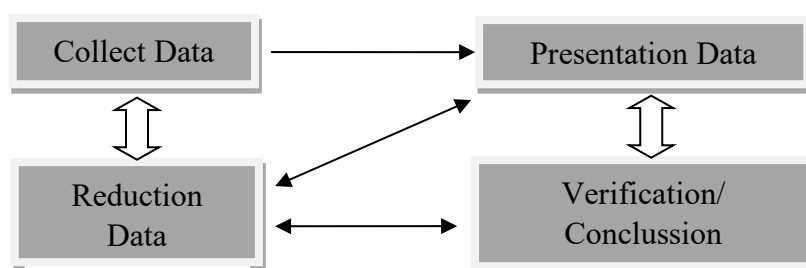
Therefore, it is important for the government and anti-corruption agencies to continue strengthening the legal system and ensuring independence in the law enforcement process. In addition, the community also needs to continue monitoring and providing support for anti-corruption efforts. Thus, efforts to create an environment free from corruption can be achieved more effectively and efficiently (Muchamad Catur Rizky et al., 2023).

Seeing the many dynamics of events in the enforcement of law for corruption defendants in Indonesia makes this topic interesting to discuss. With the hope of providing the right and effective solutions to address the issue of corruption in Indonesia.

METHOD

The methodology used in this research is descriptive analysis to delve deeper into the factors influencing the level of corruption in Indonesia. This research will also involve interviews with legal experts and anti-corruption activists to gain diverse perspectives. In addition, secondary data will also be used to support the findings of this research. Thus, it is hoped that the results of this research can make a significant contribution to the efforts to eradicate corruption in Indonesia (Indera Waspada et al., n.d.).

In addition, this research will also involve a survey of the general public to gain a broader understanding of their perceptions of corruption in Indonesia. The data obtained from this survey will be an important addition to the analysis of the factors influencing the level of corruption in this country. With this comprehensive approach, it is hoped that this research can provide effective policy recommendations to address the corruption issues that have long plagued Indonesia.



Picture 1: Descriptive Research Flow

RESULTS AND DISCUSSION

Legally, the Republic of Indonesia has ratified the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights. (International Covenant On Civil and And Political Rights). The ratification of the international agreement implies that the State of Indonesia is obligated to respect and uphold the various contents contained within it. Article 3 of the Universal Declaration of Human Rights states, "Everyone has the right to life, liberty, and security of person." The article seeks to ensure the fulfillment of human rights, specifically the right to life as a gift bestowed by God.

Therefore, if the death penalty is applied, it would be in violation of Article 3 of the Universal Declaration of Human Rights. (Universal Declaration of Human Rights). Furthermore, the application of the death penalty for corrupt individuals also contradicts Article 6, paragraph (1) of the International Covenant on Civil and Political Rights (ICCPR), which states, "Every human being has the inherent right to life." This right must be protected by law. "No one can have their right to life arbitrarily taken away." And article 7 of the International Covenant on Civil and Political Rights (ICCPR) states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." "In particular, no one can be made the object of medical or scientific experimentation without freely given consent." The death penalty is classified as a cruel and inhumane punishment. It also does not give the convicted person a chance to become better.

Therefore, the death penalty for corruptors is contrary to Article 7 of the International Covenant on Civil and Political Rights. (ICCPR). The 1945 Constitution of the Republic of Indonesia, as the legal foundation of the state, contains the concept of human rights as a guarantee that the state is committed to fulfilling them. This is stated in Article 28 A of the 1945 Constitution of the Republic of Indonesia, which reads, "Every person has the right to live and has the right to defend their life and existence."

In addition, it is reaffirmed in Article 28 I of the 1945 Constitution of the Republic of Indonesia, which states, "The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to practice religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted based on retroactive laws are human rights that cannot be diminished under any circumstances." The implementation of the death penalty for corruptors is certainly not in line with what is stated in Article 28A and Article 28I of the 1945 Constitution of the Republic of Indonesia. Indonesia, as a country committed to fulfilling the human rights of its citizens, has established a law specifically addressing human rights, namely Law No. 39 of 1999 on Human Rights.

Article 9 of Law No. 39 of 1999 on Human Rights states that "Everyone has the right to live, to defend their life, and to improve their standard of living." It is clear that the right to life is a right that must be upheld and cannot be diminished in any way, as has been explicitly stated in international treaties, constitutions, and laws that have been agreed upon as the foundation for living in this republic. Philosophically, humanitarian matters are also reflected in the second principle of Pancasila. The two of them state, "Humanity that is just and civilized." Pancasila, as the guiding principle and philosophy of the nation, holds a strategic and fundamental position as the identity, personality, morality, and direction for the nation's safety (Asy'ari, 2011).

In the context of law enforcement, Pancasila holds a position as a legal ideal, meaning that all forms of law must be oriented towards and based on the values contained in Pancasila. The humanitarian values contained in this second principle hope for humans to acknowledge and treat others according to their dignity and worth, recognize equality in status, equal rights and fundamental human obligations, love one another, foster a spirit of tolerance and empathy, as well as uphold the values of humanity and have the courage to defend truth and justice.

Human rights in Pancasila are not only based on individual freedom but also on upholding social obligations within society. According to Prof. Notonagoro, every nation as a unity of human groups is an individual entity that has natural rights and moral rights to stand as an individual or to live freely. The death penalty for perpetrators of corruption certainly does not align with the meaning contained in this second principle. Repressive actions in combating corruption have proven unable to create a country free from corruption. Based on the thoughts and meanings contained in the second principle, the eradication and prevention of corruption crimes should indeed be driven by prioritizing values of humanity, morality, and conscience as a very realistic and appropriate effort to prevent corruption from occurring.

Theoretically, the application of the death penalty contradicts the rule of law theory upheld by Indonesia and the theory of natural human rights, which also serves as the foundation for the establishment of Law No. 39 of 1999 on Human Rights. Clearly, Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "The State of Indonesia is a legal state." The concept of a rule of law or a state based on law fundamentally, according to Mochtar Kusumaatmadja, is that power is subject to the law and everyone has equal standing before the law. In this theory of the rule of law, all actions taken by both the authorities and the public must be based on the law and can be legally accountable to ensure justice in society. Julius Stahl proposed the elements of a rule of law which consist of:

1. Recognition of human rights;
2. Legal certainty;
3. Separation or division of state powers;
4. Government based on the rule of law;
5. The existence of administrative justice.

In the conception of a rule of law state, the recognition and guarantee of human rights is a fundamental aspect that must be protected by the state. The protection of human rights is an element in the ideals of a rule of law, and the protection of citizens' rights is a manifestation of

the sovereignty of the people, which is an essential component of the concepts of rule of law and democracy. The recognition of human rights is the foremost and most essential aspect that must exist and be the goal of a rule of law state. Therefore, Indonesia, as a country based on law, should rightly protect and uphold the human rights of its citizens. The application of the death penalty for corruptors clearly contradicts the theory of the rule of law, which serves as an antithesis to the theory of the absolute state that disregards human rights. The implementation of the death penalty for corruptors will also disrupt the principle of legal certainty, which is one of the goals of a rule of law state, because the guarantee of human rights has been enshrined in the 1945 Constitution of the Republic of Indonesia, the ratification of international treaties, and Law No. 39 of 1999 on Human Rights, which have become positive law in Indonesia, and will hinder the process of eradicating organized and systematic corruption that has implications for legal certainty.

The term human rights in French is called *droits de l'homme*, in English human rights, and in Arabic *huquq al insan*. Human rights are defined as rights inherent to the dignity of human beings as creations of God. These rights are carried by humans since their existence on Earth, making them natural rights rather than gifts from humans or the state. According to Baharudin Lopa, human rights are rights that are granted directly by God the Creator. (*Hak-hak yang bersifat kodrati*). In the theory of natural rights, one of which was proposed by John Locke, human rights are fundamental rights granted by God to every individual and are inherent to each individual (Damanik, 2024). That right must not be diminished in any way, at any time, or in any place.

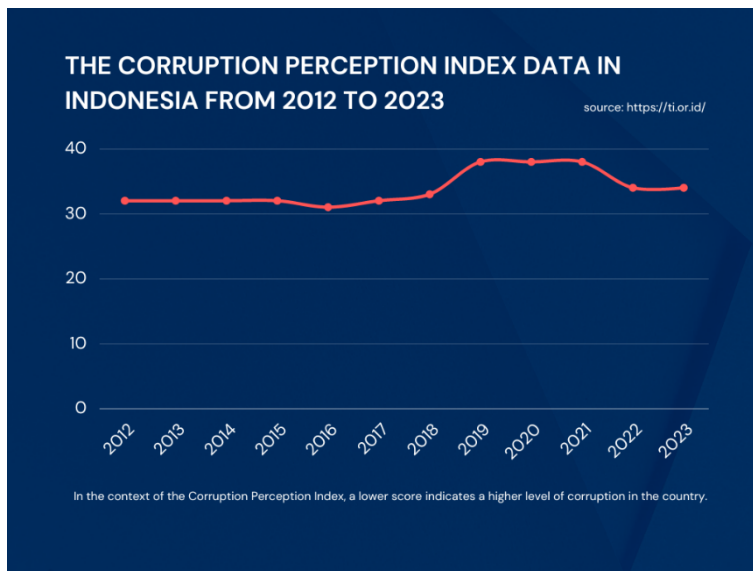
According to John Locke, all individuals are endowed by nature with inherent rights to life, liberty, and property, which are their own and cannot be transferred or revoked by the state, except with the consent of the owner. According to John Locke, human rights are divided into two categories: fundamental rights and derivative rights. Fundamental rights are the most basic rights that every human being born on Earth possesses. These rights include the right to life, the right to freedom of expression, and the right to own certain things. These fundamental rights must not be restricted, diminished, or abolished because these rights, in addition to being a direct gift from God Almighty, also pertain to the very existence of human beings as complete individuals.

On the other hand, derived rights are subordinate legal rights that are founded on mutual consent and may be limited in specific situations. Therefore, the death penalty is undoubtedly in direct opposition to the idea of human rights, particularly since it constitutes a fundamental violation of the right to life, which, in accordance with John Locke's theory of human rights, should not be restricted, diminished, or even abolished.

Historically, in Article 2 paragraph (2) of Law No. 31 of 1999 concerning the Eradication of Corruption Crimes, it is stated that the death penalty may be imposed under certain circumstances. However, until now, there has never been a convicted corruptor who has been sentenced to death due to the failure to meet several conditions in certain circumstances. Several countries in the world still impose the death penalty for corrupt individuals, including China, Vietnam, Thailand, Myanmar, North Korea, and others. However, the countries that impose the death penalty on perpetrators of corruption are still far from successful in eradicating corruption down to the root of the problem itself.

Based on the data from the 2023 Corruption Perceptions Index, China ranks 76th out of 180 countries with a score of 42, Vietnam is in 83rd place with a score of 41, Thailand ranks 108th with a score of 35, and Myanmar is in 162nd place with a score of 20. In fact, North Korea, which explicitly states and remains committed to implementing the death penalty for corrupt individuals in its country, ranks 172nd with a score of 17. Indonesia itself is ranked 115th with a score of 34.25. The gathered data indicates that the death penalty for corruptors, which is supposed to serve as a deterrent to improve the corruption index, has not yet shown

significant effectiveness in combating corruption. In fact, countries with the lowest corruption index, categorized as the cleanest from corruption practices, such as Denmark, which ranks first with a score of 90, followed by Finland with a score of 87 and New Zealand with a score of 85, do not implement the death penalty for corrupt individuals at all. Therefore, the death penalty is not a way to cut off and end corruption practices at their roots.



Picture 2: The Corruption Perception Index in Indonesia

Thus, from a sociological standpoint, the benefits of doing away with the death penalty for corrupt officials will undoubtedly satisfy the human rights guarantee found in international human rights conventions, the Republic of Indonesia's Constitution, and current Indonesian legislation, which states that it is the duty of the state to protect its citizens. Furthermore, the state will have more opportunity to conduct extensive information collecting in order to tackle massive, coordinated, and systemic corruption cases now that the death sentence for corruptors has been abolished.

Then, corruption may be eradicated more successfully and preventively throughout time, which will have a greater impact on achieving a clean state devoid of corrupt activities that hurt the Indonesian people. Implementing the death penalty for corruptors has the unintended consequence of making Indonesia inconsistent with its reputation as a human rights-abiding nation. This has implications for the principle of legal certainty and may also make it more difficult to fight corruption in large-scale cases involving multiple individuals in a methodical and organized way.

Here are the survey results on whether the death penalty for corruptors is justified in Indonesia.



Picture 3: Results of a survey on the application of the death penalty in Indonesia

The survey results show that the majority of respondents agree with the death penalty for corrupt individuals. They argue that the death penalty for corruptors can serve as a strong deterrent and can be effective in combating corruption in Indonesia. However, a small portion of respondents also questioned the fairness and legal certainty in the application of the death penalty for corruptors, as well as highlighting the need for judicial system reform to ensure that corruption cases are handled fairly and transparently.

However, this opinion is still generating controversy among the public. Some parties argue that the death penalty is not effective in eradicating corruption, while others consider it a necessary firm measure to deter corrupt individuals. Nevertheless, the debate regarding the implementation of the death penalty for corruptors continues in Indonesia.

Some groups are concerned that the death penalty for corruptors could lead to abuse of power and violations of human rights. In addition, there are concerns that the death penalty will not be effective in preventing corruption, as corruption itself has complex root problems. Nevertheless, there are also those who argue that the death penalty is a form of justice for the victims of corruption and can serve as a deterrent for potential corruptors. With various different perspectives, the discussion about the death penalty for corruptors continues to be a hot topic in Indonesia.

CONCLUSION

With the results of this research, a thorough study is needed to evaluate the effectiveness and impact of the death penalty for corrupt individuals, as well as to consider other more effective solutions in combating corruption. Thus, preventive and rehabilitative measures also need to be strengthened to address the root causes of corruption comprehensively.

There is a need for efforts to raise awareness about the consequences of corrupt actions, as well as to provide protection and justice for the victims of corruption. In addition, better education and law enforcement should also be a primary focus in the efforts to prevent corruption in Indonesia. These steps need to be supported by all elements of society and the government in order to create an environment free from corruption and to achieve justice for all.

The importance of cooperation between the government, the community, and related institutions in strengthening preventive and rehabilitative measures cannot be overlooked. A strong synergy is needed to identify and address the root causes of corruption that have infiltrated various aspects of community life. In addition, there is also a need for high transparency and accountability in every action taken to prevent and enforce laws related to

corruption. Thus, we can together create a more just and integrity-filled system for a better future for Indonesia.

The following is a summary of efforts that must be made to silence the culture of corruption in Indonesia:

1. The role of society in the efforts to prevent corruption in Indonesia.
2. The challenges faced in creating cooperation between the government and the community to combat corruption.
3. The implementation of an effective monitoring and law enforcement system as a concrete step in combating corruption.
4. The importance of education and awareness about the negative impacts of corruption on a country's development.
5. Innovative efforts that can be made to engage all elements of society in the eradication of corrupt practices.

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