



Discourse on the Death Penalty: A Study of Public Perceptions in Indonesia

Prija Djatmika^{1*}; Milda Istiqomah²; Heru Kurniawan³

^{1,2,3}Faculty of Law, Universitas Brawijaya

*Corresponding author's email: prija.djatmika@ub.ac.id

Article Information

Submitted : December 17, 2023

Reviewed : February 29, 2024

Revised : March 27, 2024

Accepted : April 15, 2024

Keywords: abolitionist; public perspective; death penalty; retentionist

DoI: 10.20961/yustisia.v13i1.79773

Abstract

The current debate over the death penalty between the retentionist and abolitionist groups is addressed in Decision Number 2-3/PUU-V/2007 of Indonesia, establishing a middle ground. Originally, the death penalty was a primary punishment in the Old Criminal Code but is now reserved as a last resort in the New Criminal Code. Therefore, this research aimed to analyze public perspectives on the death penalty in Indonesia using mixed methods with data collection through questionnaires. The research showed continued contention over the regulation of the death penalty. A large percentage of participants expressed support for maintaining the death punishment, indicating a retentionist viewpoint. Nevertheless, quite a few of the participants supported the abolition. Indonesia should reconsider the regulation of the death penalty for certain offences as Malaysia, even though the punishment in the New Criminal Code was classified as an alternative sanction because the death penalty was an irreversible punishment.

I. Introduction

Indonesia is currently experiencing a high incidence of death penalty cases despite many countries in Europe and other parts of the world taking steps to abolish capital punishment. There is a global perception that the death penalty is no longer relevant because it serves as a form of prevention against certain crimes considered extraordinary. Therefore, most countries, such as Malaysia, recently abolished the death penalty from their legal systems ([Gunnar Kasim, 2023](#)). The Secretary General of the United Nations in 2016 also declared that the death penalty has no place in the 21st century, considering the crime ineffective and a violation of human rights ([United Nations, 2016](#)).

Law Number 1 of 1946 concerning Criminal Law Regulations (Old Criminal Code) stipulates the provisions regarding the death penalty in Article 10, where it is classified as a primary punishment. The death penalty constitutes the severe sentence imposed

by the judge directed towards the perpetrator of the criminal act as a punishment and accountability for the crime committed ([Ahmad Fadlan Andriyansyah & Jamel Dalimunthe, 2023](#)).

Based on the research conducted by the Institute for Criminal Justice Reform (ICJR) in 2023, 93% of cases receiving the death penalty are narcotics offences ([Adhigama Andre Budiman et al., 2023](#)). On March 24, 2023, there were 1,105 cases with a corresponding number of defendants totalling 1,242. Among the total defendants, 520 are classified as death row convicts upon a detailed examination, representing a compilation of registered cases from 1969 to 2022 ([Adhigama Andre Budiman et al., 2023](#)).

Various observations in 2022 suggested that 112 countries opted to abolish the death penalty, while 55 retained provisions in the legal systems. Based on the monitoring conducted by *Imparsial*, there were a total of 117 death penalty verdicts during the first period of President Joko Widodo's administration. Furthermore, 327 convicts were sentenced to death in the second period of President Joko Widodo's administration, with 18 executed ([Imparsial: The Indonesian Human Rights Monitor, 2023](#)). Consequently, Indonesia continues to enforce the death penalty for certain crimes under the Criminal Code (KUHP) and other laws beyond the regulations. The possibility of facing the death penalty extends beyond the Criminal Code to include other statutes ([Gunnar Kasim, 2023](#)).

The death penalty is a criminal sanction that ignites a wide range of perspectives and opinions among individuals and societies. According to Mei Susanto and Ajie Ramdan, Constitutional Court Decision Number 2-3/PUU-V/2007 not only establishes the constitutionality of the death penalty but also provides a middle ground (moderation) in the debate between receptionists and abolitionists ([Susanto & Ramdan, 2017](#)). In Constitutional Court Decision Number 2-3/PUU-V/2007, the consideration is as follows:

"Considering the irrevocable nature of the death penalty and regardless of the court's opinion on the inconsistency with the 1945 Constitution of the Republic of Indonesia for certain crimes under the Narcotics Law, which is subject to review in a quo petition, the court believes that the future reform of national criminal law and harmonization of regulations related to the punishment in Indonesia should consider the following.

- a. *The death penalty is no longer considered a primary punishment but is regarded as a specialized and alternative consequence,*
- b. *The death penalty can be imposed with a probationary period of 10 years, and when the convicted individual behaves commendably, the punishment should be changed to life imprisonment or a sentence of 20 years,*
- c. *The death penalty should not be imposed on underage individuals, and*
- d. *The execution of the death penalty for pregnant women and individuals with mental illness is postponed until the mother-to-be gives birth and the mentally ill individual recovers."*

The consideration of the decision was eventually realized on January 2, 2023, through the enactment of Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) to be effective on January 2, 2026. Furthermore, Article 98 of the New Criminal Code stipulates that *“The death penalty is alternatively threatened as a last resort to prevent criminal acts and protect society”*.

Article 99 paragraph (4) of the New Criminal Code further states that there are provisions regarding the implementation of the death penalty against pregnant women, breastfeeding mothers, or individuals with mental illness, which should be postponed until the mother-to-be gives birth, ceases to breastfeed, or the mentally ill individual recovered. The death penalty for these individuals can only be conducted after the president has rejected the clemency request made by the convicted individual, and the execution will not be carried out in public. The execution is subsequently carried out by firing squad or by other methods determined by law in Article 99 paragraphs (1), (2), and (3) Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code).

The enactment of the New Criminal Code has caused unrest in society, as evident by the judicial review petition submitted by Leonardi Siahaan and Ricky Marpaung. In this petition, the petitioners seek the elimination of the ten-year probation period associated with the death penalty. The claim is that the penalty is incompatible with the 1945 Constitution of the Republic of Indonesia (*UUD NRI 1945*) and colliding with the correctional institutions ([Andi Saputra, 2023](#)). The petitioners further argue that the sale and purchase of statement letters stating the convict has regretted actions and has improved are inclined to occur because such letters can only be issued by correctional institutions. Furthermore, Leonardi and Ricky contend that the death penalty is the most effective punishment to ensure justice and prevent the recurrence of similar crimes by deterring potential offenders and fostering control and stability within society ([Andi Saputra, 2023](#)).

In contrast to Leonardi Siahaan and Ricky Marpaung, Al Araf believes that the New Criminal Code represents a compromise for retentionist and abolitionist groups. Therefore, the regulations related to the death penalty in the New Criminal Code should be used as a space to implement a moratorium¹ on the punishment in Indonesia ([Impartial: The Indonesian Human Rights Monitor, 2023](#)).

Al Araf asserts that the death penalty should be rejected because it is the only criminal sanction that cannot be corrected, particularly considering the problematic conditions of the Indonesian criminal justice system, which significantly increase the risk of sentencing errors. Furthermore, the attributed deterrent effect of the death penalty has not been effective, and many countries that retain the punishment continue to experience high crime rates ([Imparsial: The Indonesian Human Rights Monitor, 2023](#)).

Supporting this sentiment, Taufik Basari, who is a Member of Commission III of the House of Representatives of the Republic of Indonesia (DPR RI), contends that criminal

1 In the Indonesian Dictionary (Kamus Besar Bahasa Indonesia or KBBI), “moratorium” is defined as a postponement or suspension.

regulations should evolve to comprise not only deterrence but also rehabilitation ([Imparsial: The Indonesian Human Rights Monitor, 2023](#)). The selection of Indonesia for the research is justified by the national and international criticism regarding the death penalty, which is a practice dated back to the Dutch colonial period with the introduction of the Criminal Code (*Kitab Undang-Undang Hukum Pidana – KUHP*) ([Todung Mulya Lubis, 2015](#)).

According to observational data collected by the Commission for the Disappeared and Victims of Violence (KontraS) from October 2022 to September 2023, Indonesia recorded 27 death sentences, including 50 defendants. These cases are 18 drug-related offences, seven murder cases, and three incidents of sexual violence. Among the cases, 20 were adjudicated by the Supreme Court, three by High Courts, and four by District Courts ([Helmy Hidayat Mahendra et al., 2023](#)).

Article 10 of the Criminal Code further delineates penalties into primary and additional categories. Primary penalties consist of the death penalty, imprisonment, fines, and detention, such as ‘city’ or house arrest. On the other hand, additional penalties include the revocation of certain rights, asset confiscation, and the public announcement of court verdicts. Existing regulations for the death penalty include Narcotics, Terrorism, Corruption Eradication policies, and Human Rights Court Laws.

Law Number 1 of 2023 concerning the Criminal Code (*KUHP*) was enacted on January 2, 2023, marking a renewal of criminal law in Indonesia. Significantly, the death penalty is no longer categorized as a primary punishment but rather a specialized and alternative sanction subject to a probationary period of 10 years. During this period, execution cannot be carried out because there is an opportunity for sentence alteration or commutation.

The research aimed to further examine the retentionists’ and abolitionists’ perspectives regarding the regulation of the death penalty in Indonesia, both in the Old and New Criminal Codes. Among the many publications discussing the topic of the death penalty, research has not attempted to examine Indonesian society’s perspectives on the punishment provisions in the upcoming New Criminal Code. Therefore, this publication lays the groundwork for future development with a larger and more varied sample to better understand the perspectives of Indonesian society on death penalty provisions. The New Criminal Code no longer considers the death penalty a primary punishment but rather a special and alternative sanction.

The publication raises the following questions: (1) How is the death penalty regulation in Indonesia? and (2) What are the public perspectives on the death penalty in Indonesia? The methodology used is socio-legal with a mixed-method approach, selected to address theoretical and methodological limitations of the relevant discipline and develop a new form of analysis ([Reza Banakar & Max Traves, 2005](#)). The method allows for a more comprehensive, valid, and objective investigation by combining quantitative and qualitative techniques. It produces more comprehensive facts when

investigating a particular issue due to the freedom to use all data collection tools as needed for the respective types of data required. The data collection technique adopted is a questionnaire survey, which presents a set of written questions or statements to respondents. The questionnaire includes open-ended and closed-ended formats, providing flexibility in obtaining responses. Certain responses to the questions or statements in the questionnaire are pre-defined, allowing respondents to select from the provided options. In contrast, others include a section to provide open-ended answers.

The population selected for this research consists of individuals aged 18 years and above who are physically and mentally healthy. This demographic is believed to possess a mature understanding of complex issues such as the death penalty, along with broader life experiences and knowledge influencing the perceptions of the issue. The sampling used is Quota Sampling, which requires a minimum sample size of 100 respondents, indicating that the research was not conducted on a national scale. Furthermore, Sugiyono argues that a sample size of 30 individuals is adequate for testing the instrument's validity and obtaining data that follows a normal distribution curve ([Sugiyono, 2020](#)).

II. Death Penalty in Indonesia

A. Regulation of the Death Penalty in Indonesia's Positive Law

The death penalty represented the most severe punishment among other types of criminal sanction within Indonesia's positive law, as stipulated in Article 10 of the Old Criminal Code. Furthermore, contemporary Indonesia largely adhered to criminal procedural law, as outlined in Law Number 8 of 1981, which concerns the Criminal Procedure Law (*KUHAP*). This legal framework was generally applicable to every criminal offence. It did not provide specific regulations on procedural law for individuals facing the death penalty, except for provisions regarding the obligation to have legal counsel (Article 54 *KUHAP*) ([Zainal Abidin et al., 2019](#)).

Despite the country's adherence to democratic principles that mandated the upholding of human rights protection, the nation still implemented the death penalty. The right to life was only guaranteed in the constitution, specifically in Articles 28A and 28I of the 1945 Constitution of the Republic of Indonesia (*UUD NRI 1945*) as well as in Law Number 39 of 1999 concerning Human Rights (*UU HAM*), particularly in Articles 4 and 9. The discourse on the death penalty had developed and connected to the prohibition of torture and other cruel, inhuman, or degrading punishment or treatment (Sidang Umum PBB, '*Interim report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*' 67th session (2012) (A/67/279)). This condition was further regulated in the constitution and related domestic laws (*UUD NRI 1945*, Article 28I and Article 28G and Law Number 39 of 1999 concerning Human Rights, Article 4 and Article 33).

Acts punishable by the death penalty were observed in the provisions of the Old Criminal Code, including Article 104 concerning treason against the President and Vice President, Article 111 paragraph (2) concerning inducing foreign countries to engage in war, Article 124 paragraph (3), and Article 340 concerning premeditated murder. Some other provisions of the Old Criminal Code comprised Article 365 paragraph (4) concerning extortion with violence leading to death, which referred to the provisions of Article 365, and Article 444 concerning piracy on the sea, coast, and river resulting in death, referring to the acts regulated by Articles 438–441 of the Old Criminal Code.

Additionally, several other laws governed the death penalty, such as (1) Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, (2) Law of the Republic of Indonesia Number 5 of 1997 concerning Psychotropics, and (3) Law of the Republic of Indonesia Number 35 of 2009 concerning Amendments to Law of the Republic of Indonesia Number 22 of 1997 concerning Narcotics. Other regulations regulating this penalty include Law of the Republic of Indonesia Number 26 of 2000 concerning Human Rights Courts and Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law of the Republic of Indonesia Number 15 of 2003 concerning the Enactment of Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law.

B. Regulation of the Death Penalty in the New Criminal Code

Regulations regarding the implementation of the death penalty were updated in the Law of the Republic of Indonesia Number 1 of 2023 concerning the New Criminal Code. In contrast to the classification as a primary punishment in the Old Criminal Code, the death penalty was no longer considered the primary sanction in the New Criminal Code. Article 65, paragraph (1) of the New Criminal Code specified that primary punishments included imprisonment, confinement, supervision, fines, and community service, with the severity or leniency determined by the sequence.

Specific provisions regarding the death penalty regulation were further outlined in Articles 98–102 of the New Criminal Code. It stated that the punishment was threatened as an alternative measure to be used as a last resort in preventing criminal acts and protecting society. The death penalty should be imposed with a probationary period of 10 years, during which the defendant's remorse, potential for rehabilitation, and role in the criminal act were considered. When the defendant showed commendable attitudes and actions during this period, the death penalty could be changed to life imprisonment by the Presidential Decree after receiving consideration from the Supreme Court.

However, failure to show improvement during the probationary period could lead to the execution of the death penalty upon the order of the Attorney General.

Several important points regarding the implementation of the death penalty were included in the New Criminal Code, namely (a) the capital punishment was carried out after the president rejected the clemency request made by the defendant, (b) the execution should not be carried out in public, (c) the penalty was executed by firing squad, shooting the convict until death or by other methods determined by law. The execution of the death penalty for pregnant women, breastfeeding mothers, or individuals with mental illness should be postponed until after childbirth, cessation of breastfeeding, or recovery from mental illness.

Despite regulations regarding the death penalty being stipulated in several laws, the existence continued to generate current and unresolved debates. Apart from concerns related to human rights, the death penalty was also considered contradictory to the constitution, particularly as evident in Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia ([Oksidelfa Yanto, 2020](#)) stating that:

“The right to life, not be tortured, freedom of thought and conscience, to religion, to not be enslaved, to be recognized as an individual before the law, and not be prosecuted based on retroactive regulations were human rights that should not be derogated under any circumstances.”

The actions were not correlated with the Law of the Republic of Indonesia Number 12 of 2005, where Indonesia had signed and ratified the International Covenant on Civil and Political Rights. The death penalty was considered the optimal method to restore disrupted microcosm or macrocosm of life due to specific acts ([Yohanes S. Lon, 2020](#)). Efforts to abolish the punishment were made through requests for judicial review of laws containing death penalty provisions to the Indonesian Constitutional Court (MK) because the right to life was a human right that could not be derogated under any circumstances and by anyone. After reviewing the historical development of constitutionalism in Indonesia and the constitutional systematics related to human rights restrictions in Article 28J of the 1945 Constitution of Indonesia and regulations in various international human rights instruments, it was concluded that the right to life was not absolute according to the interpretation of the Indonesian Constitutional Court in Decision Number 2-3/PUU-V/2007. This decision was often cited as justification for judges in courts under the Supreme Court to impose the death penalty, which exercised judicial authority separate from the executive or government. Therefore, the implementation of the death penalty in Indonesia was still considered constitutional.

The majority of individuals who received the death penalty based on this decision were convicts in narcotics cases, totalling 75, representing 63.5%.

Furthermore, the second-largest composition included premeditated murder cases, with 29 individuals signifying 24.5% sentenced to death. The remaining cases included eight convicts (7%) with premeditated murder combined with other crimes and 6 (5%) with premeditated murder combined with child rape ([Zainal Abidin et al., 2019](#)).

The trend of imposing the death penalty in narcotics and non-narcotics cases from 1997 to 2016 showed an increase in 2012 in the context of non-narcotics offences. In narcotics cases, there were no death penalty prosecutions in 2013, but the number increased to 7 in 2014. The most drastic increase occurred in 2015, reaching 36 cases, followed by a decrease in 2016 to 4 cases [The declining trend needs to be interpreted cautiously, considering the possibility of bias in the data of the decisions used in this study due to the absence of limitations on the sample size of cases per year and the limitation of accessible judgment documents for researchers].

Regarding the jurisdictional areas of death penalty decisions, it was observed that the cases occurred in 13 provinces out of 100. Among non-narcotics offences, South Sumatra Province had the highest number of cases at 7. However, DKI Jakarta province recorded the highest incidence, with 30 cases for narcotics offences, while other provincial areas averaged fewer than 10. Narcotics cases had no death penalties in Sulawesi and Papua. In contrast, non-narcotics cases saw even distribution across Indonesia except Papua [This also needs to be interpreted cautiously, considering that the data about the decisions used in this study does not use sample selection for specific regional representation and the limitations of accessible judgment documents for researchers].

The types of charges identified in the research conducted by Zainal Abidin et al. (2019) showed various forms, including subsidiarity, alternative, cumulative, single, alternative-cumulative, cumulative-subsidiarity, alternative-subsidiarity, a combination of alternative-subsidiarity and cumulative, as well as a combination of cumulative-subsidiarity and alternative. The charge of subsidiarity was the most common and was applied to 59 defendants, followed by cumulative subsidiarity and alternative charges, with 17 each.

Discussing the implementation of the death penalty in Indonesia, sociologists Robertus Robet & Todung Mulya Lubis (2016) stated that the punishment indirectly perpetuates violence against citizens. The sociologists further argued that the death penalty policy sets a negative precedent influencing society, particularly younger generations.

After analyzing the information provided, the form of punishment for offenders was observed to be more oriented towards retaliation, which correlated with the absolute theory advocating punishment for crimes committed. However, legal enforcement should prioritize humanitarian values alongside

justice and legal certainty ([Oksidelfa Yanto, 2020](#)). As stated by Muladi, criminal law should not solely focus on *daadstrafrecht*. It risks undermining humanity and could disproportionately emphasize fulfilling legal requirements over broader ethical considerations ([J. E Sahetepy, 2007](#)).

Following this, 41 respondents, representing 34.1%, responded “Neutral”. This group comprised 17 male and 24 female respondents aged 18 to 41. Among the group, 37 respondents were aged 18-23, 3 were aged 24-29, and 1 was aged 36-41. Furthermore, the occupational backgrounds of those who answered “Neutral” included 34 university students, three private sector employees, two unemployed individuals, 1 *BUMN* employee, and 1 product designer.

Respondents who further answered “Disagree” and “Strongly Disagree” regarding the arrangement of the death penalty as an alternative punishment in the New Criminal Code were 17, signifying 14.2%. All respondents were aged 18-23, comprising eight males and nine females. Among this group, 16 were enrolled as university students, while one was currently unemployed. When exploring the opinions of respondents who answered “Disagree,” “Strongly Disagree,” and “Neutral” about the appropriate arrangement of the death penalty, only 28 out of 58 respondents provided their views on this matter. Essentially, the opinions are further depicted in Table 6, which shows the following:

Table 6. Respondents’ Perspectives on the Death Penalty as an Alternative Punishment

No.	Substance
1	The perpetrator should be subjected to torture to have a feeling of the action’s severity.
2	The death penalty could not resolve the root of the problem.
3	The death penalty did not instil a deterrent effect, and criminal acts often persisted, becoming more dangerous.
4	The death penalty should be maintained as a fundamental punishment, particularly for extraordinary crimes. This matter was intended to have a deterrent effect against perpetrators of serious crimes.
5	Individuals with high authority or position could exploit the death penalty as an alternative punishment to ease and help others avoid the death penalty.

Source: Primary Legal Materials, 2023 (Edited)

Based on the results, Article 10 of the Old Criminal Code (KUHP Lama) categorized the death penalty as a primary punishment in Indonesian positive law. Other regulations outside the Old Criminal Code also addressed the death penalty policy, such as Terrorism, Corruption Eradication, and Money Laundering Laws. However, the provisions in the New Criminal Code (KUHP Baru) changed the status of the death penalty to a special punishment that should be accompanied as an alternative.

Further examination at the global level showed that 144 countries had abolished the death penalty in their legal systems and practices. This condition included Malaysia, which recently reformulated the regulations regarding the death penalty. Amendments to Malaysia's criminal law made the death penalty no longer mandatory and abolished for serious crimes that did not result in demise, such as kidnapping and arms trafficking. Based on the results, Indonesia could learn from Malaysia in formulating offences that were still punishable by the death penalty even though the sanctions were classified as alternative punishments

III. Public Perception of the Death Penalty in Indonesia

The debate between retentionist and abolitionist groups continues to occur to this day. Therefore, this research aims to examine the public's perspective on the implementation of the death penalty in Indonesia by distributing questionnaires (comprising both open-ended and closed-ended questions) to 120 (one hundred and twenty) respondents, with the following results:

A. Profiles of Respondents

1) Gender

Table 1. Gender of Respondents

Gender	Number	Percentage
Male	51	42,5%
Female	69	57,5%
Total	120	100,0%

Source: Primary Legal Materials, 2023 (Edited)

Based on the above data, it can be determined that the number of male respondents was 51 (fifty-one) individuals or 42.5%. In comparison, the number of female respondents amounted to 69 (sixty-nine) individuals or 57.5%.

2) Age

Table 2. Age Ranges of Respondents

Age Groups	Number	Percentage
18-23	106	88,3%
24-29	11	9,2%
30-35	1	0,8%
36-41	1	0,8%
42-47	1	0,8%
48-53	0	0,0%
54-59	0	0,0%
60-65	0	0,0%
> 65	0	0,0%
Total	120	100,0%

Surce: Primary Legal Materials, 2023 (Edited)

The largest age range among respondents was between 18 and 23 years, with 106 (one hundred and six) respondents, accounting for 88.3%. The second largest age range was respondents aged 24-29 years, totalling 11 (eleven) respondents, or 9.2%. Respondents aged 30-35 years, 36-41 years, and 42-47 years each constituted 1 (one) respondent, or 0.8%. Additionally, no respondents aged > 48 years were found in this survey.

3) Occupation

Table 3. Occupations of Respondents

Occupations	Number	Percentage
Student	99	82,5%
Unemployed	9	7,5%
Private Sector Employee	5	4,2%
Lawyer	2	1,7%
Others	2	1,7%
Self-Employed	1	0,8%
Prosecutor	1	0,8%
State-Owned Enterprises (BUMN) Employee	1	0,8%
Total	120	100,0%

Source: Primary Legal Materials, 2023 (Edited)

Out of 120 (one hundred and twenty) respondents, 99 (ninety-nine) respondents (82.5%) were students, 9 (nine) respondents (7.5%) were not employed, 5 (five) respondents (4.2%) worked as private sector employees, 2 (two) respondents (1.7%) were lawyers, and 2 (two) respondents (1.7%) indicated “others” by working as a product designer and a researcher. Additionally, there were 1 (one) respondent working as self-employed, 1 (one) as a prosecutor, and 1 (one) as a state-owned enterprise (BUMN) employee, each accounting for 0.8%.

4) Residence / Domicile

If examined based on the residence or domicile of the respondents, it can be seen as follows:

Table 4. Residence / Domicile of Respondents

Residence / Domicile	Number	Percentage
East Java	87	72,5%
Special Region of Yogyakarta	4	3,3%
Special Capital Region of Jakarta	4	3,3%

Residence / Domicile	Number	Percentage
West Java	4	3,3%
Central Java	4	3,3%
Banten	3	2,5%
Jambi	3	2,5%
Bali	2	1,7%
Riau	2	1,7%
East Kalimantan	2	1,7%
North Kalimantan	1	0,8%
West Kalimantan	1	0,8%
Lampung	1	0,8%
North Sumatera	1	0,8%
West Papua	1	0,8%
Total	120	100,0%

Source: Primary Legal Materials, 2023 (Edited)

Based on the above data, it can be seen that 87 (eighty-seven) or 72.5% of the respondents resided or were domiciled in East Java. Furthermore, 4 (four) or 3.3% of the respondents each resided or were domiciled in the Special Region of Yogyakarta (*DIY*), Special Capital Region of Jakarta (*DKI Jakarta*), West Java, and Central Java. Others came from Bali, Riau, and East Kalimantan, with 2 (two) respondents each, or 1.7%, while the remaining respondents were from North Kalimantan, West Kalimantan, Lampung, North Sumatera, and West Papua, each contributing 1 (one) respondent, or 0.8%.

5) Religion / Belief

Table 5. Religion / Belief of Respondents

Religion / Belief	Number	Percentage
Islam	103	85,8%
Catholicism	9	7,5%
Christianity	4	3,3%
Hinduism	3	2,5%
Buddhism	0	0,0%
Confucianism	0	0,0%
Others	1	0,8%
Total	120	100,0%

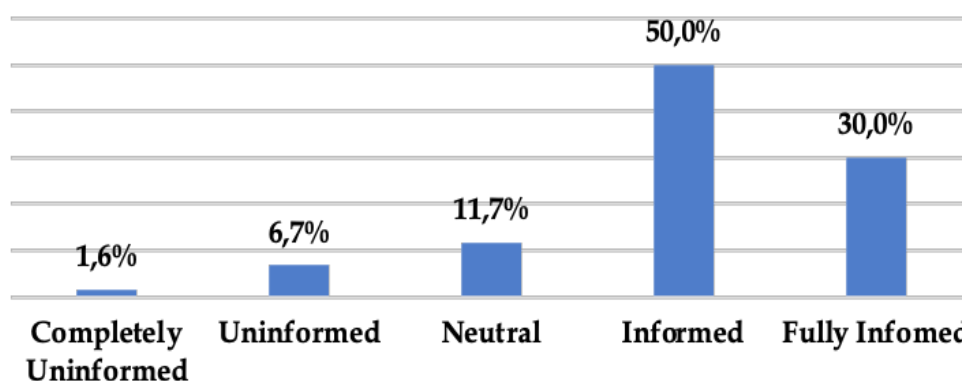
Source: Primary Legal Materials, 2023 (Edited)

Based on the above data, it can be observed that there were 103 (one hundred and three) respondents who followed the Islamic religion, or 85.8%. Additionally, 9 (nine) respondents, or 7.5%, followed Catholicism, 4 (four) respondents, or 3.3%, followed Christianity, 3 (three) respondents, or 2.5%, followed Hinduism, and 1 (one) respondent, or 0.8%, indicated “others.”

B. Respondents’ Knowledge Regarding the Regulations of the Death Penalty in Indonesia

1) Respondents’ Knowledge Regarding the Death Penalty in Indonesian Laws and Regulations

Graph 1. Respondents’ Knowledge Regarding the Death Penalty in Indonesian Laws and Regulations



Source: Primary Legal Materials, 2023 (Edited)

It is noted that respondents who answered “Completely Uninformed” and “Uninformed” regarding the death penalty in Indonesian laws and regulations amounted to 10 (ten) individuals, or 8.3%, with details of 4 (four) male respondents and 6 (six) female respondents. Among these 10 (ten) respondents, 9 (nine) were in the age range of 18-23 years, and 1 (one) respondent was aged 24-29 years. Additionally, 8 (eight) were students, and the remaining 2 (two) were employed as product designers and researchers.

Furthermore, 11.7%, or 14 (fourteen) respondents, answered “Neutral,” with details of 5 (five) male respondents and 9 (nine) female respondents. The age range of respondents who answered “Completely Uninformed” and “Uninformed” regarding the death penalty in Indonesian laws and regulations included those aged 18-23 years, numbering 12 (twelve) individuals, and those aged 24-29 years and 36-41 years, each with 1 (one) respondent. In terms of occupation, out of the 14 (fourteen) respondents, 10 (ten) were students, 2 (two) respondents were unemployed, 1 (one) respondent was a BUMN employee, and another 1 (one) respondent worked as a lawyer.

Meanwhile, 96 (ninety-six) respondents, or 80%, answered “Informed” and “Fully Informed,” with details of 42 (forty-two) male respondents and 54 (fifty-four) female respondents. The age range included 85 (eighty-five) individuals aged 18-23 years, 9 (nine) individuals aged 24-29 years, and 1 (one) respondent each in the age ranges of 30-35 years and 42-47 years. Among the respondents who answered “Informed” and “Fully Informed,” 81 (eighty-one) were students, 7 (seven) were unemployed, 5 (five) worked as private sector employees, and 1 (one) each worked as a prosecutor, a lawyer, and a self-employed.

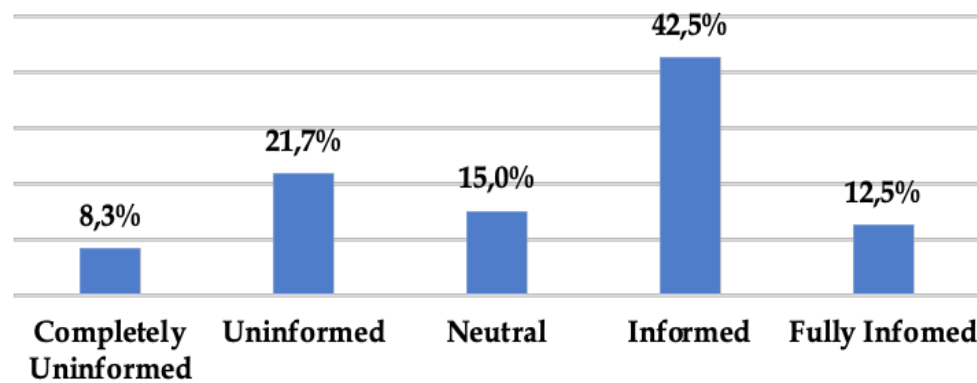
2) Respondents’ Knowledge Regarding the Death Penalty in the Old Criminal Code

When the author posed more specific questions about public knowledge regarding the death penalty in the Old Criminal Code, it was found that 36 (thirty-six) respondents, or 30%, answered “Completely Uninformed” and “Uninformed.” These included 13 (thirteen) male and 23 (twenty-three) female respondents. The age range of these respondents comprised 33 (thirty-three) individuals aged 18-23 years and 3 (three) individuals aged 24-29 years. Among those who answered “Completely Uninformed” and “Uninformed” about the death penalty in the Old Criminal Code, 28 (twenty-eight) were students, 3 (three) worked as private sector employees, 2 (two) were unemployed, 2 (two) worked as a product designer and a researcher, and 1 (one) was self-employed.

Furthermore, 18 (eighteen) respondents, or 15%, answered “Neutral,” including 9 (nine) male respondents and 9 (nine) female respondents. The age range of respondents who answered “Neutral” included 15 (fifteen) individuals aged 18-23 years and 3 (three) individuals aged 24-29 years. Among those who answered “Neutral,” 16 (sixteen) were students, and 2 (two) worked as private sector employees.

Meanwhile, respondents who answered “Informed” and “Fully Informed” regarding the death penalty in the Old Criminal Code amounted to 66 (sixty-six) individuals, or 55%, with details of 29 (twenty-nine) male respondents and 37 (thirty-seven) female respondents. The age range included 58 (fifty-eight) respondents aged 18-23 years, 5 (five) respondents aged 24-29 years, and 1 (one) respondent each in the age ranges of 30-35 years, 36-41 years, and 42-47 years. The occupational background of respondents who answered “Informed” and “Fully Informed” concerning the death penalty in the Old Criminal Code included students or university students (55 individuals), 7 (seven) unemployed respondents, 2 (two) respondents who were lawyers, 1 (one) respondent who was a prosecutor, and 1 (one) respondent who worked as a BUMN employee.

Graph 2. Respondents' Knowledge Regarding the Death Penalty in the Old Criminal Code



Source: *Primary Legal Materials, 2023 (Edited)*

However, when respondents who answered “Informed” and “Fully Informed” were asked to mention the articles in the Old Criminal Code that regulated the death penalty, it was found that out of 66 (sixty-six) respondents, only 48 (forty-eight) mentioned the articles in the Old Criminal Code related to the death penalty. In comparison, 18 (eighteen) respondents did not specify.

Moreover, an interesting finding is that 23 (twenty-three) respondents previously answered “Informed” and “Fully Informed” regarding the laws and regulations in Indonesia that still govern the death penalty. Still, when the author attempted to ask specific questions about the death penalty in the Old Criminal Code, their responses changed to “Completely Uninformed” and “Uninformed.” Upon detailed analysis, these respondents comprised 7 (seven) male and 16 (sixteen) female respondents. The age range included 21 (twenty-one) respondents aged 18-23 years and 2 (two) respondents aged 24-29. As for the occupations of these respondents who changed their answers, there were 17 (seventeen) students, 3 (three) private sector employees, 2 (two) unemployed individuals, and 1 (one) self-employed.

3) Respondents' Knowledge Regarding the Death Penalty in the New Criminal Code

In addition to posing questions to assess public knowledge regarding the death penalty in the Old Criminal Code, the authors also aim to ascertain public knowledge regarding the death penalty in the New Criminal Code. The obtained data is as follows:

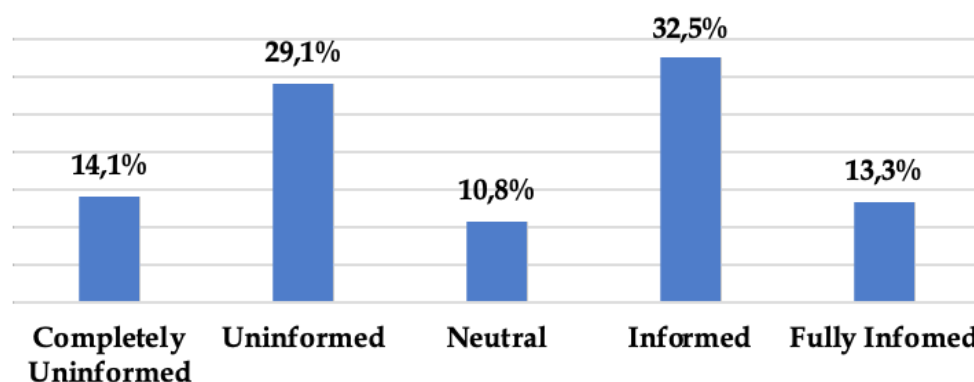
There were 52 (fifty-two) respondents, or 43.2%, who answered “Completely Uninformed” and “Uninformed” regarding the death penalty in the New Criminal Code. These respondents consisted of 27 (twenty-seven) male and 25 (twenty-five) female respondents, with an age range

of 18-23 years, including 42 (forty-two) individuals, 7 (seven) respondents aged 24-29 years, and 1 (one) respondent each in the age ranges of 30-35 years, 36-41 years, and 42-47 years. In terms of occupation, respondents who answered “Completely Uninformed” and “Uninformed” regarding the death penalty in the New Criminal Code included students or university students (39 individuals), private sector employees (4 individuals), unemployed individuals (3 individuals), a product designer and a researcher (2 individuals), a prosecutor (1 individual), a lawyer (1 individual), and a self-employed (1 individual).

Meanwhile, respondents who answered “Neutral” amounted to 13 (thirteen) individuals, or 10.8%, comprising 3 (three) males and 10 (ten) females, with an age range of 18-23 years, including 12 (twelve) individuals, and 1 (one) individual aged 24-29 years. The occupational background of respondents who answered neutral included those who were unemployed (2 individuals) and students or university students (11 individuals).

Respondents who answered “Informed” and “Fully Informed” regarding the death penalty in the New Criminal Code amounted to 55 (fifty-five) respondents or 45.8%, with 21 (twenty-one) male respondents and 34 (thirty-four) female respondents. There were 52 (fifty-two) respondents aged 18-23 years and 3 (three) respondents aged 24-29. Additionally, respondents who answered “Informed” and “Fully Informed” concerning the death penalty in the New Criminal Code included students or university students (49 individuals), unemployed individuals (4 individuals), a private sector employee (1 individual), and a lawyer (1 individual).

Graph 3. Respondents’ Knowledge Regarding the Death Penalty in the New Criminal Code



Source: Primary Legal Materials, 2023 (Edited)

However, when the author attempted to request the 55 (fifty-five) respondents who answered “Informed” and “Fully Informed” to fill in the provided column, it was found that out of the 55 (fifty-five) respondents, only 41 (forty-one) answered regarding the death penalty in the New Criminal Code. In comparison, 14 (fourteen) respondents did not respond.

Furthermore, in this research, respondents who answered “Informed” and “Fully Informed” in the previous questions regarding the death penalty in Indonesian laws and regulations, when the authors attempted to ask specific questions about the respondents’ knowledge regarding the death penalty in the New Criminal Code, there were respondents whose answers changed to “Completely Uninformed” and “Uninformed.” There were 38 (thirty-eight) respondents, with details of 20 (twenty) males and 18 (eighteen) females. The age range of these respondents included 30 (thirty) individuals aged 18-23 years, 6 (six) individuals aged 24-29 years, 1 (one) individual aged 30-35 years, and 1 (one) individual aged 42-47 years. The occupations of respondents who changed their answers when the author attempted to specify the questions were students or university students (28 individuals), private sector employees (4 individuals), unemployed individuals (3 individuals), a prosecutor (1 individual), a lawyer (1 individual), and a journalist (1 individual).

4) Respondents’ Knowledge Regarding the Death Penalty Outside the Indonesian Criminal Code

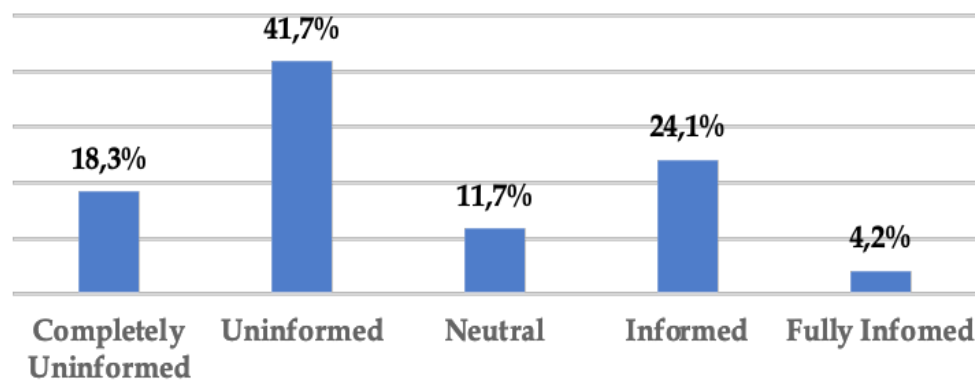
After attempting to determine public knowledge regarding the death penalty in legislation, particularly focusing on the Old Criminal Code and the New Criminal Code, this section of the study aims to examine public knowledge of the regulation of the death penalty outside the Indonesian Criminal Code. The data obtained is as follows:

Based on the questionnaire results, it was found that 72 (seventy-two) respondents, or 60%, answered “Completely Uninformed” and “Uninformed” regarding the regulation of the death penalty outside the Indonesian Criminal Code. These respondents consisted of 25 (twenty-five) male respondents and 47 (forty-seven) female respondents, with an age range of 18-23 years for 63 (sixty-three) respondents, 7 (seven) respondents aged 24-29 years, 1 (one) respondent aged 36-41 years, and 1 (one) respondent aged 42-47 years. Most respondents, 60 (sixty), were students or university students. Additionally, 4 (four) respondents were unemployed, 3 (three) respondents worked as private sector employees, and 2 (two) respondents worked as a product designer and a researcher. Furthermore, one respondent each worked as a private sector employee, prosecutor, and lawyer.

Furthermore, there were 14 (fourteen) respondents, or 11.7%, who answered “Neutral,” with details of 7 (seven) male respondents and 7 (seven) female respondents. Among them, 13 (thirteen) respondents were aged 18-23 years, and only 1 (one) was aged 24-29. The occupations of these respondents included 11 (eleven) students or university students, 2 (two) private sector employees, and 1 (one) unemployed respondents.

Meanwhile, respondents who answered “Informed” and “Fully Informed” regarding the regulation of the death penalty outside the Indonesian Criminal Code amounted to 34 (thirty-four) respondents, or 28.3%, with a specification of 19 (nineteen) male respondents and 15 (fifteen) female respondents. The age range of respondents who answered “Informed” and “Fully Informed” regarding the regulation of the death penalty outside the Indonesian Criminal Code was 18-23 years for 30 (thirty) respondents, 24-29 years for 3 (three) respondents, and 30-35 years for 1 (one) respondent. Out of the 34 (thirty-four) respondents, 28 (twenty-eight) were students or university students, 4 (four) were unemployed, 1 (one) was a prosecutor, and 1 (one) respondent was a lawyer.

Graph 4. Respondents’ Knowledge Regarding the Death Penalty Outside the Indonesian Criminal Code



Source: Primary Legal Materials, 2023 (Edited)

Although 34 (thirty-four) respondents answered “Informed” and “Fully Informed” regarding the regulation of the death penalty outside the Indonesian Criminal Code, when the author requested respondents to answer in the provided column, only 24 (twenty-four) respondents answered. In comparison, ten respondents did not provide an answer.

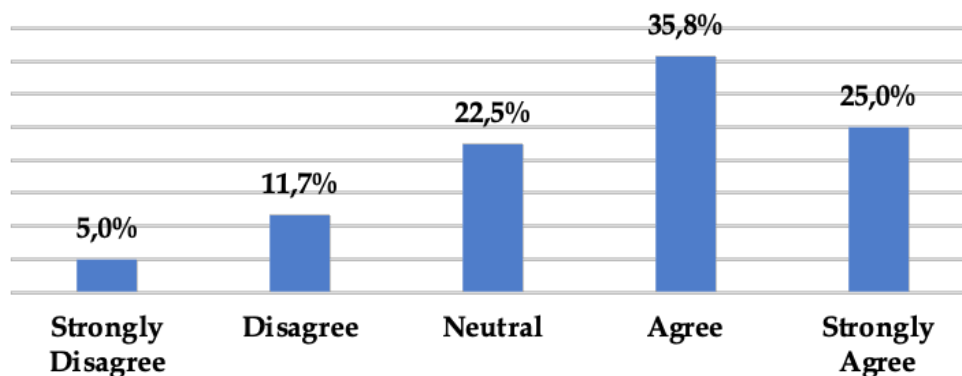
Interestingly, when asked about the respondents’ knowledge regarding the death penalty in Indonesian laws and regulations, they initially responded with “Informed” and “Fully Informed.” However, this response changed when the author specifically inquired about the respondents’ knowledge regarding the death penalty regulation outside the Indonesian Criminal Code. In this case, 57 (fifty-seven) respondents answered “Completely Uninformed” and “Uninformed.” The details included 19 (nineteen) male respondents and 38 (thirty-eight) female respondents, with an age range of 18-23 years for 50 (fifty) respondents, 6 (six) respondents aged 24-29 years, and 1 (one) respondent aged 42-47 years. The occupations of these respondents were students or university students (48 individuals), unemployed (4 individuals), private sector employees (3 individuals), a

lawyer (1 individual), and an entrepreneur (1 individual). Additionally, 1 (one) respondent answered “Uninformed” but also mentioned provisions related to the death penalty outside the Indonesian Criminal Code.

C. Public Perceptions Regarding the Death Penalty in Indonesia

1) Maintaining the Regulations of the Death Penalty for Certain Offenders in Indonesia

Graph 5. Maintaining the Regulations of the Death Penalty for Certain Offenders in Indonesia



Source: Primary Legal Materials, 2023 (Edited)

Based on the data obtained by the author, it was found that 20 (twenty) respondents, or 16.7%, answered “Strongly Disagree” and “Disagree” regarding maintaining the regulation of the death penalty for certain offenders in Indonesia. These respondents consisted of 8 (eight) male respondents and 12 (twelve) female respondents, with an age range of 18-23 years (19 individuals) and 36-41 years (1 individual). The occupations of respondents who answered “Strongly Disagree” and “Disagree” were 17 (seventeen) students or university students, 1 (one) respondent was a product designer, 1 (one) respondent was unemployed, and 1 (one) respondent was a *BUMN* employee.

Meanwhile, respondents who answered “Neutral” regarding the abolition of the death penalty for certain criminal offenders in Indonesia amounted to 27 (twenty-seven) respondents, or 22.5%, consisting of 10 (ten) male respondents and 17 (seventeen) female respondents. The age range of these respondents was predominantly 18-23 years (25 individuals), while the age range of 24-29 years consisted of 2 (two) respondents. Of these 27 (twenty-seven) respondents, 25 (twenty-five) were students or university students, while the remaining 2 (two) were unemployed.

Respondents who answered “Agree” and “Strongly Agree” to maintain the death penalty for certain offenders amounted to 73 (seventy-three) respondents, or 60.8%. This data comprised 33 (thirty-three) male

respondents and 40 (forty) female respondents, with an age range of 18-23 years for 62 (sixty-two) respondents, 9 (nine) respondents aged 24-29 years, 1 (one) respondent aged 30-35 years, and 1 (one) respondent aged 42-47 years. The occupational background of respondents who expressed “Agree” and “Strongly Agree” to maintain the death penalty for certain offenders in Indonesia included students or university students (57 individuals), 6 (six) respondents were unemployed, 5 (five) respondents worked as private sector employees, 2 (two) respondents were lawyers, 1 (one) respondent was a researcher, 1 (one) respondent was a prosecutor, and 1 (one) respondent was self-employed.

Subsequently, an interesting finding emerged, with one respondent answering “Strongly Disagree” and “Disagree” with maintaining the death penalty for certain offenders. However, when asked about participation in certain forums or activities to maintain the death penalty regulation in Indonesia, this respondent answered “Yes,” indicating previous involvement.

Moreover, out of 100 (one hundred) respondents who expressed “Neutral,” “Agree,” and “Strongly Agree” regarding maintaining the death penalty for certain offenders, only 7 (seven) respondents had previously participated in forums or activities specifically dedicated to maintaining the regulation of the death penalty in Indonesia. Among them, 3 (three) female respondents aged 18-23 were students or university students. Meanwhile, the remaining 4 (four) respondents were males (students or university students), with 3 (three) males aged 18-23 years and 1 (one) male aged 24-29 years.

2) Abolishing the Regulations of the Death Penalty for Certain Offenders in Indonesia

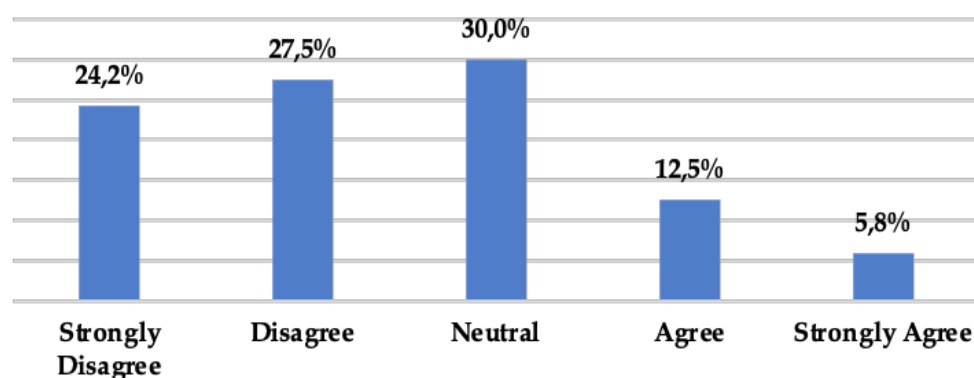
In this case, the author obtained data from 62 (sixty-two) respondents, or 51.7%, who answered “Strongly Disagree” and “Disagree” regarding the abolition of the death penalty for certain offenders in Indonesia. The details included 29 (twenty-nine) male respondents and 33 (thirty-three) female respondents. The age range of these respondents was 18-23 years (52 individuals), 24-29 years (8 individuals), 30-35 years (1 individual), and 42-47 years (1 individual). Of the 62 (sixty-two) respondents, 50 (fifty) were students or university students, 5 (five) respondents were unemployed, 4 (four) respondents were private sector employees, and there was 1 (one) respondent, each working as a prosecutor, a lawyer, and a self-employed.

Respondents who answered “Neutral” were 36 (thirty-six) individuals, or 30%, with details of 14 (fourteen) male respondents and 22 (twenty-two) female respondents. The predominant age range was 18-23 years, with 32

(thirty-two) respondents, followed by 3 (three) respondents aged 24-29 and one aged 36-41. The occupations of respondents who responded “Neutral” to the abolition of the death penalty for certain offenders in Indonesia included 31 (thirty-one) students or university students, 2 (two) unemployed individuals, 1 (one) respondent who worked as a product designer, 1 (one) respondent who worked as a *BUMN* employee, and 1 (one) respondent who was a lawyer.

Meanwhile, respondents who answered “Agree” and “Strongly Agree” to the abolition of the death penalty for certain offenders in Indonesia amounted to 22 (twenty-two) individuals, or 18.3%, all of whom were aged 18-23 years. The details included 8 (eight) male and 14 (fourteen) female respondents. The occupations of these respondents were students or university students (18 individuals), unemployed (2 individuals), a private sector employee (1 individual), and a researcher (1 individual).

Graph 6. Abolishing the Regulations of the Death Penalty for Certain Offenders in Indonesia



Source: Primary Legal Materials, 2023 (Edited)

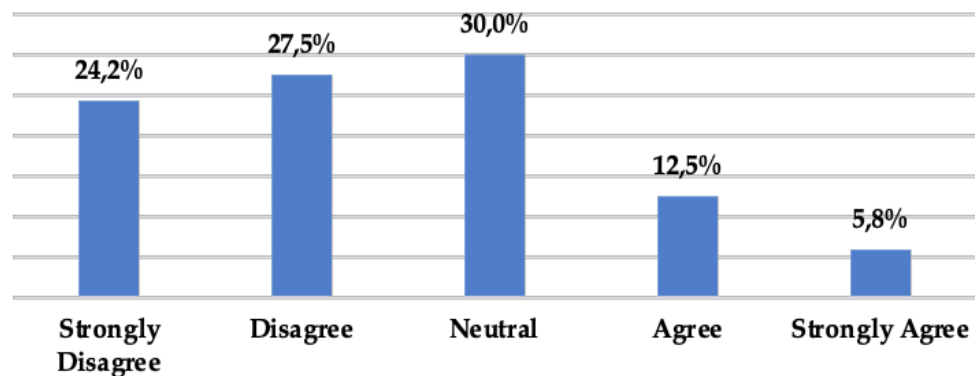
Nevertheless, in this research, 4 (four) respondents were found to have answered “Strongly Disagree” and “Disagree” with the abolition of the death penalty for certain offenders in Indonesia. However, when asked about their participation in specific forums or activities aimed at abolishing regulations regarding the death penalty in Indonesia, these 4 (four) respondents answered “Yes,” indicating previous involvement.

Furthermore, out of the 58 (fifty-eight) respondents who responded “Neutral,” “Agree,” and “Strongly Agree” to the abolition of the death penalty for certain offenders in Indonesia, only 5 (five) respondents had participated in specific forums or activities aimed at abolishing regulations regarding the death penalty in Indonesia. The details included 5 (five) female respondents aged 18-23 years, 4 (four) of whom were students or university students, while 1 (one) respondent was unemployed.

3) Arranging the Death Penalty as an Alternative Punishment in the New Criminal Code

Based on the data obtained from the two previous discussions, it is observed that the ratio of respondents with “retentionist” views is greater than that of those with “abolitionist” views. This phenomenon is evident in the fact that the number of respondents who “Agree” and “Strongly Agree” to maintain the death penalty for certain offenders in Indonesia amounted to 73 (seventy-three). In contrast, the number of respondents who answered “Agree” and “Strongly Agree” to abolish the death penalty for certain offenders in Indonesia was only 22 (twenty-two).

Graph 7. Arranging the Death Penalty as an Alternative Punishment in the New Criminal Code



Source: Primary Legal Materials, 2023 (Edited)

Therefore, in line with Constitutional Court Decision Number 2-3/PUU-V/2007, which essentially aims to mediate between the “retentionist” and “abolitionist” groups, this study similarly reflects such outcomes. In this context, there were 62 (sixty-two) respondents, or 51.7%, who expressed “Agree” and “Strongly Agree” with arranging the death penalty as an alternative punishment in the New Criminal Code. The data included 26 (twenty-six) male respondents and 36 (thirty-six) female respondents. The age range of these respondents was 18-23 years (52 individuals), 24-29 years (8 individuals), 30-35 years (1 individual), and 42-47 years (1 individual). The occupations of respondents who answered “Agree” and “Strongly Agree” to arranging the death penalty as an alternative punishment in the New Criminal Code included 49 (forty-nine) students or university students, 6 (six) unemployed individuals, 2 (two) lawyers, 2 (two) private sector employees, 1 (one) respondent working as a prosecutor, 1 (one) respondent self-employed, and 1 (one) respondent as a researcher.

Subsequently, there were 41 (forty-one) respondents, or 34.1%, who responded “Neutral,” comprising 17 (seventeen) male respondents and 24 (twenty-four) female respondents, with an age range of 18-23 years for

37 (thirty-seven) respondents, 3 (three) respondents aged 24-29 years, and 1 (one) respondent aged 36-41 years. The occupational backgrounds of respondents who responded “Neutral” included 34 (thirty-four) respondents who were students or university students, 3 (three) respondents working as private sector employees, 2 (two) respondents who were unemployed, 1 (one) respondent working as a *BUMN* employee, and 1 (one) respondent who was a product designer.

Meanwhile, respondents who answered “Disagree” and “Strongly Disagree” regarding the arrangement of the death penalty as an alternative punishment in the New Criminal Code amounted to 17 (seventeen) respondents or 14.2%, all of whom were aged 18-23 years, consisting of 8 (eight) male respondents and 9 (nine) female respondents. Among them, 16 (sixteen) respondents were students or university students, while 1 (one) was unemployed.

Subsequently, when the author attempted to inquire about the appropriate arrangement of the death penalty according to respondents who answered “Disagree,” “Strongly Disagree,” and “Neutral,” out of 58 (fifty-eight) respondents, only 28 (twenty-eight) respondents provided their views on the appropriate arrangement of the death penalty, and in substance, the data revealed the following:

Table 6. Respondents’ Views on the Death Penalty as an Alternative Punishment

No.	Substance
1	The perpetrator is better subjected to torture so that they can feel the severity of their actions.
2	The death penalty cannot resolve the root of the problem.
3	The death penalty does not instil a deterrent effect, and criminal acts often persist and even become more dangerous.
4	The death penalty is maintained as a fundamental punishment, especially for extraordinary crimes. This matter is intended to have a deterrent effect against perpetrators of serious crimes.
5	People with high authority or position could exploit the death penalty as an alternative punishment to help others or themselves avoid the death penalty.

Source: Primary Legal Materials, 2023 (Edited)

In connection with this, as is known, in Indonesian positive law, Article 10 of the Old Criminal Code categorizes the death penalty as a primary punishment. Similarly, in various other regulations outside the Old Criminal Code, such as the Terrorism Law, the Corruption Eradication Law, and the

Money Laundering Law, the death penalty is also addressed. However, the provisions in the New Criminal Code (KUHP Baru) change the status of the death penalty to a special punishment that is always accompanied as an alternative.

Upon further examination at the global level, 144 countries have abolished the death penalty in their legal systems and practices. This phenomenon includes Malaysia, which recently reformulated its regulations regarding the death penalty. Amendments to Malaysia's criminal law make the death penalty no longer mandatory and abolish it for serious crimes that do not result in death, such as kidnapping and arms trafficking.

Based on this, Indonesia can learn from Malaysia how to formulate offences that are still punishable by the death penalty (even though they are classified as alternative punishments).

IV. Conclusion

In conclusion, regulating the death penalty within Indonesia's legal framework was subject to societal debate and evolution. Decision Number 2-3/PUU-V/2007 by the Indonesian Constitutional Court not only established the constitutionality of the death penalty but also introduced a nuanced approach accommodating both retentionists and abolitionists. This moderate stance was reflected in the New Criminal Code, which reclassified the death penalty as an alternative punishment with specified conditions departing from the designation as a primary sanction in the Old Criminal Code. The research aimed to measure public perspectives regarding the death penalty, spanning different iterations of the criminal code and supplementary legal provisions in response to the legal shifts. While a significant portion of respondents suggested awareness of Indonesian laws about the death penalty, the acquaintance diminished when specific questions regarding the Old and New Criminal Codes were posed. Significantly, a considerable number of respondents expressed support for retaining the death penalty, showing a retentionist perception. However, a contingent number of respondents advocated for the abolition.

The introduction of the death penalty as an alternative punishment in the New Criminal Code aimed to strike a balance between the opposing viewpoints. Concerns also evolved regarding potential exploitation, particularly provisions allowing for conversion to life imprisonment based on good behaviour. Therefore, there was a pressing need for transparent and objective criteria to govern the issuance of the conversions. The results showed that Indonesia should reconsider the regulation of the death penalty for certain offences as Malaysia has done, even though the punishment in the New Criminal Code was classified as an alternative sanction because the death penalty was an irreversible punishment. Various research has also failed to prove that the sanction could deter crime.

V. Acknowledgements

This journal article results from research output funded by the DPP/SPP Faculty of Law, Universitas Brawijaya, based on agreement No: 66/DPP/UN10.F01/PN/2023. The contents of this research were solely the responsibility of the author.

Bibliography:

- Adhigama Andre Budiman, Genoveva A. K. S. Maya, Girlie L. A. Ginting, Iftitahsari, Johanna G. S. D. Poerba, & Maidina Rahmawati. (2023). *2022 Report on Death Penalty in Indonesia: No One is Protected*. Institute for Criminal Justice Reform. <https://icjr.or.id/wp-content/uploads/2023/09/EN-ICJR-Death-Penalty-Report-period-2022-No-one-is-protected.pdf>
- Ahmad Fadlan Andriyansyah & Jamel Dalimunthe. (2023). Vonis Pidana Mati Terhadap Tindak Pidana Serta Hubungannya Dengan Ham Dan Hukum Pidana. *Jurnal Ilmiah Multidisiplin Nusantara (JIMNU)*, 1(3), 168–172. <https://doi.org/10.59435/jimnu.v1i3.182>
- Andi Saputra. (2023, Mei). MK: Hukuman Mati Percobaan di KUHP Baru Belum Berlaku. *detikNews*. <https://news.detik.com/berita/d-6740154/mk-hukuman-mati-percobaan-di-kuhp-baru-belum-berlaku>
- Gunnar Kasim. (2023). *New Death Penalty Law in Indonesia* (Issue No. 1/2023; Indonesia Criminal Law Update). Institute for Criminal Justice Reform. https://icjr.or.id/wp-content/uploads/2023/11/ICJR_New-Death-Penalty-Law-in-Indonesia.pdf
- Helmy Hidayat Mahendra, Rizky Fariza Alfian, Muhammad Yahya Ihyaroza, Jane Rosalina Rumpia, Hans Giovanni Yosua, Rozy Brilian Sodik, & Andrie Yunus. (2023). *Steep Road for Abolishing Death Penalty in Indonesia* (International Death Penalty Report 2023). Commission for the Disappeared and Victims of Violence (KontraS). <https://kontras.org/wp-content/uploads/2023/12/KontraS-Jalan-Terjal-Penghapusan-Hukuman-Mati-eng-Revisi.pdf>
- Imparsial: The Indonesian Human Rights Monitor. (2023, April 12). *KUHP Baru dan Problematika Hukuman Mati di Indonesia*. <https://imparsial.org/kuhp-baru-dan-problematika-hukuman-mati-di-indonesia/>
- J. E Sahetepy. (2007). *Pidana Mati dalam Negara Pancasila*. Citra Aditya.
- Oksidelfa Yanto. (2020). *Negara Hukum: Kepastian, Keadilan, dan Kemanfaatan Hukum dalam Sistem Peradilan Pidana Indonesia*. Penerbit Pustaka Reka Cipta.
- Reza Banakar & Max Traves. (2005). *Theory and Method in Socio-Legal Research*. Hart Publishing.
- Robertus Robet & Todung Mulya Lubis. (2016). *Politik Hukuman Mati di Indonesia*. CV. marjin Kiri.

- Sugiyono. (2020). *Metode Penelitian Kuantitatif, Kualitatif, dan Kombinasi (Mix Methods): Edisi Revisi*. Alfabeta.
- Susanto, M., & Ramdan, A. (2017). Kebijakan Moderasi Pidana Mati: Kajian Putusan Mahkamah Konstitusi Nomor 2-3/PUU-V/2007. *Jurnal Yudisial*, 10(2), 193-215. <https://doi.org/10.29123/jy.v10i2.138>
- Todung Mulya Lubis. (2015). *Death Penalty and the Road Ahead: A Case Study of Indonesia* [Policy and Briefing Paper]. Centre for Indonesian Law, Islam and Society (CILIS) dan Asian Law Centre (ALC). https://law.unimelb.edu.au/__data/assets/pdf_file/0009/1685943/ALC-CILIS-Policy-Paper-9-Lubis_final.pdf
- United Nations. (2016, Oktober). *On World Day against Death Penalty, Ban says practice "has no place in the 21st century."* <https://news.un.org/en/story/2016/10/542302-world-day-against-death-penalty-ban-says-practice-has-no-place-21st-century>
- Yohanes S. Lon. (2020). Penerapan Hukuman Mati di Indonesia dan Implikasi Pedagogisnya. *Kertha Wicaksana: Sarana Komunikasi Dosen dan Mahasiswa*, 14(1), 47-55. <https://doi.org/10.22225/kw.14.1.1549.47-55>
- Zainal Abidin, Wahyu Wagiman, Wahyudi Djafar, Syahrial M. Wiryawan, Riesta Aldila Benanda, Muhamad Eka Ari Pramuditya, Erasmus A. T. Napitupulu, & Adhigama A. Budiman. (2019). *Menyelidik Keadilan yang Rentan: Hukuman Mati dan Penerapan Fair Trial di Indonesia*. Institute for Criminal Justice Reform. <https://icjr.or.id/wp-content/uploads/2019/01/Menyelidik-Keadilan-Yang-Rentan.pdf>

Laws and Regulations

- The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945).
- Law Number 1 of 1946 concerning Criminal Law Regulations (Old Criminal Code).
- Law Number 39 of 1999 concerning Human Rights (UU HAM).
- Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code).
- Constitutional Court Decision Number 2-3/PUU-V/2007.