

## The Implementation of Death Penalty in The Context of Islamic Law and Criminal Law in Indonesia: Challenges and Implication

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**Abstract:** *This research aims to answer how the death penalty is regulated in the context of Islamic law and positive criminal law in Indonesia by parsing the challenges and implications. This type of research is conducted with a normative approach, namely by analysing the problem through an approach to legal principles and referring to legal norms contained in legislation. The results show that the death penalty in Islam triggers controversy, where the cons argue that the death penalty does not originate from the Qur'an and al-Hadith, but is a derivative of the history of the prophet and the Arabs; they are also concerned about human intervention in its implementation so that it is considered not truly from God. On the other hand, the pro side argues that the death penalty is God's will without human intervention. Moreover, in positive criminal law, the death penalty is used to protect the fabric of life and is considered legitimate even though every individual has the right to life. Thus, the state is considered to protect its citizens from unlawful acts.*

**Kata Kunci:** *Death Law; Islamic Law; Criminal Law; Legislation*

## Pelaksanaan Hukuman Mati dalam Konteks Hukum Islam dan Hukum Pidana di Indonesia: Tantangan dan Implikasi

**Abstrak:** Penelitian ini bertujuan untuk menjawab bagaimana pengaturan hukuman mati dalam konteks hukum islam dan hukum pidana positif di Indonesia dengan mengurai tantangan dan implikasinya. Jenis penelitian dalam ini dilakukan dengan pendekatan normatif, yaitu dengan melakukan analisis terhadap permasalahan melalui pendekatan terhadap asas-asas hukum serta mengacu pada norma-norma hukum yang terdapat dalam peraturan perundang-undangan. Hasil penelitian menunjukkan bahwa hukuman mati dalam Islam memicu kontroversi, dimana pihak yang kontra berpendapat bahwa hukuman mati tidak berasal dari Alquran dan al-Hadits, melainkan merupakan hasil turunan sejarah nabi dan bangsa Arab; mereka juga mengkhawatirkan campur tangan manusia dalam pelaksanaannya, sehingga

dianggap tidak benar-benar berasal dari Tuhan. Di sisi lain, pihak yang pro berpendapat bahwa hukuman mati adalah kehendak Allah tanpa campur tangan manusia. Selain itu, dalam hukum pidana positif, hukuman mati digunakan untuk melindungi struktur kehidupan dan dianggap sah walaupun setiap individu memiliki hak atas hidupnya. Dengan demikian, negara dianggap melindungi warganya dari tindakan yang melanggar hukum.

**Kata Kunci:** Pidana Mati; Hukum Islam; Hukum Pidana; Peraturan

## A. Introduction

A rigorous penal system in the late eighteenth and early nineteenth centuries led to the conviction of tens of thousands of persons, all of whom were ultimately condemned to death.<sup>1</sup> The Preamble to the Constitution of the Republic of Indonesia states that the harsh application of the death sentence is one of the major challenges facing criminal law enforcement in Indonesia. The death penalty continues to spark debate about the benefits and disadvantages of capital punishment among the legal community and Human Right activists. The death sentence is the target of a wide range of criticism, and there is even a campaign to abolish it.

The death sentence is frequently presented in the media as brutal and vicious. This is founded on pure logic, intention, purpose, and efficacy. The law, at least, encompasses all norms of conduct relevant to everyday life and enforced by punishment. Normal and peaceful law enforcement is possible, yet law enforcement itself is necessary because of the possibility of lawbreaking.<sup>2</sup>

For instance, Ellsworth's view that "the reasons given for opposing the death penalty include that it is immoral, that responding to violence with violence is wrong, that it is applied unfairly, and that innocent people may have been executed" provides insight into the death penalty's detractors among legal scholars".<sup>3</sup>

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<sup>1</sup>Melissa Schrift, "Life after Death: An Introduction to the Criminal Body in the West," *Mortality* 21, no. 3 (July 2, 2016): 191–197, accessed October 27, 2023, <https://doi.org/10.1080/13576275.2016.1181318>.

<sup>2</sup>Meir Dan-Cohen, "Decision Rules and Conduct Rules: On Acoustic Separation in Criminal Law," *Harvard Law Review* 97, no. 3 (1984): 625–677, accessed October 27, 2023, <https://www.jstor.org/stable/1340892>.

<sup>3</sup>Raj Sethuraju, Jason Sole, and Brian E. Oliver, "Understanding Death Penalty Support and Opposition Among Criminal Justice and Law Enforcement Students," *SAGE Open* 6, no. 1 (January 1, 2016): 2158244015624952, accessed October 27, 2023, <https://doi.org/10.1177/2158244015624952>.

As Whitehead puts it, "under the concept of just deserts lies the idea that the punishment for the offender should be proportional to the harm caused by his criminal act," which is why many people favor the death sentence. Those who support capital punishment on the grounds of "just deserts" retribution argue that manslaughter should always result in the death sentence since it involves the willful taking of another human life".<sup>4</sup>

In addition, Bader and Christopher introduced the idea of vengeance, arguing that "retaliation is often an emotional response linked to the pain and anger experienced by those affected by murder." Those who support the death penalty argue that, under this theory, killing the offender would provide closure for victims' families".<sup>5</sup>

Many individuals believe that if murderers are put to death, it would discourage others from carrying out similar acts in the future. Many legal and human rights professionals, including those in Indonesia, oppose the death sentence because of the following issues:

1. A throwback to the days of the law of the jungle, it is often seen as harsh and awful;
2. Incapable of eliminating criminal offenses or unwilling to deter criminal behavior;
3. The death penalty cannot be altered even if it becomes clear in retrospect that it was based on faulty reasoning;
4. In violation of the right to personal autonomy, human life is an inalienable right that no one, not even the government can challenge.<sup>6</sup>

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<sup>4</sup>John T. Whitehead and Michael B. Blankenship, "The Gender Gap in Capital Punishment Attitudes: An Analysis of Support and Opposition," *American Journal of Criminal Justice* 25, no. 1 (September 1, 2000): 1–13, accessed October 27, 2023, <https://doi.org/10.1007/BF02886807>.

<sup>5</sup>Christopher D. Bader et al., "Divine Justice: The Relationship Between Images of God and Attitudes Toward Criminal Punishment," *Criminal Justice Review* 35, no. 1 (March 1, 2010): 90–106, accessed October 27, 2023, <https://doi.org/10.1177/0734016809360329>.

<sup>6</sup>Djoko Prakoso and Nurwachid Nurwachid, *Studi Tentang Pendapat-Pendapat Mengenai Efektivitas Pidana Mati Di Indonesia Dewasa Ini* (Jakarta: Ghalia Indonesia, 2000).

As with the current trend in positive legal thought, the emphasis is on using punishment to change and better the lives of those on death row. However, evidence suggests he no longer cares about the legal repercussions if he takes the life of another person without due process. As much as the killer values his own life, the person he kills has the same right to live. Each one must take care not to directly or indirectly contribute to the death of others. Or, no one should be forced to participate in a ritual that ends in death. As a result, it stands to reason that murderers should likewise be isolated from society.

Throughout criminal law's past, there has been a pervasive belief that the death sentence is the best way to deter and punish the most heinous of offenses. There have always been those who saw capital punishment as the best way to deal with criminals, and that view persists today. The death sentence is intended as a deterrent against future violent crime.<sup>7</sup>

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<sup>7</sup>Moses Janrry Wotulo, "Analisis Yuridis Atas Hukuman Mati Terhadap Koruptor Kasus Tindak Pidana Korupsi Ditinjau Dari Perspektif Hak Asasi Manusia," *LEX PRIVATUM* 9, no. 13 (January 20, 2022), accessed October 27, 2023, <https://ejournal.unsrat.ac.id/v2/index.php/lexprivatum/article/view/38511>.

## B. The Concept of Death Law

When a criminal's guilt has been established, punishment is handed out. The individual who is punished is the one who will feel the effects of the sanction. The condemned individual will only feel the full effects of this sentence once it is carried out, long after the judgment has been handed down.<sup>8</sup> The community as a whole benefits from the deterrent effect of a harsh sentence since fewer individuals will be willing to perpetrate crimes of the same kind.

The purpose of the criminal penalties is to help keep the peace and improve community control. This way, the corrective, preventative, and instructional goals may all be met.<sup>9</sup> The penalty will only be meaningful if the public knows the judge's ruling. For this reason, its dissemination via communication or mass media is crucial to get widespread attention.

Criminal penalties are enforced in an attempt to improve community order and safety. This way, the corrective, preventative, and instructional goals may all be met. The consequences will be meaningless if the public is unaware of the judge's criminal penalties. Because of the crucial role played by communication or the mass media in its dissemination, it will likely get considerable attention.

The evaluation of whether or not a law reduces the amount of crime it prohibits is intrinsically linked to the idea of a law's aim.<sup>10</sup> In light of the above, it's important to understand why this legislation was enacted; only then can we determine whether or not the death sentence is appropriate.

To better ensure legal certainty, avoid diversity of legal interpretation, and protect the social and economic rights of the community, as well as fair treatment in combating criminal acts of corruption, Law No. 20 of 2001 was passed on November 21, 2001. This law amends several provisions in Law No. 31 of 1999.

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<sup>8</sup>Sudarto, *Kapita Selekta Hukum Pidana* (Bandung: Alumni, 1986).

<sup>9</sup>Jeremy Sarkin, "The Tension Between Justice And Reconciliation In Rwanda: Politics, Human Rights, Due Process And The Role Of The Gacaca Courts In Dealing With The Genocide," *Journal of African Law* 45, no. 2 (October 2001): 143–172.

<sup>10</sup>Soerjono Soekanto, *Efektivitas Hukum Dan Penerapan Sanksi* (Bandung: Remadja Karya, 1988).

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The deterrence impact is crucial to the public interest because it addresses the widespread discontent with the judicial system. One sort of punishment, such as jail, cannot serve as an effective deterrence in situations of corruption. To maintain the deterrent impact and the authority of the law, it is not enough to impose a jail term. In this regard, the KPK has recently made some progress. It has been claimed that Firli Bahuri, head of the KPK, has discussed the prospect of applying capital punishment to corrupt individuals, using the case of Covid-19 as an example. The prosecution has reportedly sought the death punishment for Asabri defendant Heru Hidayat.<sup>12</sup> The judiciary is now tasked with carrying out the death sentence for corrupt officials by investigating, prosecuting, and indicting those responsible.

General Explanation of Article 7 of Law No. 20 of the Year 2001 explains that to be effective and, reverse proof must be written as a provision for premium remedium and special prevention. In contrast to *ultimum remidium*, which holds that punishment is a last resort when other forms of treatment have failed,<sup>13</sup> *premium remidium* insist that it should be used as soon as possible after a criminal offense has been committed. Special convention, on the other hand, suggests that punishment aims to reform the offender into a more upstanding citizen.<sup>14</sup>

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<sup>11</sup>Marwan Effendy, *Sistem Peradilan Pidana: Tinjauan Terhadap Beberapa Perkembangan Hukum Pidana* (Jakarta: Referensi, 2012).

<sup>12</sup>Andi Saputra, "Pakar Hukum UGM Minta Hati-hati Maknai Pasal Hukuman Mati ke Koruptor," *detiknews*, last modified 2021, accessed October 27, 2023, <https://news.detik.com/berita/d-5843984/pakar-hukum-ugm-minta-hati-hati-maknai-pasal-hukuman-mati-ke-koruptor>.

<sup>13</sup>Servas Pandur and Max Diaz Riberu, *Testimoni Antasari Azhar Untuk Hukum Dan Keadilan* (Jakarta: Laras Indra Semesta, 2011), accessed October 27, 2023, <https://cir.nii.ac.jp/crid/1130282268902127360>.

<sup>14</sup>Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Prenada Media, 2018).

This statute has been updated for the fourth time to clarify the specifics of how a death sentence is determined. The revised language may be found in the Explanation of Paragraph 2 of Article 2. When we talk about "certain circumstances" in this provision, we're referring to situations where the criminal act of corruption is committed against funds that were set aside to alleviate the effects of a dangerous situation, a natural disaster on a national scale, widespread social unrest, economic and monetary crises, or a previous criminal act of corruption.

The death sentence cannot be applied uniformly in corruption cases. Rather, it is reserved for those who have committed very egregious graft acts. A corruptor cannot be faced with the death sentence unless it is shown that his corruption falls within the category of extraordinary corruption. Perpetrators of corruption face the death sentence under specific circumstances, as specified in Law No. 31 of 1999, as revised by Law No. 20 of 2001 About the Eradication of the Crime of Corruption.

Judicial tools alone are insufficient to minimize corruption instances. The progressive interpretation of the law against corruption requires the "consistency," "firmness," and "juridical courage" of law enforcement, as well as the firmness and complete backing of the government. This allows the law's ideals of public fairness to be fully achieved. There is no harm in trying to eliminate corruption in the same way that China has. Suppose the authorities are serious about ending the widespread corruption of today. The death penalty for corrupt individuals is essential to protect the Nation and the State.<sup>15</sup>

In addition to being stated in Article 1 Paragraph (1) of legislation No. 20 of 2001, which was enacted to modify Law No. 31 of 1999 concerning the elimination of corruption, the death sentence is also included in Article 2 Paragraph (2) of that legislation, which reads as follows: The death sentence may be used in cases when "the crime of corruption as meant in Paragraph (1) is committed," as stated in Article 2 Paragraph (2) of Law No. 31 of 1999.

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<sup>15</sup>Alexandre Kukhianidze, "Corruption and Organized Crime in Georgia before and after the 'Rose Revolution,'" in *War and Revolution in the Caucasus* (Routledge, 2010).

According to his clarification, the term "certain circumstances" in this provision refers to a situation that can be used as a reason for criminal weighting for perpetrators of corruption, such as if the crime was committed against funds intended for combating dangerous situations, national natural disasters, combating the effects of widespread social unrest, overcoming economic and monetary crises, and preventing the repetition of corruption.

Judicial Busyro Muqodas lays forth three essential elements that must be met before a corrupt individual is eligible for the death sentence;<sup>16</sup> Three things are clear: (1) the people have been severely hurt by corruption amounting to more than Rp 100 billion in state funds; (2) the corrupt individuals are state officials; and (3) the corrupt individuals have engaged in corruption on several occasions.

Therefore, it may be inferred that a death sentence may be handed down to corrupt perpetrators if they are found to be legally and convincingly guilty of committing the claimed crime as described above.<sup>17</sup>

When other measures, such as prevention, have failed, the application of punishment as a mourning to the offender of the crime is carried out as the ultimate remedy (*ultimum remedium*). Scholars in the fields of criminal law and criminology have discussed the validity and need of the death sentence for hundreds of years.

Corruption culprits, whether individuals or large businesses, are not deterred by the many punishments that have been placed on them. Therefore, considering the imposition of *ultimum Remedium* punishments in the form of the death sentence is important in order to have a deterrent impact on those who commit acts of corruption. In order to have a deterrent impact or constitute an *ultimum remedium*, cumulative punishments, such as the death sentence, fine, and repayment of State losses, must be implemented.

In an attempt to reduce instances of corruption in the country, Indonesia has instituted the death penalty as punishment for anyone found guilty. In an effort to reduce instances of corruption, the government has instituted the death sentence.

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<sup>16</sup>Kompasiana.com, "Penantian Hukuman Mati untuk Koruptor," *KOMPASIANA*, last modified April 7, 2010, accessed October 27, 2023, <https://www.kompasiana.com/rachmadbacakoran/54ff2e03a33311124550fc03/penantian-hukuman-mati-untuk-koruptor>.

<sup>17</sup>Kompasiana.com, "Penantian Hukuman Mati untuk Koruptor."



Since the right to life is the most fundamental human right, it is not surprising that the death penalty is a focal point of debates about corruption and human rights. Since the death sentence is the worst punishment that can never be undone, careful consideration must be given to whether or not it should be used to those convicted of corruption.

Immanuel Kant, Hegel, Herbart, Stahl, and Leo Polak were among the early proponents of retaliatory death punishment at the end of the 18th century. According to proponents of the retribution idea:<sup>18</sup> The crime leads to the imposition of punishment on the perpetrator, so there is no need to consider the benefits of imposing punishment; criminal punishment is not intended for practical purposes, such as correcting criminals.

So the most important thing about punishment is retaliation. Against this theory of retaliation, Vos divides among others:

- a. Subjective retaliation; namely, retaliation against the offender's guilt.
- b. Objective retaliation; namely, retribution for what the offender has created in the external world.<sup>19</sup>

Furthermore, Nickel Walker gives an understanding of retaliation, namely:

- a. Retaliatory retribution; intentionally causing harm to an official who is rational enough to understand that the offender's actions have caused the official's distress;
- b. Distributive retribution; this is done by ensuring that persons who have committed crimes meet all other criteria considered required to hold them responsible for the types of punishment inflicted on them;
- c. Quantitative retribution; they ensured that all types of punishment, even those with no intended victim retribution, were capped at a degree of severity commensurate with the crime committed.<sup>20</sup>

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<sup>18</sup>Andi Hamzah, *Sistem Pidana Dan Pemidanaan Di Indonesia Dari Retribusi Ke Reformasi* (Jakarta: Pradnya Paramitha, 1985).

<sup>19</sup>Hamzah, *Sistem Pidana Dan Pemidanaan Di Indonesia Dari Retribusi Ke Reformasi*.

<sup>20</sup>Adami Chazawi, *Pelajaran Hukum Pidana Bagian I, Stesel Pidana, Tindak Pidana, Teori-Teori Pemidanaan & Batas Berlakunya Hukum Pidana* (Jakarta: Grasindo, 2002).

Based on the preceding, it may be deduced that perpetrators of illegal acts are entitled to some punishment, which should be proportional to the severity of their conduct.

If you follow the logic of the retribution hypothesis, you'll find that every human being is motivated by a desire for vengeance. The absolute conceptions of revenge in antiquity and now have different underlying assumptions. In the sense that vengeance is no longer seen in black-and-white terms, such as "teeth for teeth".<sup>21</sup>

This can be seen from Kant's opinion on the ancient theory of retribution arguing that: anyone who commits a crime deserves retribution through a just penalty. If the world were to cease tomorrow, Kant says the last criminal should still be put to death today.

In the meantime, Hegel, the famous dialectician, argues that punishment must exist as a reaction to every crime, law, or justice. If someone commits a crime or attacks justice, he denies the reality of the law, so punishment must be recognized as injustice or the re-establishment of the law.<sup>22</sup>

According to Herbart, the community will be dissatisfied if the perpetrator is not punished for their crime. Therefore, from an aesthetic standpoint, justice requires that the perpetrator of the crime be punished accordingly.<sup>23</sup>

To be equitable, how gain and loss are distributed must be fair to all members of society; for example, if someone commits a crime that results in a greater amount of pain and suffering for another person, then it is fair that the offender also experiences a greater amount of pain and suffering.

Although the two retaliation theorists' perspectives vary, the basic point is that retribution is best understood as a call for justice in the form of punishment for those who do wrongdoing. There are several reasons why the death penalty exists, but two of the most important are deterrent and revenge.

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<sup>21</sup>J. E. Sahetapy, "Suatu Studi Kasus Mengenai Ancaman Pidana Mati Terhadap Pembunuhan Berencana (Jakarta: CV Raja Wali, 1982).

<sup>22</sup>Sahetapy, "Suatu Studi Kasus Mengenai Ancaman Pidana Mati Terhadap Pembunuhan Berencana,"

<sup>23</sup>Sahetapy, "Suatu Studi Kasus Mengenai Ancaman Pidana Mati Terhadap Pembunuhan Berencana,"

In a community without punishment, retribution serves as a method of keeping the peace, although inadequate and to the disadvantage of everybody. Revenge is seen as a moral imperative in less developed cultures. According to Kant, the crime is the ground for the penalty, and the *kategorischen imperativ* (the unconditional demand of practical reason) mandates that the perpetrator of the illegal conduct be punished.<sup>24</sup>

The question then becomes, what offenses are equivalent to or deserving of the death penalty? To address this, we must assume that the death penalty is a maximum punishment that, because of its severity, cannot be imposed on just any crime; rather, it can only be imposed for sadistic crimes, crimes that have a wide impact on the security and order of the state community, and so on.

In response to the statement above, Stahl stated that as a universal concept of justice, the idea that wrongdoing must be met with vengeance has always been in effect. The state is God's handiwork on Earth, and a criminal has messed with its joints. The state must eliminate or severely punish the offender to protect its legitimacy. So, according to the Supreme Judge, vengeance is necessary for justice.

While retribution is frowned upon and has fallen out of favor, it serves an important purpose by keeping the peace in society. If a criminal is executed, their presence in the community won't create unease and disruption.<sup>25</sup> In other words, the fourth purpose of the death penalty is to provide justice and equality.

### **C. Comparison of Death Penalty According to Positive Criminal Law and Islamic Criminal Law: Challenge and Implications in Indonesia**

The death penalty is a legal policy that legalises a country or legal system to impose the death penalty on perpetrators of serious crimes. The following table will present a comparison of the death penalty according to positive criminal law in Indonesia and Islamic criminal law:

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<sup>24</sup>P. A. F. Lamintang and D. Simins, *Kitab Pelajaran Hukum Pidana* (Bandung: Pionir Jaya, 1992).

<sup>25</sup>Lamintang and Simins, *Kitab Pelajaran Hukum Pidana*.

The Implementation of Death in The Context of Islamic Crimes in Indonesia:  
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Tabel 1. Comparison of Death Penalty between Positive Law and Islamic Law

Aspect	Islamic Law	Positive Law
Legal Basis	The nash (provisions) in the Qur'an and Al-Hadith, the two primary sources of Islamic law, are the basis for the death sentence in Islamic criminal law. Murder, aggravated robbery, and adultery are all offenses for which the death sentence is prescribed by Islamic law.	In positive criminal law, the death sentence is often grounded on statutes enacted by the government or legislature that specify capital offenses, court processes, and other features of its application. Humans have crafted these rules, meaning they may differ from nation to nation.
Principles	Islamic criminal law places a greater emphasis on the moral and spiritual implications of the death sentence. The death sentence is commonly used as a deterrent and a form of religiously inspired law enforcement in Islam. But there are also human rights and justice concepts in Islam, varying degrees of interpretation and application depending on the country or community.	Principles such as the separation of punishment and religion, individual rights, and judicial procedure fairness tend to take precedence while discussing the death sentence in positive criminal law. The use of the death sentence under positive criminal law is inextricably linked to the maintenance of fair trial procedures and the safeguarding human rights.
Type of Crime	In Islamic criminal law, the death sentence is reserved for the most heinous of offenses, such as those listed in the Qur'an and Al-Hadith, including murder ( <i>qisas</i> ), aggravated robbery ( <i>hirabah</i> ), adultery (adultery documented with sufficient proof), and apostasy (disbelief in Islam).	The specific offenses that carry the death penalty under a country's positive criminal law vary widely. Murder with malice, terrorism, drug trafficking, treason, and other high-stakes offenses may fall under this category, depending on the laws of the nation in question.
Forgiveness and Rehabilitation	In death penalty cases, the president of Indonesia has the power to commute or grant a pardon.	In rare situations, sharia courts may grant an accused person a chance to repent and escape the death sentence since this idea is recognized in Islamic law.

Sumber : Author's Analyze

Implementing capital punishment for Islamic offenses in Indonesia raises questions and shows new difficulties with far-reaching consequences. Difficulties in applying the death penalty:

1. Having a fair trial is a major obstacle to using the death sentence because of the high stakes involved. This requires thorough investigation, respect for the

accused's rights, and open judicial proceedings. For the death sentence to be upheld under Islamic law, the accused must be given a fair trial, as Islamic principles of justice require.

2. One of the most pressing problems in executing someone is the possibility of a legal mistake. Innocent persons have been put to death because of mistakes in the legal system, the presentation of fraudulent evidence, or the incorrect identification of witnesses. This illustrates the significance of a cautious and open judicial system in executing the death sentence.
3. Human rights breaches may be reduced, and corruption or abuse of power in the judicial system can be addressed if the legal process, from inquiry to execution, is conducted in the open.
4. Capital punishment also raises ethical and political questions in modern societies. The death sentence is considered a violation of human rights and religious and ethical standards by certain cultures while being seen as a more effective form of vengeance and crime prevention by others.

Implications of death penalty implementation:

1. Concerns about human rights are raised by Indonesia's use of the death sentence under Islamic law. The likelihood of brutal executions, respect for the rights of the accused, and the need to defend those rights are all factors to think about while debating the death sentence.
2. The death sentence has serious repercussions for society as a whole, as well as for the defendant's loved ones and the local populace. It has the potential to disrupt people's personal and professional lives.
3. Implications for the Law. Capital punishment must be consistent with national and international human rights legislation in the Islamic criminal environment. If these laws are broken, Indonesia's reputation on the global stage might suffer.
4. Reform and harmonization of the law are required in Indonesia because of the consequences of enforcing the death sentence. An essential element in the fight against crime is the harmonization of state law, customary law, and Islamic law.

Given the current situation, Indonesia's government, legal community, and civil society must continue to debate, observe, and assess the use of the death sentence in the context of Islamic offenses. This will aid in striking a balance between strong law enforcement and safeguarding the rights of individuals and the moral and ethical standards accepted by Indonesia's varied population.

#### **D. Conclusion**

First, ensuring that judicial processes are fair and transparent is a significant difficulty and has significant ramifications for using the death sentence. This requires safeguarding the accused's rights, conducting thorough investigations, and removing the possibility of a legal mistake. Second, even in the most merciful of executions, there is always a chance that human rights may be violated due to the use of the death sentence. The execution of the death sentence raises serious concerns about human rights and the rights of the accused. Third, the death sentence in Indonesia raises ethical and political questions. Ethical ideals, humanism, and justice are major factors in deciding on a death penalty policy. Finally, it is important to achieve harmony between national, customary, and Islamic law in criminal law. To do this, the many current legal systems need to communicate and work together more effectively.

Indonesia's criminal justice system must be continually improved to meet the problems and ramifications posed by the death sentence. Reforms to improve the death penalty's openness, accountability, and oversight are crucial. Human rights breaches are more likely to occur during the execution of the death sentence. Hence, the legal community, civil society, and human rights agencies must closely monitor the process.

This study examines the difficulties and ramifications of enforcing capital punishment under Indonesia's Islamic criminal system. Through increased education and reform initiatives, Indonesia can strike a better balance between strict law enforcement and respect for ethical principles, human rights, and humanity.

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