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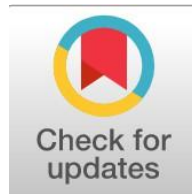
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Legal Certainty Regarding the Condition for Changing the Death Penalty to Life Imprisonment in Article 100 Paragraph 4 of Law No. 1 of 2023 on the Criminal Code (KUHP)

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Abstract

General Background Law Number 1 of 2023 introduces a paradigm shift by positioning capital punishment as a special sanction. **Specific Background** Article 100 paragraph 4 allows this sentence to become life imprisonment if a convict demonstrates commendable attitudes and actions during a ten-year probation. **Knowledge Gap** However, the legislation omits objective parameters or normative indicators for assessing this commendable behavior, creating subjectivity and risking disparities in law enforcement. **Aims** This study analyzes the legislative rationale behind this substitution, examines the subjective phrase through the lex certa principle, compares international evaluation mechanisms, and constructs a reformulation model. **Results** The analysis reveals that while the policy balances societal protection and human rights, the abstract wording violates constitutional clarity requirements. Furthermore, comparative practices in the Netherlands, Japan, and Singapore demonstrate that sentencing flexibility requires measurable standards and transparent administrative documentation. **Novelty** This research formulates a specific normative reconstruction model, establishing verifiable indicators such as institutional compliance, psychological assessments, and multidisciplinary team recommendations. **Implications** Establishing standardized evaluation mechanisms will guarantee equitable assessment, eliminate arbitrary interpretations, and protect the constitutional rights of convicts within the correctional system.

Highlights:

- ♦ Subjective behavioral requirements violate clarity principles.
- ♦ Foreign jurisdictions mandate objective multidisciplinary assessments for penal modifications.
- ♦ Proposed normative reconstructions integrate psychological evaluations and rehabilitation compliance.

Keywords: Lex Certa Principle, Rehabilitation Indicators, Norm Reformulation, Individualized Sentencing, Jurisprudence Analysis

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I. Introduction

Law Number 1 of 2023 concerning the Criminal Code (KUHP) is an important milestone in the reform of national criminal law, replacing the Dutch colonial legacy Criminal Code. The establishment of the National Criminal Code is not only intended to replace the *Wetboek van Strafrecht (WvS)*, which has been in effect for over a century, but also as an effort to build a criminal law system oriented toward Pancasila values, respect for human rights, and modern criminal justice objectives.[1] One of the most fundamental changes in the Criminal Code is the repositioning of the death penalty from an absolute main punishment to a special punishment that is always threatened as an alternative.[2] Through Article 100, the lawmakers introduced the concept of a conditional death penalty by giving a ten-year probation period before the death sentence is carried out [3]. That policy shows a shift in the punishment paradigm from an approach that only focuses on revenge (retributive justice) to a system of sentencing that integrates rehabilitation, individualized punishment, public protection, and respect for human dignity.

The regulation of conditional death penalty is a form of compromise in criminal law policy that tries to balance the state's interest in maintaining the death penalty for certain crimes with the growing demands for human rights protection.[4] Through this mechanism, the convict is given the chance to show changes in behavior during probation, allowing the state to evaluate before deciding whether the death penalty will still be carried out or converted into life imprisonment. Thus, the criminal penalty system in the National Penal Code no longer treats the death penalty as a final form of punishment, but as a legal tool that still leaves room for rehabilitation and development in line with modern penal objectives.[5]

Even so, the rules about changing the death penalty as laid out in Article 100 paragraph (4) of the Criminal Code still leave some basic normative issues. The provision states that the death penalty can be changed to life imprisonment if the convict shows 'commendable attitude and behavior' during a ten-year probation period.[6] The problem arises because the lawmakers didn't provide a definition or normative indicators for the meaning of that phrase. As a result, what counts as "commendable" behavior ends up depending heavily on the subjective judgment of the officials or institutions doing the evaluation. The lack of clear parameters can lead to multiple interpretations, differences in how the law is applied to cases with similar facts, and leave room for unmeasured discretion.

This issue isn't just about the way norms are formulated, but it also affects the protection of the constitutional rights of convicts. In a state governed by law, any restriction on citizens' rights, especially those related to the right to life, must be based on norms that are clearly, objectively, and predictably formulated. [7]. Clarity of norms is a main requirement for legal certainty because it provides the same guidelines for law enforcement officers and legal subjects about the requirements, procedures, and legal consequences of an action [8]. On the other hand, vaguely formulated norms can lead to inconsistent law enforcement, open the door to misuse of discretion, and reduce protection of citizens' rights. Therefore, the ambiguity of the phrase 'commendable attitudes and actions' can't just be seen as a matter of wording, but rather as an issue of the quality of the norms that directly affects legal certainty in the implementation of Article 100 paragraph (4) of the Criminal Code.

From the perspective of legal certainty theory, a legal norm must be formulated clearly so that it can provide guidance on rights, obligations, and the legal consequences arising from an action. [9]. Legal certainty not only requires the existence of written regulations, but also demands that each norm is arranged logically, not open to multiple interpretations, and can be applied consistently.[8] This principle aligns with the *lex certa* principle as part of the legality principle, which requires that every criminal law norm be clearly formulated so it doesn't leave too much room for interpretation by law enforcement officers. In the context of Article 100 paragraph (4) of the Criminal Code, the use of the phrase "commendable attitudes and actions" without normative indicators shows that the norm hasn't fully met the clarity of formulation principle as required by legal certainty theory or the *lex certa* principle.

From the perspective of criminal law policy (penal policy), giving death row inmates the chance to have their sentence changed to life imprisonment is a form of individualized sentencing that reflects the developments in modern criminal law.[10] The policy considers changes in offenders' behavior as one of the factors in determining the most appropriate type of punishment, so that the goal of rehabilitation can go hand in hand with the function of protecting society. However, the success of this policy highly depends on the quality of the norms underlying its implementation. When the conditions for changing punishment are formulated abstractly without objective indicators, the evaluation process is more likely to be based on subjective considerations rather than legally accountable measures. As a result, the goal of individualized sentencing becomes difficult to achieve consistently.[11]

Studies on the death penalty in the National Criminal Code have been widely conducted by previous researchers. Most of the research focuses on the existence of the death penalty from a human rights perspective, the legal politics of the death penalty, and the concept of conditional death penalty as a form of reform in national criminal law.[12] Other research examines the constitutionality of the death penalty as well as its place in Indonesia's criminal justice system [13]. However, these studies generally have not specifically examined the vagueness of the phrase 'commendable attitude and behavior' as a condition for changing the death penalty to life imprisonment, nor have they offered normative indicators that can serve as a basis for applying Article 100 paragraph (4) of the Criminal Code. Therefore, there is still academic space that needs to be filled through research aimed at strengthening legal certainty regarding this norm.

Starting from that research gap, this study presents a novelty in the form of a reformulation model of normative indicators for the phrase 'commendable attitudes and actions' in Article 100 paragraph (4) of Law Number 1 of 2023. The model is developed through ratio legis analysis, legal certainty theory, the *lex certa* principle, and a comparative law approach by

comparing sentencing evaluation mechanisms in Indonesia, the Netherlands, Japan, and Singapore. Unlike previous studies that mainly discuss the existence of the death penalty or the concept of a conditional death penalty, this research not only identifies the ambiguity of the norms but also offers a normative construction in the form of objective and measurable legal indicators as a basis for strengthening legal certainty in applying the conversion of the death penalty to life imprisonment.

Based on the description, this study aims to analyze the ratio legis behind the regulation of changing the death penalty to life imprisonment in Article 100 paragraph (4) of Law Number 1 of 2023, to examine legal certainty regarding the phrase "commendable attitudes and actions" from the perspective of legal certainty theory and the principle of lex certa, to compare sentencing evaluation mechanisms in Indonesia with those in several other countries, and to formulate a model for reformulating norms that can provide legal certainty in the application of Article 100 paragraph (4) of the Criminal Code. This research is expected to conceptually contribute to the development of national criminal law, especially in creating norms that are clearer, more objective, and able to ensure a balance between legal certainty, justice, and usefulness.

II. Research Methodology

This study is a normative legal research that focuses on analyzing legal norms (law in books), particularly regarding the legal certainty of the conditions for changing the death penalty to life imprisonment as regulated in Article 100 paragraph (4) of Law Number 1 of 2023 concerning the Criminal Code. Normative legal research was chosen because the issue being studied is not related to the empirical implementation of the norms, but rather focuses on the vagueness of the norm found in the phrase 'commendable attitudes and actions' as a requirement for changing the penalty. The research focuses on assessing whether the formulation of this norm has met the principles of legal certainty, the lex certa principle, and the legality principle as part of a rule-of-law state.

This study uses several approaches, namely the statute approach, the conceptual approach, the comparative approach, and the analytical approach. The statute approach is used to examine regulations regarding the death penalty and the mechanism for changing criminal penalties in the Indonesian legal system, particularly Law Number 1 of 2023 on the Criminal Code along with regulations related to the correctional system. The conceptual approach is used to analyze the concept of legal certainty, the principle of lex certa, the principle of legality, the individualization of sentencing, and criminal law policy as the theoretical framework of the study. The comparative approach is used to compare the mechanisms for evaluating prisoners and criminal penalty reforms in the legal systems of the Netherlands, Japan, and Singapore in order to obtain best practices as a basis for reformulating norms. Meanwhile, an analytical approach is used to assess the alignment between the lawmakers' objectives (ratio legis) and the formulation of the norm in Article 100 paragraph (4) of the Criminal Code.

The research data sources consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 2023 on the Criminal Code, Law No. 22 of 2022 on Corrections, as well as other legislation related to the penal system. In addition, this study also uses the Academic Draft of the Criminal Code and several relevant Constitutional Court Decisions as primary legal materials to trace the ratio legis of norm formation and the development of the principle of legal certainty. Secondary legal materials consist of books, national and international scientific journal articles, previous research results, dissertations, theses, and expert opinions discussing criminal law reform, the death penalty, theories of punishment, legal certainty, and comparative law. Tertiary legal materials, such as legal dictionaries, legal encyclopedias, and other scientific sources, are used to strengthen the understanding of legal terms and concepts used in the research. The collection of legal materials is carried out through library research by exploring various regulations, court decisions, academic manuscripts, scientific literature, and journal articles obtained from university libraries, national and international scientific journal databases, as well as official legislation portals. All legal materials were selected based on their relevance to the issue of legal certainty regarding the conditions for changing the death penalty to life imprisonment.

The analysis of legal materials is carried out qualitatively using a normative legal analysis method. The analysis starts with the inventory and classification of legal materials based on their relevance to the research issue, and then continues with legal interpretation using grammatical, systematic, historical, teleological, and comparative methods. Historical interpretation is used to trace the ratio legis of the formation of Article 100 paragraph (4) of the Criminal Code through the Academic Draft and the history of the enactment of Law Number 1 of 2023. Systematic interpretation is done to understand the position of the norm within the overall criminal law system of the Criminal Code, while teleological interpretation is used to assess its alignment with the goals of national criminal law reform. Next, the interpretation results were analyzed using the theory of legal certainty, the principle of lex certa, and a comparative law approach, so that a legal construction regarding the normative weaknesses of Article 100 paragraph (4) was obtained, along with a model for reformulating the norm that can better guarantee legal certainty, consistent application, and the protection of convicts' rights.

III. Results and Discussion

The Reasoning Behind Changing the Death Penalty to Life Imprisonment in Article 100 Paragraph (4) of Law Number 1 of 2023 on the Criminal Code

The update to criminal law through Law Number 1 of 2023 on the Criminal Code (KUHP) marks a fundamental change in Indonesia's criminal law policy, especially regarding the status of the death penalty [14]. Unlike the colonial-era Criminal Code which treated the death penalty as a final main punishment, the National Criminal Code introduces the concept of a conditional death penalty by treating it as a special punishment that is always threatened alternatively. [10]. Through Article

100 of the Criminal Code, the execution of the death penalty can be postponed for ten years and later converted into life imprisonment if the convict meets the requirements set by law. [13]. The change shows that lawmakers no longer see the death penalty as an absolute tool of revenge, but as part of a criminal justice system that allows room to evaluate the offender's behavior.

In normative legal research, *ratio legis* is understood as the fundamental purpose or reason behind the creation of a legal norm. [15]. Therefore, analyzing Article 100 paragraph (4) cannot be done merely through a grammatical interpretation of the norm's wording, but also needs to trace the lawmaker's intent (original intent) as reflected in the Academic Draft of the Criminal Code. Based on the analysis of the Academic Draft, this study found that the formation of the concept of conditional death penalty is based on three main considerations: protection of society (social defence), respect for human rights (human rights protection), and the application of individualized punishment (individualization of punishment). These three considerations serve as the philosophical foundation as well as the policy direction for the reform of national criminal law.

First, lawmakers still keep the death penalty as a legal tool against crimes considered to have an extraordinary level of danger, such as terrorism, premeditated murder under certain circumstances, and large-scale drug offenses. This policy choice shows that protecting society remains the main goal of criminal law. So, the existence of the death penalty in the National Criminal Code isn't meant just as revenge, but as a tool to protect legal interests that are strategically important for the state and society.

Second, lawmakers at the same time accommodate the development of modern criminal law, which places respect for human dignity as an integral part of the punishment system. This is reflected in giving convicts the chance to undergo a ten-year probation period before the death penalty is carried out. This probation period allows the state to assess the convict's behavior as a basis for deciding whether the death penalty will still be executed or changed to life imprisonment. This policy shows that lawmakers are trying to strike a balance between the interest of protecting society and protecting the rights of convicts through a more proportional mechanism.

Third, these regulations are an implementation of the concept of individualized sentencing that has developed in modern criminal law theory. According to Barda Nawawi Arief, the creation of criminal law is not only aimed at punishing offenders, but should also provide them with the opportunity to improve themselves through a rehabilitation process. From this perspective, punishment is seen as both a tool for protecting society and a means of rehabilitation that allows convicts to responsibly resume their social functions. Therefore, changing the death penalty to life imprisonment is a concrete form of applying individualized sentencing, which considers behavior change as one of the key factors in carrying out the sentence.

Research findings show that philosophically, the concept of conditional death penalty is the result of a legal-political compromise between the retentionist view, which wants the death penalty to be maintained, and the abolitionist view, which pushes for its removal from the national legal system. This compromise is realized through the conditional death penalty mechanism, which keeps the death penalty as a type of punishment but limits its implementation through an evaluation period that gives the convict a chance to show behavioral change.[16] Thus, the creation of Article 100 of the Criminal Code not only changes the way the death penalty is regulated, but also represents a shift in the orientation of Indonesian criminal law policy toward a more humane penal system. That said, research analysis shows that the legislative intention hasn't been fully reflected in the wording of Article 100, paragraph (4). The provision requires that a sentence modification can only occur if the convicted person shows "commendable attitude and behavior." However, the law doesn't provide a definition or normative indicators for that phrase. As a result, there's a gap between the lawmakers' objectives and the quality of the norm's formulation. Philosophically, the lawmakers intended to make behavioral change an indicator of successful rehabilitation. But on a legal level, those indicators aren't translated into objective legal parameters, leaving a lot of room for interpretation.

This study found that using the phrase 'commendable attitudes and actions' reflects moral concepts more than legal concepts. Unlike legal norms, which are supposed to have clear boundaries, this term is evaluative and highly dependent on the perception of those making the judgment. In practice, there is no standard for what kind of behavior can be considered 'commendable,' who has the authority to make the judgment, how the evaluation mechanism is carried out, or the evidentiary standards that must be met by the convicted person. This gap shows that lawmakers have not provided adequate normative tools to implement the goal of individualized sentencing as intended in the Academic Draft of the Criminal Code. From the perspective of law-making theory, this situation shows that the principle of clarity of norms hasn't been fulfilled yet. A legal norm shouldn't just have a good purpose; it also needs to be clearly formulated so that it can be applied consistently by all law enforcement officers. When a norm uses abstract terms without operational indicators, the room for discretion gets wider and can lead to disparities in how the law is applied. As a result, convicts with relatively similar factual conditions could get different decisions just because of differences in interpreting the meaning of "commendable behavior and actions." This situation goes against the goal of making laws, which aims for certainty, consistency, and equal treatment under the law.

Based on the overall analysis, this study argues that the *ratio legis* of Article 100 paragraph (4) has basically succeeded in building a philosophical foundation for criminal law reform through the application of individualized sentencing, respect for human rights, and balanced protection of society. However, that success has not been fully matched by the quality of the norm's formulation. In other words, there is a mismatch between the original intent of the lawmakers and the normative wording of Article 100 paragraph (4). The *ratio legis* calls for an objective evaluation of rehabilitation success, whereas the norm actually uses abstract terms without measurable legal indicators. Therefore, this study concludes that the main weakness of Article 100 paragraph (4) lies not in the policy of conditional death penalty, but in the lack of normative parameters capable of ensuring legal certainty in the process of changing the death penalty.

Table 1. Ratio Legis Analysis of Article 100 Paragraph (4) of Law Number 1 of 2023

Analysis Aspect	Research Findings	Implication
Historical Basis	The shift from the colonial penal system to the National Criminal Code	Decolonization of criminal law and changes in the sentencing paradigm
Philosophy of Management	The shift from retributive justice to the individualization of punishment	The criminal justice system is becoming more humane and focused on rehabilitation
Original Intent	The middle ground between abolitionist and retentionist groups	Balancing community protection and human rights
Policy Basis	Modern criminal law policy (penal policy)	Integrating legal certainty, justice, and usefulness
The Problem of Norms	The phrase 'commendable attitude and actions' doesn't have any normative indicators	Potential to cause multiple interpretations and inconsistencies in application
Legal Impact	There's no objective evaluation standard available	Reducing legal certainty and consistency of implementation

The analysis shows that lawmakers have basically succeeded in reforming the criminal justice paradigm by recognizing the concept of conditional death penalty. This reform is a progressive step in shaping national criminal law because it treats the death penalty as a special punishment whose implementation is no longer absolute. However, this success is still partial because the paradigm shift has not been fully followed by creating norms that meet the principle of clarity in drafting. In legislation theory, changes in legal substance must always be accompanied by quality norm formulation so that legal goals can be effectively achieved. When norms still use abstract terms and lack operational indicators, the interpretation space for law enforcers becomes wider, making disparities in law enforcement hard to avoid. Therefore, the rationale behind Article 100 paragraph (4) has only managed to address the philosophical aspect of criminal law reform, but it hasn't fully met the need for legal certainty in its implementation.

Based on the overall analysis, it can be stated that Article 100 paragraph (4) of Law Number 1 of 2023 is one of the most progressive forms of national criminal law reform because it integrates modern sentencing theory, national legal policy, and human rights protection principles into the Indonesian criminal justice system. However, the effectiveness of this reform still faces issues at the norm formulation level, particularly concerning the lack of a clear legal indicator regarding the phrase 'commendable attitudes and actions.' This issue shows that substantive legal reform has not been fully accompanied by legislative technique reforms that meet the principle of legal certainty. On that basis, the analysis in the next section will focus on the legal certainty problem related to this phrase, using the perspective of legal certainty theory. the principle of *lex certa*, and the principle of legality as a basis for assessing the quality of the norms in Article 100 paragraph (4) of the Criminal Code.

Legal Certainty Analysis of the Phrase 'Commendable Attitude and Conduct' in Article 100 Paragraph (4) of Law Number 1 of 2023 concerning the Criminal Code

Legal certainty is one of the fundamental principles in a rule of law state (*rechtstaat*) that requires every legal norm to be clearly formulated, understandable, and applied consistently by all law enforcement officers. [17]. In criminal law, the prosecution holds a more important position compared to other branches of law because criminal law is a state instrument that directly restricts a person's rights and freedoms through punishment.[18] Therefore, every criminal norm must not only have a legitimate legal basis, but also meet a formulation quality that allows every legal subject to clearly know their rights, obligations, and the legal consequences arising from a provision. Legal certainty is not just achieved through the existence of written norms, but also through clarity of the norm's substance so that its application can be predicted and does not rely on the subjectivity of law enforcement officers.[19]

In the context of Article 100 paragraph (4) of Law Number 1 of 2023 on the Criminal Code, this study found that the main issue does not lie in the existence of a mechanism to change the death penalty to life imprisonment, but rather in the quality of the criteria used as the basis for changing the sentence. The article stipulates that the death penalty can be converted into life imprisonment if the convict shows "commendable attitudes and actions" during a ten-year probation period. [20]. However, the law does not provide any definition, indicators, or legal parameters regarding the meaning of that phrase. There are also no implementing regulations explaining the evaluation mechanism, the institution that carries out the assessment, the assessment methods, or the standards of proof that must be met before a criminal change can be granted.

The results of the normative analysis show that the phrase "commendable attitude and actions" is an open-textured norm, meaning a norm that uses evaluative terms without providing operational criteria that can be objectively verified. Norms like this do offer flexibility in their application, but at the same time, they leave a lot of room for interpretation. In criminal law practice, too much interpretive leeway can reduce legal certainty because legal decisions are no longer based on the same normative parameters, but rather on the individual perceptions of the officials making the judgments.[21] As a result, two convicts who display relatively similar behavior during their rehabilitation could get different decisions just because of differences in interpreting the meaning of 'commendable.' This situation shows that unclear norms can lead to disparities in the application of the law.

This study assesses that the vagueness of the norm can be identified through three main indicators. First, the absence of a legal definition. Article 100 paragraph (4) does not explain what is meant by 'attitude' or 'action' that can be considered 'commendable.' Second, the absence of measurable criteria. The norm does not specify objective standards that must be met by the convicted person, such as compliance level with the rehabilitation program, results of psychological assessments, risk of recidivism, discipline during the sentence, or forms of participation in rehabilitation programs. Third, the absence of procedural safeguards. The law does not regulate the institution authorized to carry out the evaluations, the composition of the assessment team, assessment methods, or procedures for objections if the evaluation results are considered not objective. These three aspects show that the norms have not met the minimum clarity standards required in the drafting of

legislation.

If analyzed using Gustav Radbruch's legal certainty theory, good law should be able to achieve a balance between justice (gerechtigheit), usefulness (zweckmäßigkeit), and legal certainty (rechtssicherheit) [22]. These three values cannot be separated because the success of a legal policy is determined not only by the goals it wants to achieve but also by the quality of the norms that form the basis of its implementation. In Article 100 paragraph (4), the lawmakers have successfully accommodated the value of fairness by giving death row inmates the opportunity to improve themselves during the probation period.[23] This norm also reflects the value of utility because it provides room for rehabilitation as part of the goals of modern sentencing. However, this study found that the dimension of legal certainty has not been fully met because

the measures for the success of rehabilitation are not clearly defined. Therefore, philosophically, the reform of conditional death penalty policies is a progressive step, but legally it still leaves weaknesses in the way the norms are formulated.

These findings are backed by the concept of legal certainty developed by Jan Michiel Otto, which states that legal certainty doesn't just depend on the existence of written regulations, but is also determined by having clear norms, definite procedures, authorized institutions, and consistent law enforcement. [24]. Based on this framework, this study found that Article 100 paragraph (4) only meets the element of written legal norms. Meanwhile, the aspects regarding clear assessment standards, evaluation procedures, and consistency in application have not been met. As a result, decisions regarding changes in criminal penalties rely heavily on the discretion of the evaluating institution. The larger the discretionary space that is not limited by legal indicators, the higher the potential for inconsistencies in law enforcement practice. Analysis of the principle of lex certa also shows a similar issue. As part of the legality principle, lex certa requires that every criminal law norm be clearly and explicitly formulated, without leaving room for excessive interpretation. [25]. This doctrine aims to protect everyone from the possibility of arbitrary actions by the state in applying criminal law. This study argues that the principle of lex certa not only applies to the formulation of criminal acts but also to the norms that determine changes in a person's legal status, including changing the death penalty to life imprisonment. Therefore, using the phrase 'praiseworthy attitude and behavior' without normative indicators shows that Article 100 paragraph (4) does not fully meet the lex certa principle. This norm leaves too much room for subjective interpretation, which could reduce legal protection for convicts.

From the perspective of constitutional law, the quality of the formulation of these norms also needs to be linked to the guarantee of legal certainty as regulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The Constitutional Court in various decisions has consistently emphasized that legal norms must be formulated clearly to avoid multiple interpretations. In Constitutional Court Decision Number 3/PUU-VIII/2010, the Court stressed that unclear norms can lead to legal uncertainty, which goes against the principles of a state of law. [26]. Next, Constitutional Court Decision Number 91/PUU-XVIII/2020 again emphasizes that the principle of clarity in drafting is one of the requirements for making good legislation.[27] Based on those considerations, this study believes that the phrase 'commendable attitudes and actions' does not yet meet the constitutional standard for clarity of norms because it does not provide objective guidelines for its implementation.

Comparative analysis further strengthens these findings. Some countries do allow evaluations for prisoners serving long-term sentences, but that flexibility is always accompanied by measurable indicators. The Netherlands applies a multidisciplinary assessment that includes compliance with rehabilitation programs, psychological test results, recidivism risk levels, and professional recommendations from various fields. Japan has a systematically documented administrative procedure so that every decision has a justified basis. Singapore also uses indicators explicitly formulated in legal regulations, which means the scope for law enforcement interpretation is more limited. This comparison shows that policy flexibility in sentencing does not equal ambiguity in the rules. On the other hand, the more discretion officials are given, the more clear normative indicators are needed to maintain accountability and consistency in law enforcement.

Table 2. Results of Legal Certainty Analysis on Article 100 Paragraph (4) of Law Number 1 of 2023

Analysis Aspect	Kondisi Norma	Legal Impact	Author's Analysis Results
Clarity of the norm formulation	The phrase 'commendable attitudes and actions' doesn't have a clear-cut definition	Causing multiple interpretations in implementation	Doesn't meet the principle of clarity of formulation (clarity of norm)
Legal certainty	There aren't any objective assessment indicators	The potential for disparities in criminal changes	Legal certainty hasn't been fully met
The principle of a certain law	Norms are abstract and evaluative	Opening up a wide space for interpretation	Hasn't met the lex certa principle yet
Evaluation mechanism	No procedures, instruments, or assessment standards are regulated	The decision depends on the officer's discretion	Accountability and consistency of evaluation are becoming weak
Protection of convicts' rights	The chance to get a criminal change is there, but without any objective parameters	The rights of the convict depend on subjective judgment	Legal protection isn't optimal yet
Normative implications	The reform of conditional death penalties has been progressive	Implementation could be inconsistent	A reformulation of the normative indicators in Article 100 paragraph (4) is needed

Based on the overall analysis, this study concludes that the main weakness of Article 100 paragraph (4) does not lie in the concept of the conditional death penalty, but rather in the quality of its drafting. The legislative policymakers have successfully integrated the values of rehabilitation, individualized sentencing, and human rights protection into the national criminal law system. However, these goals have not yet been supported by norm formulations that meet the principle of legal certainty. The absence of normative indicators for the phrase 'commendable attitude and behavior' has the potential to create assessment disparities, expand the room for subjectivity among officials, and reduce the predictability of law enforcement. Therefore, strengthening legal certainty does not require changing the concept of the conditional death penalty, but rather requires reformulating the norms by establishing indicators that are objective, measurable, and legally accountable. These findings serve as a basis for the next discussion about comparing laws and the model of reformulating

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Article 100 paragraph (4) as an effort to strengthen legal certainty in the national criminal system.

Comparison of Death Penalty Regulations and Sentencing Evaluation Mechanisms in Indonesia, the Netherlands, Japan, and Singapore as a Basis for Reformulating Article 100 Paragraph (4) of Law Number 1 of 2023

The comparative law approach is one of the important methods in normative legal research to examine the quality of a norm by comparing it with the legal systems of other countries that have similar or different characteristics. [28]. According to Zweigert and Kötz, the main goal of comparing laws is not just to find similarities and differences between legal systems, but to get more effective normative solutions by identifying best practices. [29]. Therefore, this study does not simply compare the existence of the death penalty, but rather focuses on analyzing the sentencing evaluation mechanism and the quality of the formulation of norms that form the basis for changes in sentencing status. This approach was chosen because Indonesia, through Law Number 1 of 2023, introduced the relatively new concept of a conditional death penalty, which is not yet widely found in other countries' legal systems, so it requires examination from a comparative perspective.

In Indonesia's legal system, the reform of the death penalty regulation is one of the most fundamental changes in the National Criminal Code [30]. Articles 67 and 100 of Law Number 1 of 2023 put the death penalty as a special punishment and it is always threatened as an alternative. [31]. Unlike the previous Criminal Code, which positioned the death penalty as a primary and final punishment, the National Criminal Code allows for the possibility of delaying the execution of the sentence for ten years. During this period, an evaluation is conducted on the incarcerated individual's behavior, which could

serve as a basis for changing the death sentence to life imprisonment. This policy shows a shift in the paradigm toward criminal sentencing individualization, integrating public protection with respect for human rights. However, analysis shows that this reform has not been fully accompanied by the establishment of norms that meet the principle of legal certainty. Article 100 paragraph (4) only requires that the convict demonstrate "commendable attitudes and actions" without providing a definition or normative indicators on the parameters used in the evaluation process. As a result, the mechanism for changing criminal law depends on the interpretation of the officials making the assessment, which opens up room for subjectivity. From the perspective of the principle of *lex certa*, this situation shows that lawmakers have managed to build a new paradigm of criminalization, but they have not yet equipped it with normative instruments that ensure consistent implementation.

Unlike Indonesia, the Netherlands abolished the death penalty for common crimes since 1870 and eliminated it completely after the development of human rights protection regimes in Europe. [32]. Even though the death penalty is no longer practiced, the Dutch correctional system offers an important lesson about how inmate evaluations are done. According to the Penitentiary Principles Act (*Penitentiaire Beginselenwet*) and the implementation of the European Prison Rules, every long-term prisoner is assessed through a multidisciplinary evaluation that involves psychologists, criminologists, correctional officers, and authorized officials. The assessment is based on measurable indicators, such as compliance with prison regulations, psychological development, risk of reoffending, rehabilitation progress, and readiness for social reintegration. This way, decisions aren't based on someone's personal judgment but on parameters that can be professionally tested and documented. Practices in the Netherlands show that flexibility in the sentencing system always comes with clear evaluation indicators. This suggests that individualizing sentences isn't the same as giving officials complete freedom to make judgments, but actually requires objective standards so that the treatment of each prisoner still meets the principle of equality before the law. This finding is relevant for Indonesia because the main weakness of Article 100 paragraph (4) isn't in the policy of giving convicts a chance to improve themselves, but in the lack of legal measures used to assess the success of that process.

Japan still retains the death penalty as one of the forms of punishment in the Penal Code of Japan [33]. However, the implementation of the death penalty in the country is carried out through very strict administrative procedures. Inmate rehabilitation is regulated in the Act on Penal Detention Facilities and Treatment of Inmates and Detainees of 2005, which requires that every development of inmates be systematically documented. This documentation includes daily behavior, compliance with regulations, health conditions, psychological progress, participation in rehabilitation programs, as well as various other administrative records that serve as the basis for decisions by correctional authorities. Although Japan does not have a mechanism for changing the death penalty like Indonesia, this practice shows the importance of procedural certainty in the penal system. Every administrative decision is based on clear documentation so that room for subjectivity can be minimized. In other words, legal certainty is achieved not only through clear formulation of norms, but also through an evaluation procedure that is documented transparently and accountably. This aspect becomes an important lesson for Indonesia, considering that Article 100 paragraph (4) does not yet regulate the documentation mechanism or evaluation procedures that can serve as a basis for changing the criminal penalty.

Singapore still maintains the death penalty for certain crimes, especially murder and drug offenses [34]. However, since the law was changed in 2012, the legal system allows judges to impose life imprisonment as an alternative to the death penalty if certain conditions are met. Unlike Indonesia, which uses the evaluative phrase 'commendable attitudes and actions,' Singapore law sets parameters explicitly in the statute. These parameters include the level of the offender's involvement in the crime, substantive cooperation with law enforcement, and certain mental conditions proven through medical examination. This regulatory model shows that there is still room for discretion as long as it is bounded by clear legal indicators. So, sentencing flexibility doesn't reduce legal certainty because all the conditions for changing the sentence have been explicitly laid out in the law. Singapore's experience shows that lawmakers can give authority to judges or officials without sacrificing the principle of *lex certa*, as long as the parameters used are clearly and measurably defined.

The comparison of the four countries shows that the fundamental difference isn't about choosing to keep or abolish the death penalty, but rather in the quality of the norms that regulate sentencing evaluation mechanisms. Indonesia has adopted

the concept of a conditional death penalty as a form of progressive criminal law reform, but it hasn't yet provided normative indicators that serve as a basis for assessing changes in the behavior of convicts. In contrast, the Netherlands uses multidisciplinary assessments based on objective indicators, Japan emphasizes systematic administrative documentation as a basis for accountability, while Singapore limits discretion through explicitly formulated legal parameters. The findings show that all legal systems that allow flexibility in sentencing always balance it with clear evaluation standards so that the decisions made can be legally justified.

The comparative analysis reinforces the research finding that the weakness of Article 100 paragraph (4) of Law Number 1 of 2023 doesn't lie in the concept of conditional death penalty, but rather in the absence of normative indicators regarding the phrase 'commendable attitude and behavior' [35]. Therefore, reformulating the norm should focus on creating an objective and measurable evaluation standard. Based on practices in the Netherlands, Japan, and Singapore, these indicators at least include compliance with prison rules, active participation in rehabilitation programs, results of psychological and criminological assessments, recidivism risk levels, acknowledgment of wrongdoing and remorse, as well as recommendations from an independent multidisciplinary assessment team. In addition, the evaluation procedure along with its assessment guidelines should be further regulated in government regulations to ensure uniform operational standards across all correctional institutions.

Thus, the results of this legal comparison affirm that the success of national criminal law reform is not only determined by a shift toward more humane punishment but also by the quality of the norms formulated to ensure legal certainty. The experiences of the Netherlands, Japan, and Singapore show that flexibility in the criminal justice system is always accompanied by objective evaluation indicators, transparent procedures, and limitations on discretionary power. Therefore, the reformulation of Article 100 paragraph (4) of Law Number 1 of 2023 should be aimed at creating norms that balance the principles of legal certainty (*rechtssicherheit*), justice (*gerechtigkeits*), and utility (*zweckmäßigkeit*), so that the goal of individualizing sentences in the National Criminal Code can be achieved effectively and consistently.

Rewording Article 100 Paragraph (4) of Law Number 1 of 2023 as an Effort to Strengthen Legal Certainty

Research shows that the update to the death penalty regulations through Law Number 1 of 2023 is a form of progressive national criminal law reform because it introduces the concept of a conditional death penalty as part of the individualization of sentencing. [5]. The concept gives death row inmates the chance to have their sentence changed to life imprisonment after serving a ten-year probation period. This policy reflects a shift in the punishment paradigm, moving away from being solely focused on revenge (retributive justice) and also accommodating goals like rehabilitation, social reintegration, public protection, and respect for human rights. So, both philosophically and sociologically, the regulation of conditional death sentences shows a direction of criminal law reform that aligns with the development of modern punishment theory.

Even so, an analysis of Article 100 paragraph (4) shows that the success of this paradigm shift hasn't been fully supported by adequately formulated norms. The main problem lies in the use of the phrase 'shows commendable attitude and behavior' without providing definitions or normative indicators that can serve as a basis for assessment. As a result, the evaluation process of convicts could rely on the moral judgment or subjective considerations of the officials in charge. This situation not only opens the door to disparities in law enforcement but also goes against the principle of legal certainty, the *lex certa* principle, and the legality principle, which require that every criminal law norm be formulated clearly, firmly, and predictably in its application. The findings show that the weakness of Article 100 paragraph (4) doesn't lie in the substance of the policy giving convicts a chance to reform, but rather in the lack of objective evaluation standards as a basis for changing sentences. Therefore, the reformulation of the norm isn't aimed at changing the concept of conditional death penalty established by lawmakers, but at strengthening legal certainty by adding normative indicators that can be used consistently in the evaluation process. This approach aligns with Gustav Radbruch's theory of legal certainty, which places legal certainty as a core value of law, and Jan Michiel Otto's concept, which emphasizes that legal certainty requires clear norms, definite procedures, and consistent application. [36].

The comparison of laws with the Netherlands, Japan, and Singapore further strengthens this need. The Netherlands applies a multidisciplinary assessment with measurable indicators to evaluate long-term prisoners. Japan emphasizes the importance of systematic administrative documentation as the basis for accountability in every correctional decision. Meanwhile, Singapore allows flexibility in sentencing, but still limits discretion through legal parameters explicitly formulated in legislation. These three legal systems show that flexibility in sentencing is never separated from the existence of clear, objective, and accountable indicators. Thus, the practice of legal comparison provides an academic basis that the reformulation of Article 100 paragraph (4) should be directed towards establishing more measurable evaluation standards without losing the rehabilitative goals that are the spirit of the Indonesian Penal Code.

Based on the results of the analysis, this study suggests that the phrase 'showing commendable attitudes and actions' should no longer be used as the sole measure of criminal rehabilitation. Instead, it should be replaced or clarified with normative indicators that can be objectively tested. These indicators should at least include: (1) compliance with the rules of the correctional facility during the rehabilitation period; (2) not committing any disciplinary violations over a certain period; (3) active and consistent participation in all rehabilitation programs organized by the correctional facility; (4) psychological and criminological assessments showing behavior changes and low risk of recidivism; (5) acknowledgment of wrongdoing, remorse, and commitment not to repeat crimes; and (6) recommendations from an independent evaluation team consisting of correctional staff, psychologists, criminologists, and other competent parties according to the regulations. laws and regulations. With these indicators, the evaluation process no longer depends on abstract moral standards, but is based on legal parameters that can be objectively verified.

Besides reformulating the substance of the norm, this study also assesses that the effectiveness of Article 100 paragraph (4) largely depends on the existence of a standardized evaluation mechanism. Therefore, further regulation through a Government Regulation is needed to govern the evaluation procedures, the formation of assessment teams, assessment methods, standards of evidence, objection mechanisms, and the oversight system for evaluation results. Such regulation is important to ensure that every decision regarding changes in criminal penalties is made based on transparent, accountable procedures that can be legally tested. In this way, legal certainty is achieved not only through clear wording of the norms but also through certainty in the procedures of their implementation. As a form of *ius constituendum*, this study proposes a reformulation of Article 100 paragraph (4) of Law Number 1 of 2023 as follows: The death penalty as referred to in paragraph (1) can be changed to life imprisonment by Presidential Decree after the convict has completed a ten-year probation period and based on an evaluation showing that the convict meets rehabilitation indicators, including compliance with prison rules, active participation in rehabilitation programs, behavioral changes based on psychological and criminological assessments, a low risk of reoffending, and recommendations from an independent evaluation team in accordance with the provisions of laws and regulations.

The formulation still upholds the spirit of individualized sentencing as intended by the lawmakers, but at the same time strengthens the aspect of legal certainty by emphasizing objective evaluation indicators. In this way, discretion still exists for authorized officials, but its use is limited by clear legal parameters, reducing the potential for multiple interpretations and disparities in application. The reformulation proposed in this study is a novelty because it doesn't stop at identifying the vagueness in Article 100 paragraph (4), but produces a model of *ius constituendum* based on an analysis of the ratio legis, legal certainty theory, the *lex certa* principle, and a comparative law study with the Netherlands, Japan, and Singapore. This model offers a balance between the protection of human rights, rehabilitation goals, and the need for legal certainty in the national criminal justice system. Thus, the reformulation of Article 100 paragraph (4) is expected to strengthen the implementation of conditional death penalties more consistently, transparently, and accountably, while also supporting the realization of national criminal law reforms based on the values of justice, usefulness, and legal certainty.

IV. Conclusion

This study shows that the regulation changing the death penalty to life imprisonment in Article 100 paragraph (4) of Law Number 1 of 2023 is a form of national criminal law reform that reflects a shift in sentencing from a retributive approach to a rehabilitative and humanistic one. Through the conditional death penalty approach, lawmakers are trying to position the death penalty as a special punishment whose implementation is based on evaluating the convict's behavioral development. However, this study finds that this goal is not fully supported by the quality of the norm's formulation because the phrase "shows commendable attitude and behavior" is not accompanied by clear, measurable, and objective legal indicators. This ambiguity may lead to multiple interpretations, disparities in law enforcement, and leave room for subjectivity in the process of evaluating sentence changes.

Comparisons with the legal systems of the Netherlands, Japan, and Singapore show that flexibility in sentencing policies can still be achieved without reducing legal certainty if the evaluation mechanism is based on explicit normative indicators, standardized procedures, and an accountable supervision system. Thus, the main takeaway from this study is that the success of criminal law reform is determined not only by changes in sentencing paradigms but also by the quality of norm formulation that can ensure a balance between justice, utility, and legal certainty. The main contribution of this research lies in developing a model for reformulating Article 100 paragraph (4) of Law Number 1 of 2023, which not only identifies weaknesses in the norm but also offers a clearer normative framework through the clarification of behavioral indicators, objective evaluation mechanisms, involvement of an independent assessment team, and the need for further regulation. This approach enriches the study of reforming Indonesian criminal law by integrating ratio legis analysis, legal certainty theory, the *lex certa* principle, and a comparative law approach as a basis for creating higher quality norms.

The novelty of this research lies in developing a reformulation model that focuses on strengthening legal certainty without losing the rehabilitative goals that are the spirit of the National Criminal Code. However, this study still has limitations because it uses a normative legal approach that focuses on analyzing legislation, doctrines, and legal comparisons, so it has not yet examined the empirical implementation of Article 100 paragraph (4) in court practices or the correctional system after the Criminal Code is effectively enforced. Therefore, future research needs to use an empirical or socio-legal approach involving judges, prosecutors, correctional officers, academics, and policymakers to test the effectiveness of the proposed criminal modification indicators so that it can become the basis for drafting a more comprehensive, implementable, and responsive criminal law policy that matches the developments in Indonesia's criminal justice system.

References

1. M. A. Zaidan, Menuju pembaruan hukum pidana. Sinar Grafika, 2022. doi: 10.56393/nomos.v5i2.3290.
2. A. B. Yudistira, H. A. Siagian, and K. T. Arifin, "Membedah Perubahan Model Pemidanaan Pidana Mati Dalam KUHP 2023," *Padjadjaran Law Rev.*, vol. 13, no. 2, pp. 114–128, 2025. doi: 10.1016/pls.2023.09.003.
3. J. A. Hutasoit, "Ketiadaan Parameter Teknis Penilaian Pidana Mati Bersyarat dalam Pasal 100 Undang-Undang Nomor 1 Tahun 2023 dan Implikasinya terhadap Kepastian Hukum," *ZALDINRA J. Gen. Educ. Leg. Adv.*, vol. 1, no. 1, pp. 1–9, 2026. doi: 10.56393/nomos.v5i2.3240.
4. A. W. Putra and R. D. Sutanti, "Kebijakan formulasi pidana mati bersyarat dalam perspektif pembaharuan hukum pidana Indonesia," *J. Pembang. Huk. Indones.*, vol. 2, no. 3, pp. 319–330, 2020. doi: 10.56393/nomos.v5i2.3240.
5. A. K. Baiti, "Pidana Mati dalam Perspektif Undang-Undang Nomor 1 Tahun 2023: Tinjauan Yuridis terhadap Model Pemidanaan Alternatif," *J. Huk. Concreto*, vol. 3, no. 1, pp. 114–129, 2024. doi: 10.33756/eslaj.v2i2.15720.
6. M. F. Abyan, "Pidana Mati Bersyarat dalam KUHP Baru: Analisis Pengaturan Masa Percobaan dan Konversi Pidana Mati dalam Perspektif HAM dan Asas," *J. Kaji. Huk. Dan Kebijak. Publik* | E-ISSN 3031-8882, vol. 3, no. 2, pp. 1–10, 2025. doi: 10.33756/eslaj.v2i2.15720. [ISSN 2714-7444 \(online\), https://acopen.umsida.ac.id](https://acopen.umsida.ac.id), published by [Universitas Muhammadiyah Sidoarjo](https://umsida.ac.id)

560–572, 2026. doi: 10.1016/pls.2023.09.003.

7. J. Jamilah, M. Listiani, D. Adhaini, and S. Syamsiah, “Negara Hukum dan Hak Asasi Manusia di Indonesia,” *AKSIOMA J. Sains Ekon. Dan Edukasi*, vol. 2, no. 5, pp. 898–912, 2025. doi: 10.56393/nomos.v5i2.3240.
8. D. Tiffany, N. E. Tingginehe, E. H. W. Putrayasa, G. C. Stefani, and C. Debora, “Makna Kepastian Hukum dalam Perspektif Filsafat Hukum dan Implementasinya di Indonesia,” *J. Ragam Pengabd.*, vol. 3, no. 1 (Spesial Issue), pp. 5228–5237, 2026. doi: 10.52249/ilr.v5i1.557.
9. E. Huroiroh and V. R. Sushanty, “Telaah perspektif filsafat hukum dalam mewujudkan kepastian, keadilan, dan kemanfaatan hukum di Indonesia,” *J. Legis*, vol. 14, no. 2, pp. 191–203, 2022. doi: 10.33756/eslaj.v2i2.15720.
10. F. Aditia, B. Setiawan, A. KusumanSumantri, and W. A. Ritonga, “Pidana Mati Bersyarat: Pergeseran Filosofi Pemidanaan Dari Retributif Ke Rehabilitatif Dalam KUHP Nasional,” *PAMPAS J. Crim. Law*, vol. 7, no. 1, pp. 45–62, 2026. doi: 10.1016/pls.2023.09.003.
11. F. Reumi et al., *Hukum Pidana Indonesia*. PT. Sonpedia Publishing Indonesia, 2026. doi: 10.52249/ilr.v5i1.557.
12. Y. B. Irpan, “Eksistensi Pidana Mati dalam Perspektif Hak Asasi Manusia dan Penegakan Hukum di Indonesia,” *Wacana Huk.*, vol. 23, no. 1, 2017. doi: 10.56393/nomos.v5i2.3240.
13. Y. Cipta Ismara and L. P. Margaretha, “Konstitusionalitas Pidana Mati Bersyarat Dari Perspektif Tujuan Pemidanaan,” *J. Ilmu Huk. Aleth.*, vol. 7, no. 2, pp. 133–148, 2024. doi: 10.33756/eslaj.v2i2.15720.
14. A. R. P. Barasa and W. Saputra, “Pembaharuan Sistem Hukum Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana,” *Indones. J. Crim. Law Criminol.*, vol. 6, no. 3, pp. 156–164, 2025. doi: 10.1016/pls.2023.09.003.
15. D. A. Wicaksono and A. Omara, “Ratio Legis Kedudukan Hukum Pemohon dalam Pengujian Undang-Undang oleh Mahkamah Konstitusi,” *J. Penelit. Huk. Jure*, vol. 20, no. 4, p. 487, 2020. doi: 10.56393/nomos.v5i2.3240.
16. E. D. Dayati and R. Hendriana, “The Humanization of Punishment Through Conditional Death Penalty: Reconstruction of Court Decisions Within the Framework of the National Criminal Code,” *J. Huk. Samudra Keadilan*, vol. 21, no. 1, pp. 35–53, 2026. doi: 10.33756/eslaj.v2i2.15720.
17. R. S. Tarigan, *Menuju negara hukum yang berkeadilan*. Ruang Karya Bersama, 2024. doi: 10.52249/ilr.v5i1.557.
18. T. Asmarawati, *Pidana dan pemidanaan dalam sistem hukum di Indonesia: hukum penitensier*. Deepublish, 2015. doi: 10.1016/pls.2023.09.003.
19. M. Herlina, “Analisis dampak implementasi norma penjelasan dalam peraturan perundang-undangan terhadap kepastian dan efektivitas penegakan hukum di Indonesia,” *J. Interdiscip. Leg. Perspect.*, vol. 1, no. 1, pp. 46–58, 2024. doi: 10.33756/eslaj.v2i2.15720.
20. D. R. Dewanto and R. Susanti, “Hukuman Mati Menurut Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana Dalam Perspektif Hak Asasi Manusia,” *Wijayakusuma Law Rev.*, vol. 5, no. 1, pp. 64–70, 2023. doi: 10.1016/pls.2023.09.003.
21. Z. Abdussamad, M. H. Muhtar, and S. Piyo, *Teori dan Praktik Diskresi dalam Hukum Administrasi Negara*. CV Eureka Media Aksara, 2026. doi: 10.56393/nomos.v5i2.3240.
22. M. B. Firdaus, “Dialektika Keadilan, Kepastian, Kemanfaatan Hukum dalam Perspektif Gustav Radbruch pada Hukum Indonesia,” *J. Kaji. Huk. Dan Kebijak. Publik* | E-ISSN 3031-8882, vol. 3, no. 1, pp. 357–367, 2025. doi: 10.33756/eslaj.v2i2.15720.
23. A. Adbaida and E. Fauzi, “Penerapan Pidana Mati dalam Perspektif Undang-Undang No. 1 Tahun 2023 Tentang KUHP Nasional,” *J. Kaji. Huk. Dan Kebijak. Publik* | E-ISSN 3031-8882, vol. 4, no. 1, pp. 8–21, 2026. doi: 10.1016/pls.2023.09.003.
24. J. M. Otto, A. W. Bedner, S. Irianto, and T. D. Wirastri, *Kepastian hukum yang nyata di negara berkembang (Real Legal Certainty in Developing Countries)*. Pustaka Larasa, 2012. doi: 10.52249/ilr.v5i1.557.
25. M. Amalia, L. Judijanto, S. Sepriano, and I. M. Kastama, *Hukum Pidana: Dalam Dinamika Asas, Teori, dan Pendapat Ahli Pidana*. PT. Sonpedia Publishing Indonesia, 2025. doi: 10.1016/pls.2023.09.003.
26. M. Maisa, S. Haling, M. Nafri, and I. W. A. Yoga, *Problematisasi Tanah Masyarakat Adat dalam Politik Hukum Agraria Nasional Pascaputusan Mahkamah Konstitusi*. CV Eureka Media Aksara, 2026. doi: 10.56393/nomos.v5i2.3240.
27. N. Fadillah, “Analisis Metode Penafsiran Mahkamah Konstitusi dalam Perumusan Putusan Nomor 91/PUU-XVIII/2020 terkait Pengujian Formil Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja,” *Lex Renaiss.*, vol. 7, no. 4, pp. 726–744, 2022. doi: 10.1016/pls.2023.09.003.
28. N. D. Rizkia and H. Fardiansyah, *Metode penelitian hukum (normatif dan empiris)*. Penerbit Widina, 2023. doi: 10.52249/ilr.v5i1.557.
29. M. Bogdan, D. S. Widowatie, and N. Mangunsong, *Evaluasi Komparatif Terhadap Solusi-Solusi yang Diperbandingkan dan Tentang Kesamaan Inti pada Sistem-Sistem Hukum: Seri Pengantar Perbandingan Sistem Hukum*. Nusamedia, 2021. doi: 10.33756/eslaj.v2i2.15720.
30. M. I. Nasution, M. Ali, and F. Lubis, “Pembaruan Sistem Pemidanaan di Indonesia: Kajian Literatur atas KUHP Baru,” *Judge J. Huk.*, vol. 5, no. 01, pp. 16–23, 2024. doi: 10.56393/nomos.v5i2.3240.
31. P. Muntafa and A. Mahmud, “Penerapan Hukum Pidana Mati Bersyarat Dalam KUHP Baru Di Hubungkan Dengan Asas Kepastian Hukum,” *J. Prefer. Huk.*, vol. 4, no. 2, pp. 130–136, 2023. doi: 10.52249/ilr.v5i1.557.
32. H. Herwansyah, *Politik Hukum Pertanahan: Paradigma, Kebijakan, dan Dinamika Kontemporer*. CV Eureka Media Aksara, 2026. doi: 10.1016/pls.2023.09.003.
33. A. A. F. G. Putra, A. N. Setyawan, Y. A. T. Ohoiwutun, and I. G. W. Suarda, “Perbandingan Hukum Legalitas Aborsi Menurut KUHP Indonesia dan Japan Penal Code 2023,” *Al-Zayn J. Ilmu Sos. Huk.*, vol. 3, no. 5, pp. 7493–7507, 2025.
34. A. Triwahyuni and B. Prasetyo, “Analisis Yuridis Perbandingan Pidana Mati di Indonesia dan Singapura Terhadap Pelaku Tindak Pidana Narkotika,” *Law Rev. Panji Selatan*, vol. 1, no. 2, pp. 75–91, 2025. doi: 10.56393/nomos.v5i2.3240.
35. V. L. Putra and S. Amin, “Tinjauan Maqashid Syariah tentang Masa Percobaan Pidana Mati dalam Pasal 100 KUHP Nasional,” in *Maqasid Forum: Journal of Islamic Law, Jurisprudence, and Public Policy*, vol. 1, no. 1, pp. 130–140, 2026. doi: 10.1016/pls.2023.09.003.
36. S. N. Azzahra, Y. M. Saragih, M. Yusuf, and U. R. Pasaribu, “Analisis yuridis tindak pidana korupsi suap berdasarkan teori kepastian hukum,” *J. Multidisiplin Dehasen*, vol. 4, no. 3, pp. 593–598, 2025. doi: 10.52249/ilr.v5i1.557.

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