



# Capital Punishment in the Perspective of the National Criminal Code and the Kutaramanawa Dharmasastra Majapahit

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**Abstract:** This study aims to analyse the comparison of capital punishment regulations in the latest National Criminal Code (KUHP) and the Kutaramanawa Dharmasastra from the Majapahit Kingdom era, where this study is important for understanding how the concept of the death penalty has undergone a transformation from a traditional legal system steeped in religious and cosmological values to a modern legal system that places greater emphasis on the protection of human rights, the principle of justice, and strict legal procedures. Thus, this study not only compares legal norms but also traces the paradigm shift in justice and the values behind it. The research method used is a normative legal method with a legislative and historical approach, where the legislative approach is used to examine the provisions on capital punishment in the 2023 Criminal Code, while the historical approach is used to trace the practice and philosophy of the application of capital punishment during the Majapahit era as reflected in the Kutaramanawa Dharmasastra. This research is descriptive-analytical in nature, relying on secondary data from legislation, classical law books, academic literature, and previous research results. The results of the discussion show that there is a fundamental difference in the orientation of criminal law, where in the Kutaramanawa Dharmasastra, the death penalty is positioned as the main punishment imposed for various serious crimes in order to maintain the political and cosmological stability of the kingdom, whereas the National Criminal Code places the death penalty as a special, conditional alternative punishment oriented towards the principle of *ultimum remedium*. This shift shows the direction of Indonesian criminal law reform, which is more cautious, humanistic, and in line with human rights principles, even though debates regarding its effectiveness and fairness are still ongoing.

**Keywords:** Kutaramanawa, Punishment, Criminal Code, Rights, Comparison.

## Introduction

Changing times demand adjustments in various aspects of life, including the field of law. One significant change in Indonesia is the passing of Law Number 1 of 2023 concerning the Criminal Code, often referred to as the National Criminal Code, which brings reforms to the criminal justice system, particularly regarding the types of punishment that can be imposed on criminals, including the death penalty. The death penalty is one of the most severe forms of punishment. Although it is regulated by law, this punishment is

controversial because it concerns a person's right to life. The debate on the death penalty is not only taking place at the national level, but also internationally, involving various perspectives related to its effectiveness as a legal instrument, moral and ethical implications, protection of human rights, and religious norms (Rohmatulloh & Saefudin, 2025).

In Indonesia, the issue of the death penalty has always been a hot topic of debate among academics, legal practitioners, and the general public. The ratification of the new Criminal Code (KUHP) in 2023, which will be implemented in stages, reinforces the direction of national criminal law reform. In the new KUHP, the death penalty is no longer the primary punishment, but rather an alternative and conditional punishment, with a certain probation period. This change is seen as a step forward towards a legal system that places greater emphasis on the protection of human rights and opportunities for rehabilitation for perpetrators of serious crimes (Putri, 2024).

From ancient times to the modern era, criminal law has always played a role in maintaining social order and protecting values considered fundamental by a society. The death penalty, which is the most controversial and extreme punishment in the history of civilisation, is a punishment that takes away a person's right to life as a consequence of a violation of the law that is considered very serious, and has been applied in various forms by almost all major civilisations in the world (Widjaja, 2024). When viewed from various perspectives, capital punishment can be seen from a philosophical perspective, where it often becomes a battleground between justice, morality, and the social need to maintain order. Historically, the forms, reasons, and procedures for applying the death penalty have been very diverse, reflecting the cultural, political, and religious values of the societies concerned (Annisa et al, 2025).

However, when viewed within the context of Indonesian law, the practice of capital punishment has a very long historical background. One important source of classical written law from the past is the Kutaramanawa Dharmasastra, which dates back to the heyday of the Majapahit Empire in the 14th century. This book was compiled under the direction of Mahapatih Gajah Mada and became one of the legal foundations of the Majapahit government structure (Utami, 2024). Kutaramanawa Dharmasastra not only contains criminal, civil, and state administrative rules, but also reflects the values of justice that existed at that time, including regulations on the death penalty. Unlike modern legal principles that emphasise human rights, this book reflects feudal, religious, and cosmological values that prioritise the stability of the kingdom and social obedience (Nurjanah et al, 2023).

From a historical perspective, the existence of the Kutaramanawa Dharmasastra book shows that the death penalty during the Majapahit era was not merely understood as a reaction to criminal acts, but as an instrument of legitimising the king's power to maintain the political and cosmological stability of the kingdom. The death penalty was positioned as a form of moral correction and social control that was laden with religious and feudal nuances (Utami et al, 2024). This is in stark contrast to the development of modern law in Indonesia, which emphasises the principle of due process of law, so that the death penalty is treated with strict procedures, conditions, and full oversight mechanisms (Nugraha et al,

2025). This shift shows that the discourse on the death penalty cannot be separated from changes in the orientation of law, from a paradigm of power to a paradigm of human rights protection. Therefore, a comparative study between the new Criminal Code and Kutaramanawa Dharmasastra is relevant not only to see the differences in norms but also to understand how legal values evolve along with social, political, and cultural changes in Indonesia.

One relevant study was conducted by Khairun Nisa Nurjanah, Iwan Darmawan, and Eka Ardianto Iskandar in an article entitled "Comparison of the Imposition of the Death Penalty According to the Criminal Code and the Kutaramanawa Dharmasastra of the Majapahit Kingdom". This study aims to explore the comparison between the regulation of the death penalty in the Criminal Code and criminal law during the Majapahit era. Using a normative juridical approach combined with a historical approach, the authors found that the death penalty in both the Criminal Code and the Kutaramanawa Dharmasastra Book is positioned as the highest form of punishment imposed only for serious crimes. The difference is that the Criminal Code places the death penalty as a special and alternative punishment, while the Kutaramanawa Book makes it the main punishment that is imposed on various crimes. The strength of this study lies in its historical analysis, which enriches the perspective on the reform of national criminal law. However, its weakness is the lack of in-depth analysis of the philosophical aspects of human rights and the effectiveness of the death penalty in the context of modern law (Nurjanah et al, 2023).

Meanwhile, another study was conducted by Deri Ardiansyah, Muhammad Adiaat, Aditya Indah Cahyani, and Nurlaili Rahmawati in an article entitled "The Existence of the Death Penalty in Law Number 1 of 2023 concerning the Criminal Code". This article discusses the provisions on the death penalty in the new National Criminal Code, specifically Article 100 of the Criminal Code. Using a normative juridical approach based on legislation, case studies, and concepts, this study highlights the advantages of the death penalty in the new Criminal Code, namely that it is positioned as an alternative punishment with a 10-year execution delay mechanism. However, its weakness is the legal uncertainty regarding the certainty of the execution date, as it depends on the considerations of the President and the Supreme Court. The authors assess that this regulation is a middle ground between the pros and cons of the death penalty, but at the same time opens up the possibility of implementation problems. The strength of this study lies in its analysis of the renewal of the Criminal Code and its potential impact on human rights, while its limitation is the lack of empirical data on the implementation of this new regulation (Ardiansyah et al, 2024). Overall, the two studies above highlight different dimensions. The study by Nurjanah et al. emphasises a historical comparison between the Criminal Code and traditional criminal law, while the study by Ardiansyah et al. focuses more on the reformulation of the death penalty in the 2023 National Criminal Code. Both studies are equally important as a basis for reassessing the relevance, effectiveness, and legitimacy of the death penalty in the contemporary Indonesian legal system.

In this context, it is interesting to conduct a comparative study between the regulation of the death penalty in the new Indonesian Criminal Code and Kutaramanawa Dharma Sastra. This comparison not only serves a normative function, namely comparing the content of the law, but also opens up a broader space for philosophical, sociological, and historical analysis. From a philosophical perspective, we can see how the definition of justice has shifted from an orientation towards the interests of the state and social order in the past to respect for individual dignity and human rights in the present. From a sociological perspective, this change reflects the dynamics of Indonesian society in responding to global value changes while still grappling with its local cultural heritage. From a historical perspective, this comparison shows the evolutionary journey of national criminal law from the era of traditional kingdoms, through colonialism, to the era of legal modernisation. Thus, this study not only highlights the technical differences between the two legal systems, but also enriches our understanding of the social and cultural transformations that underlie the development of law in Indonesia.

Furthermore, the purpose of this writing and discussion is important in order to understand the relationship between local legal heritage and national legal development. Amidst the push to strengthen Indonesia's legal identity, which is rooted in local values while also being globally minded, examining classical legal works such as Kutaramanawa Dharmasastra becomes highly relevant. Thus, through this comparative study, it is hoped that a deeper understanding of the concept of capital punishment, the transformation of legal values in Indonesia, and the challenges and opportunities in building a national legal system that is fair, distinctive, and oriented towards respect for human rights can be obtained.

## **Methodology**

This study uses a qualitative analysis method that focuses on processing data in the form of words and sentences to gain a deep understanding of the legal phenomena being studied. The type of research used is normative legal research, which is analysed through a legislative and historical approach. The legislative approach examines positive legal provisions, while the historical approach traces legal concepts from traditional Indonesian systems. The nature of this research is descriptive-analytical, with the aim of systematically describing and explaining the object of study, as well as analysing it using relevant legal theories. The data used comes from secondary sources (books, journals, regulations) and primary sources (interviews with competent sources). Data collection techniques were carried out through literature studies. Data analysis was conducted using a qualitative approach. This research relates the data obtained to legal theories to reveal the relationship and implications for the research discussed. With this method, it is hoped that this research can make a scientific contribution to understanding the development and relevance of the concept of capital punishment between traditional and modern Indonesian legal systems.

## Results and Discussion

### 1. Comparison of the Death Penalty between the Criminal Code and the Kutaramanawa Dharmasastra

The Kutaramanawa Dharmasastra Book existed long before the enactment of the Criminal Code of 1946 and Law No. 1 of 2023. This legal book, a relic of the Majapahit kingdom era, shows that the legal system in the archipelago was already familiar with and applied the death penalty as an instrument of law enforcement. The Kutaramanawa Book consists of 19 chapters, including a) general provisions regarding fines, b) eight types of murder or *astadusta*, c) treatment of servants or subjects, d) eight types of theft or *astacorah*, e) coercion or *sahasa*, f) buying and selling or *adol-tuku*, g) pawn or *sanda*, h) debt or *ahutang-apihutang*, i) deposits, j) dowry or *tukon*, k) marriage or *kawarangan*, l) adultery or *paradara*, m) inheritance or *drewe kaliliran*, n) verbal abuse or *wakparusya*, o) injury or *dandaparusya*, p) negligence or *kagelehan*, q) fighting or *atukaran*, r) land or *bhumi*, and s) slander or *dwilatek* (Faisol, 2023) (Utami, 2023).

In the Kutaramanawa Dharmasastra, capital punishment is one of the four main types of punishment known during the Majapahit era. The four main types of punishment include:

- a. Capital punishment;
- b. Amputation of body parts;
- c. Fines;
- d. Compensation or *panglisyawa/patukusyawa* (Albab, 2025).

The existence of the death penalty as a principal punishment shows how high the position of this punishment was in the Majapahit legal system, as it was imposed for various serious crimes that were considered to disrupt the order of the kingdom and damage social harmony. This concept clearly differs from the National Criminal Code, which no longer places the death penalty as the primary punishment, but rather as a special punishment that is always alternative to life imprisonment or imprisonment for a certain period of time.

Examples of the application of the death penalty in the Kutaramanawa Dharmasastra are found in the crimes of murder, theft and kidnapping of nobles. Articles 3 and 4, which regulate *astadusta*, explain that "anyone who kills an innocent person shall be punished by death" and "anyone who injures an innocent (guilty) person shall be punished by death". In addition, if there are people who eat with the murderer, befriend the murderer, follow in the footsteps of the murderer, give shelter to the murderer, and feed the murderer, then these five acts of *dusta* will also be subject to the death penalty by the ruling king. Meanwhile, Article 71 of the Kutaramanawa Law explains that: "anyone who kidnaps a person, abducts a noblewoman of high standing, or steals precious diamonds will be subject to the death penalty by the ruling king". In addition, the book also contains several rules stating that if someone steals at night, they will be subject to the death penalty, but if they do so during the day, they must return three times the value to the owner, as stipulated in Article 75 of the Kutaramanawa Dharmasastra (Utami, 2023).

The development of criminal law in Indonesia cannot be separated from the dynamics of history and the ever-changing needs of society. While during the Majapahit era, criminal law was codified in the Kutaramanawa Dharmasastra with harsh characteristics and capital punishment as one of the main sanctions, in the context of modern Indonesia, criminal law is formulated with consideration for humanitarian values and human rights principles. The reform of criminal law as stipulated in Law No. 1 of 2023 on the Criminal Code is an important milestone in restructuring the national penal system, including in terms of the regulation of the death penalty.

While in the Kutaramanawa Dharmasastra the death penalty was positioned as the primary punishment imposed directly without alternatives, the 2023 National Criminal Code brings a new paradigm. The death penalty in the latest Criminal Code no longer occupies the position of primary punishment, but is positioned as a special punishment that is alternative to life imprisonment or imprisonment for a certain period of time. This mechanism allows for the possibility of changing the sentence to life imprisonment or imprisonment for a fixed term, so that the death penalty is not automatically carried out. This fundamental difference reflects the application of the *ultimum remedium* principle in the modern criminal justice system. This principle emphasises that punishment, especially the most severe punishment such as the death penalty, should be the last resort after other efforts are deemed incapable of fulfilling the objectives of punishment. By placing the death penalty as a conditional alternative, the 2023 National Criminal Code shows a tendency to be more cautious, proportional, and oriented towards the protection of human rights. Historically, the Kutaramanawa Code used the death penalty as a repressive means to maintain the stability of the kingdom and the authority of the king, while the 2023 National Criminal Code views the death penalty as an *ultimum remedium* whose application must be limited. This shift confirms that Indonesian criminal law is moving from a retributive paradigm towards a more humanistic paradigm that is adaptive to the development of contemporary values of justice (Sitanggang et al, 2024).

However, the death penalty, which is positioned as an alternative punishment in the 2023 Criminal Code, cannot be imposed arbitrarily, for example, on every serious criminal offence without considering the conditions specified by law. The 2023 Criminal Code stipulates that the death penalty can only be imposed in certain cases, such as terrorism, narcotics, corruption, or serious human rights violations, and even then with a special mechanism in the form of a ten-year probation period. During this period, the behaviour of the convicted person will be a determining factor in whether the death penalty is carried out or commuted to another penalty, such as life imprisonment or twenty years' imprisonment. This mechanism confirms that the death penalty in the Criminal Code is no longer absolute, but conditional on the assessment criteria contained in Article 100 of the National Criminal Code, namely "The judge shall impose the death penalty with a ten-year probation period by taking into account: a) the defendant's remorse and hope for rehabilitation; or b) the defendant's role in the crime. Thus, if the convict demonstrates commendable behaviour and actions during the probation period, the death penalty can be commuted to life imprisonment by Presidential Decree after consideration by the Supreme

Court as stipulated in Paragraph (4). However, if the convict demonstrates unpraiseworthy attitudes and actions, the death penalty may be carried out by order of the Attorney General as stated in Paragraph (6) (Sukama et al, 2024).

Based on information provided by the Director General of Legislation at the Ministry of Law and Human Rights (Dirjen PUU Kemenkumham), Prof. Asep Nanan Mulyana, developments in criminal law relating to the death penalty in the National Criminal Code need to be disseminated to law enforcement officials and the wider community. He emphasised that the death penalty in the National Criminal Code is categorised as a special punishment that is always alternated with life imprisonment or a maximum prison sentence of 20 years. This statement reinforces the view that the death penalty is no longer positioned as an absolute punishment, but rather that it is conditional and oriented towards the protection of human rights, so it must be carried out carefully and consistently (Rizki, 2024).

In this context, human rights are understood as inherent rights that belong to every person because their existence is positioned as human beings created by God Almighty. The intrinsic nature of human rights makes them inalienable, even by the state, although in practice these rights may be violated. As C.D. Rover said, human rights may be violated, but they can never be abolished. This view certainly forms the basis for criticism of the application of the death penalty, as it is considered to be contrary to the right to life as part of the most fundamental human rights (Renggong & Ruslan, 2021). However, in reality, many people still believe that the fulfilment of human rights must go hand in hand with human obligations, whereby each individual also has a responsibility not to harm others. From this perspective, there is a view that providing an alternative space for those sentenced to death can be considered unfair to both the victims and the wider community, because perpetrators of serious crimes have often violated the fundamental human obligations that form the basis of social life. The tension between the fulfilment of human rights and the implementation of fundamental human obligations is still a fundamental debate in the practice of capital punishment in Indonesia.

In addition, the debate on the death penalty is also inseparable from the normative and practical dilemmas faced by the state. From a normative perspective, Indonesia has ratified various instruments such as the International Covenant on Civil and Political Rights (ICCPR), which affirms that the right to life is a non-derogable right. However, in practical terms, the state also has an obligation to protect its people from extraordinary crimes such as terrorism, narcotics, corruption, and gross violations of human rights. This reflects the view of society that respect for individual human rights cannot be separated from the obligation to fulfil fundamental human obligations, both by citizens and by the state. For individuals, fundamental human obligations require a responsibility not to commit violations that harm the rights of others. Meanwhile, for the state, Human Rights Obligations contain the obligation to guarantee security, order, and protection of the rights to life of the wider community. Thus, the application of the death penalty in the 2023 Criminal Code can be understood as an effort to find a balance between the right to life of the convicted person and the state's obligation to protect the public interest from extraordinary crimes (Harmain et al, 2025).

In contrast to the more systematic and procedural approach in the Criminal Code, the death penalty during the Majapahit era, as recorded in the Kutaramanawa Dharmasastra book in the 14th-15th centuries, prioritised more philosophical elements rooted in the concept of dharma, which emphasised moral and ethical obligations in society. During this period, the death penalty was more often imposed for major crimes that had the potential to disrupt the social and political order of the kingdom, such as treason against the king, rebellion, or grand theft that could threaten the stability of the state. Decisions regarding the death penalty at that time depended more on the wisdom of the king or ruler who acted as the law enforcer, with considerations that included not only the type of crime, but also the intent, background, and social conditions of the perpetrator. In the Kutaramanawa Dharmasastra, the law did not only view punishment as retribution for crime, but also as a way to restore the moral and spiritual order of society. The concepts of karma and dharma formed the basis for the application of the death penalty, where punishment was considered part of the process of restoring moral balance in society, not merely as punishment.

The fundamental difference between the legal systems reflected in the Indonesian Criminal Code and the Kutaramanawa Dharmasastra lies in their approach to the application of the death penalty. In the Indonesian Criminal Code, the application of the death penalty is more structured and systematic, with clear procedures and a focus on the principle of protecting human rights. The death penalty in Indonesia is more of a very limited last resort, which is only applied after careful consideration and a long legal process. In contrast, in the Majapahit legal system, the decision to impose the death penalty was more casuistic in nature, where individual discretion, particularly that of the ruler, was of paramount importance. The decision to impose the death penalty was not only based on the act committed, but also took into account the intent and context of the act, as well as the moral and ethical values that prevailed at the time. Thus, in the Kutaramanawa Dharmasastra, law was not only seen as an instrument of punishment, but also as a means of maintaining the moral and spiritual balance of society, with the ruler's wisdom being paramount in every legal decision made.

Although these two legal systems emerged at very different times, they still have similarities in terms of their basic objectives, namely to maintain social and moral stability in society. However, the differences in their application reflect profound differences in the legal paradigms that prevailed in each period. The Indonesian Criminal Code, with its more modern and structured approach, reflects an effort to adapt to the times (Nugraha et al, 2025), while the Kutaramanawa Dharmasastra shows a legal approach rooted in individual wisdom and more traditional moral values (Utami et al, 2024). These two approaches, although different, demonstrate how law plays an important role in maintaining social order, taking into account various moral, ethical, and broader social contexts.

## 2. The Effectiveness of Changes to the Death Penalty between the Criminal Code and the Kutaramanawa Dharmasastra

Changes to the death penalty in the Indonesian legal system have undergone a lengthy process that reflects the nation's journey in seeking a form of justice that is in line with the values of society. In the past, the application of law in the archipelago was still heavily influenced by customary norms and traditional legal systems brought in from outside, one of which was the Kutaramanawa Dharmasastra. This book emphasises the concept of justice with strong religious, moral and cosmological nuances, in which the death penalty is often positioned as a form of restoring balance to the world and atoning for grave sins. Meanwhile, the Criminal Code (KUHP) that was later enforced in Indonesia brought a new paradigm that was more systematic, rational, and oriented towards legal certainty (Silviana et al, 2025).

Although the shift from Dharmasastra to the KUHP is considered a step forward in the modernisation of the legal system, the debate over the effectiveness of the death penalty has never subsided. This is because the death penalty is not only a legalistic issue, but also concerns moral aspects, human rights, and philosophical views on the meaning of justice. The effectiveness of this change can be analysed through several important dimensions, namely the aspects of justice, respect for human rights, the function of crime prevention, and its impact on the dynamics of legal reform and social change in Indonesia (Utami et al, 2024).

One of the most crucial aspects is the dimension of justice in the application of the death penalty. In practice, although the Criminal Code and the Indonesian judicial system have undergone various reforms, there is still much criticism that there is potential for injustice in imposing the death penalty. This injustice generally stems from limited access to legal aid, especially for defendants from economically disadvantaged backgrounds. It is not uncommon for defendants who should be entitled to optimal defence to not have access to competent lawyers, thereby weakening their position in court. In addition, external factors such as political pressure, biased public opinion, and imperfect evidence often exacerbate the situation. Under such conditions, the death penalty has the potential to ensnare people who do not deserve to be sentenced to death (Annisa et al, 2025).

This injustice has serious consequences, not only for the individuals sentenced, but also for their families and society at large. The spectre of wrongful convictions, where someone loses their life due to procedural errors or invalid evidence, causes deep wounds and undermines public confidence in the legal system (Hoyle & Batchelor, 2021). Therefore, the effectiveness of the death penalty within the framework of the Criminal Code must be viewed not only from the perspective of legal certainty, but also from the extent to which the state is able to ensure a truly fair, transparent and intervention-free process.

To overcome this problem, further reform of the criminal justice system is imperative. Transparency at every stage of the legal process, from investigation and inquiry to trial, must be strictly maintained. The right of the accused to obtain adequate legal defence must be fully guaranteed, including through the provision of free legal aid for economically disadvantaged groups. In addition, improving the capacity and professionalism of law

enforcement officials, including investigators, prosecutors and judges, is also a key factor in ensuring that the judiciary does not fall prey to procedural errors that can have fatal consequences.

Furthermore, there needs to be oversight from independent institutions that function as a check and balance on the criminal justice system, particularly in cases involving the death penalty. The presence of these supervisory institutions is expected to minimise corruption, nepotism, or political intervention, which often undermine the integrity of the legal system. With strict supervision, court decisions will better reflect substantive justice, rather than mere legal formalities.

The effectiveness of changes in Indonesia's capital punishment system can also be seen from various aspects, namely:

a. Challenges to Human Rights

The application of the death penalty in Indonesia has always been accompanied by debates regarding human rights. Many countries and international organisations have consistently called for the abolition of the death penalty on the grounds that this practice violates the most fundamental right, namely the right to life. This view stems from the principle that no state has the absolute authority to take a person's life, even in the case of perpetrators of serious crimes. Therefore, countries that have abolished the death penalty generally choose alternative approaches in dealing with perpetrators of serious crimes, such as life imprisonment or the implementation of rehabilitation programmes as a form of social recovery (Sinaga, 2025).

Despite facing considerable international pressure, Indonesia still maintains the death penalty on the grounds that this policy plays an important role in providing a deterrent effect. The government believes that the death penalty is still relevant and effective in efforts to suppress extraordinary crimes, such as terrorism, drug trafficking, and premeditated murder. From this perspective, the death penalty is seen as a state instrument to protect society while maintaining social stability and national security. Thus, even though the international community is increasingly pushing for its abolition, Indonesia continues to emphasise that the death penalty is part of a law enforcement strategy that cannot be ignored (Annisa et al., 2025).

However, the fundamental issue that continues to arise is how the state can balance respect for human rights with the need to enforce the law strictly. On the one hand, the right to life is a right that cannot be diminished under any circumstances. On the other hand, the state also has an obligation to protect its citizens from serious crimes that could destroy the social order. This dilemma has made the application of the death penalty in Indonesia a controversial issue, while also opening up discussion about its effectiveness and relevance in the modern criminal justice system.

b. Deterrent Effect and Crime Prevention

One of the main reasons the state still maintains the death penalty is the belief that this punishment can have a strong deterrent effect, both directly on the perpetrator and indirectly on the community that witnesses its implementation. Especially in cases of

serious crimes such as terrorism, drug trafficking, and premeditated murder, the death penalty is often seen as the most effective measure to reduce crime rates and prevent similar acts from happening in the future (Wahyudi et al., 2025).

However, various studies show that there is no consistent evidence to support the claim that the death penalty actually significantly reduces crime rates. On the contrary, a number of countries that have abolished the death penalty have actually seen a decline in crime rates after switching to a more comprehensive approach. These approaches include the implementation of rehabilitation in correctional institutions, improvements to the legal system to make it more transparent, and the strengthening of prevention policies through education and increased legal awareness in the community. Prevention models based on recovery and social reintegration, which emphasise rehabilitation programmes, have proven to be more effective in preventing recidivism than the threat of the death penalty (Garzela & Fitriana, 2024).

On the other hand, countries that maintain the death penalty often face the reality that even though executions are carried out, crimes continue to occur. This condition indicates that fundamental factors, such as social inequality, poverty, limited access to education, and a lack of employment opportunities, are more dominant in driving crime. Therefore, a legal system that only focuses on the death penalty without addressing the root causes of social problems will not be effective enough in reducing crime rates overall (Annisa et al., 2025).

### c. Legal Reform and Social Change

Changes to the death penalty in the Indonesian legal system reflect the ongoing social dynamics within society (Kadir, 2024). As education levels rise and awareness of the importance of human rights increases, public opinion regarding the death penalty has become increasingly critical. Many voices are calling for more humane legal reform, where the law is not only seen as a tool for punishment, but also as a means of achieving greater justice and balance.

Although demands from progressive groups to abolish the death penalty are growing stronger, some circles still believe that this punishment should be retained. According to some, the death penalty is believed to be able to maintain social stability and order in the country, while also having a deterrent effect on major threats such as terrorism and organised crime. For this group, the existence of the death penalty is even considered a symbol of the state's power in dealing with serious crimes that are considered to have the potential to destroy the social order.

In this situation, the idea of legal reform related to the abolition or restriction of the death penalty needs to take into account many important aspects. Such changes must consider developments in social values, the need for a more equitable judicial system, and international pressure emphasising respect for human rights. Over time, Indonesia's view of the death penalty is likely to change, depending on the extent to which the state and society can find a balance between effective law enforcement and the protection of individual rights.

Overall, changes to the death penalty in Indonesia's legal system reflect the state's efforts to adapt to the times and meet the demands of society and the international community regarding justice and human rights (Adelina & Zulkarnain, 2024). However, the effectiveness of these changes depends on how the death penalty is implemented in a fair and transparent manner, as well as the extent to which Indonesia's criminal justice system is able to overcome structural problems that can lead to injustice (Munawar, 2025). In addition, there needs to be ongoing evaluation of the extent to which the death penalty is truly effective in reducing crime rates, compared to alternative approaches that are more humane and prevention-oriented. Thus, the discourse on the death penalty in Indonesia is not only a matter of legal formalities, but also touches on broader moral, social and humanitarian dimensions (Nugraha et al., 2025).

## Conclusion

This study shows that there are fundamental differences in the regulation of the death penalty between the Kutaramanawa Dharmasastra from the Majapahit era and the latest National Criminal Code. In the Kutaramanawa Dharmasastra, the death penalty is positioned as the primary punishment imposed for various serious crimes in order to maintain the political, social, and cosmological stability of the kingdom. Meanwhile, the 2023 National Criminal Code places the death penalty as a special, conditional, and ultimum remedium-oriented alternative punishment. This shift reflects the transformation of Indonesian law from a repressive paradigm that emphasises power to a more humanistic, cautious paradigm that is in line with human rights principles. However, the debate over the effectiveness, substantive justice, and legitimacy of the death penalty continues among academics, legal practitioners, and the general public.

For further research, studies can be directed towards empirical analysis of the implementation of the death penalty in the new Criminal Code, including how law enforcement officials interpret and apply the rules on alternative penalties and the ten-year probation period. Research also needs to explore the perspectives of victims, the families of defendants, and the community in order to gain a more comprehensive understanding of the social and psychological impacts of the death penalty. In practical terms, the government and judicial institutions are advised to strengthen the dissemination of information about these new rules to law enforcement officials and the public, improve independent oversight mechanisms to prevent miscarriages of justice, and provide adequate access to legal aid for defendants. In this way, the application of the death penalty in Indonesia will not only be consistent with the principles of positive law, but will also guarantee substantive justice and respect for human rights.

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