

Implementation of the Death Penalty in Efforts to Eradicate Criminal acts of Corruption

Boy Nurdin¹, Heriyah²

Drboynurdin_ppslaw@yahoo.com¹, heriyahunbor@gmail.com²

Universitas Borobudur^{1,2}

Abstract. Corruption is a criminal act that is considered to be very detrimental to the state. The impact of these criminal acts is not only felt by the state as the administrator of government, but also has an impact on the wider community. According to Article 1 of Law no. 20 of 2002, death row inmates can apply for clemency to the President to have their sentences reduced, which usually takes the form of life imprisonment or have their sentences abolished. The death penalty in the implementation process invites debate, many opinions agree that the death penalty should be maintained, and there are also those who reject the existence of the death penalty. This type of research is Normative research. The approach used is a statutory approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively qualitatively. Conclusions are carried out using a deductive method, namely concluding from general to specific matters, especially those related to the topic of the Application of the Death Penalty in Efforts to Eradicate Corruption Crimes. This research produces findings from various aspects that should build community welfare in the form of infrastructure development and installation design to support the lives of many people. The death penalty in Indonesia is applied based on Article 10 of the Criminal Code.

Keywords: Death Penalty; Eradication; Corruption Crimes

1 Background

The multiplication of debasement wrongdoings in our nation has absolutely led to different adverse consequences, on the country as well as on society at large. Aside from harming the presentation of government administration, the wrongdoing of defilement has made phenomenal harm the endurance of the country, particularly the person and profound quality of the up and coming age of this country. This implies that criminal demonstrations of debasement that have happened up to this point have not exclusively been inconvenient to state funds however have likewise comprised an infringement of the social and monetary freedoms of society on the loose so criminal demonstrations of defilement are named violations whose destruction should be done remarkably. This implies that legitimately talking, these demonstrations of debasement, as per this regulation, should likewise be killed exceptionally. The battle against debasement is presently as of now not practical utilizing customary (ordinary) lawful instruments, but instead remarkable strategies, by sorting defilement as an unspeakable atrocity, where it is taken care of likewise utilizing administrative instruments and specialized

and procedural common liberties infringement. Along these lines, defilement is presently not simply a country's homegrown issue yet is everybody's business without being restricted by state or public limits. Subsequently, the countries of the world reserve the privilege to take part in battling and know about it as a malicious that should be battled together [1].

Corruption is a criminal act that is considered very detrimental to the State. The impact of these criminal acts is not only felt by the state as the administrator of government but also has an impact on the wider community. Various aspects that should build community welfare in the form of infrastructure development, the creation of installations to support the livelihoods of many people or social assistance for underprivileged communities can be disrupted and even stopped due to criminal acts of corruption so that this can hamper the continuation of the state's ideals of providing welfare to its people. Corruption is also often associated with politics [2]. Even though it has been categorized as an act that violates the law, the definition of corruption is separated from other forms of legal violations. Apart from linking corruption with politics, corruption is also linked to social economics, public policy, international policy, social welfare, and national development. The aspects related to corruption are so broad that international organizations, such as the UN, have special bodies that monitor world corruption [3].

The death penalty is the highest penalty that can be imposed for certain crimes that are considered serious. The death penalty is imposed by taking the life of a convict who has received a permanent court decision and all legal remedies have been exhausted. The death penalty in Indonesia applies a firing squad system, although Article 11 of the Criminal Code regulates the death penalty by hanging, this is no longer valid. According to Article 1 of Law no. 20 of 2002, death row convicts can apply for clemency to the President to have their sentence reduced, which is usually life imprisonment or to have their sentence abolished. The death penalty in the implementation process invites debate, many opinions agree that the death penalty should be maintained and some also reject the existence of the death penalty. There are two views on the implementation of the death penalty, which are con and pro. On the pro side, they agree with the existence of the death penalty because they consider that criminal sanctions are commensurate with the crime committed by the perpetrator and can have a deterrent effect on society so the death penalty is still relevant to be implemented [4].

In view of Regulation Number 31 of 1999 related to Regulation Number 20 of 2001, there are 30 crook demonstrations of debasement which can be ordered into 7 kinds, including; State monetary misfortunes, pay off, blackmail, misappropriation in office, extortion, irreconcilable situations in the acquirement of labor and products, and delight. According to Juniadi Suwantojo (1997), the definition of corruption is the behavior or actions of one or more people who violate applicable norms by using and/or abusing power or opportunities through the procurement process, determining revenue levies or providing facilities or other services carried out in activities. receipt and/or expenditure of money or assets, storage of money or assets as well as licensing and/or other services with the aim of personal or group gain that directly or indirectly harms the interests and/or finances of the state/community. Jeremy Pope in his book entitled Strategy to Eradicate Corruption in the National Integrity System quotes the opinion of Gerald E. Calden, that corruption has the following forms; 1. Treason, subversion, illegal foreign transactions, smuggling. 2. Goods embezzlement owned by institutions, privatization of government budgets, cheating, and stealing. 3. Using inappropriate money, falsifying documents and embezzling money, channeling institutional money into personal accounts, evading taxes, and misusing funds. 4. Using authority and intimidation, torturing, ill-treatment, giving forgiveness and clemency is not appropriate[5].

You can imagine if a program budgeted and planned by the government for development efforts in a country can run well so that the country's economy can turn around well which

automatically makes people's lives better in terms of education, health, life-supporting infrastructure, transportation, and others. This certainly has a very positive impact on a country and is an indicator of the government's success in improving the welfare of its people. However, as a result of the impact of corruption, the ideal situation above cannot run as it should, especially as this is done massively and on a large scale, causing obstruction and stopping of welfare programs that have been planned by the government, thus causing the community to become miserable and unable to enjoy the programs that have been planned by the government, which has a huge impact on the country. Those most affected by corrupt behavior are not state officials regional heads or the rulers of the country itself, but the public who are most affected by this corrupt behavior. Development should be aimed at community welfare [3].

With regards to a vote based system, the assurance of capital punishment in a few regulations in Indonesia has been examined in the administrative body, which is individuals' delegates, as agents of the relative multitude of Indonesian individuals. As indicated by van Bemmelen, referring to the assessment of J.J. Rousseau the law overall depends on a local area understanding in which the aggregate will is communicated. Assuming there is conduct that as per the aggregate will should be rebuffed, then, at that point, this should be depicted or recorded in the law all along. The nitty gritty portrayal is expected to try not to disregard individual autonomy on the grounds that, locally understanding, every individual is simply ready to surrender a little piece of their opportunity to the normal discussion. Similarly with capital punishment. On the off chance that capital punishment is as yet suitable to be carried out and acknowledged by the normal will, then the sentence should be expressed as composed regulation (regulation) [1].

From a human rights perspective, the emergence of lawsuits against the application of the death penalty in Indonesia in more detail is based on the following thoughts: First, the current death penalty is unable to meet the demands of modern society's sense of justice because it places the decision of a person's life or death in the hands of a judge who is not free from mistakes. Second, the death penalty is not always effective as an effort to prevent or deter people from committing crimes. Third, based on humanitarian considerations, the death penalty violates human rights values which deny a convict the opportunity to improve himself [6]. From here, activists and human rights defenders consider the death penalty to be a form of relic of the past that must be abandoned. Even though it is not an act that directly opposes the right to life, the application of the death penalty is a form of murder that has been planned in the name of law (state). According to this point of view, the use of capital punishment can be delegated a savage and barbaric type of discipline, as expressed in Article 3 of the Widespread Statement of Basic freedoms which peruses, "Everybody has the option to life, freedom and wellbeing as a person"[6].

Taking into account the undeniably uncontrolled crook demonstrations of debasement in Indonesia, it is on the right track assuming that capital punishment is applied to culprits of defilement who hurt the nation's funds and economy. Nonetheless, the use of capital punishment is as yet an intriguing discussion among specialists, a significant number of whom reject the use of capital punishment to culprits of debasement. The explanation utilized by the people who deny is that the use of capital punishment is in opposition to common liberties as controlled in Articles 28A, 28I of the 1945 Constitution of the Republic of Indonesia, Articles 4 and 9 of Regulation Number 39 of 1999 concerning Basic freedoms, and Article 3 of the Widespread Announcement of Common liberties. Man. One of the elements that impacts defilement not being destroyed is the part of approvals which don't deterrently affect culprits of debasement. The assents forced on culprits of criminal demonstrations of defilement have not yet deterrently affected culprits of criminal demonstrations of debasement. Judges frequently conclude

debasement cases with least punishments, however seldom do judges apply most extreme sentences to culprits of defilement, for instance, life detainment or capital punishment [6].

2 Methodology

This kind of exploration is Regulating research. The methodologies utilized are a legal methodology and a calculated methodology. The data source used is secondary data. Data analysis was carried out descriptively-qualitatively[7]. Concluding is carried out using a deductive method, namely concluding from general to specific, particularly those connected with the examination subject of the Utilization of Capital punishment in Endeavors to Annihilate Debasement Wrongdoings. Subjective information examination is done in the event that the experimental information got is in an assortment of words and not a progression of numbers and can't be set up into classes. Information can be gathered in different ways (interview perceptions, archive occasions, and recording tapes). It is generally handled first prior to being utilized in subjective exploration, including the aftereffects of interview records, information decrease, examination, information translation, and triangulation.[8].

3 Results and Discussion

3.1 Implications of the Application of the Death Penalty for Efforts to Eradicate Corruption Crimes

Taking into account the undeniably wild lawbreaker demonstrations of defilement in Indonesia, it is basically dead on the off chance that capital punishment is applied to culprits of debasement who hurt the nation's funds and economy. Nonetheless, the use of capital punishment is as yet an intriguing discussion among specialists, a significant number of whom reject the use of capital punishment to culprits of debasement. The explanation utilized by the people who decline is that the utilization of capital punishment is in opposition to basic liberties as directed in Articles 28A, 28I of the 1945 Constitution of the Republic of Indonesia, Articles 4 and 9 of Regulation Number 39 of 1999 concerning Common freedoms, what's more, Article 3 of the General Statement of Basic liberties. Man. One of the elements that impacts defilement not being destroyed is the part of approvals which don't deterrently affect culprits of debasement. The approvals forced on culprits of criminal demonstrations of debasement have not yet deterrently affected culprits of criminal demonstrations of defilement. Judges often decide corruption cases with minimum penalties, but rarely do judges apply maximum sentences to perpetrators of corruption, for example, life imprisonment or the death penalty [1].

Prior to making sense of the guideline of capital punishment/punishment in the defilement regulation, the guideline of capital punishment in the Crook Code as *lex generalis* is first portrayed. Capital punishment in Indonesia has been presented in the Lawbreaker Code, contained in the first book of General Rules Chapter II Article 10 concerning crimes. The death penalty is a classic form of punishment, which is assumed to be a form of punishment that is capable of deterring those who have not committed a crime [9]. The form of death penalty is still a punishment that has the power and power to deter other people. The ideal substance of punishment when applied is the extent to

which the punishment is capable of psychologically terrorizing other people, not to commit similar acts. In various cases, it is not uncommon for criminals to be recidivists who continue to commit crimes repeatedly because the punishment is light. Often the rejection of the death penalty is only based on the humanity of the perpetrator without considering the humanity of the victim himself, his family, relatives, or the community that depends on the victim. Another thing is that if the victim's family has forgiven the perpetrator, of course, the verdict can be changed with clear prerequisites [10].

Capital punishment is one of the most serious kinds of discipline for hoodlums. This sort of wrongdoing comprises of ending the existence of the culprit of a lawbreaker go about because of the crook act he carried out. In its turn of events, capital punishment has become dubious alongside an upgraded comprehension of Basic liberties (HAM). Capital punishment in Indonesia is as yet legitimate. Capital punishment is managed in Book 1 Article 10 of the Lawbreaker Code as one of the principal kinds of discipline. This capital punishment arrangement is general, meaning it very well may be applied to both crook acts controlled in the Lawbreaker Code and criminal demonstrations directed external the Lawbreaker Code except if the guidelines are given in an unexpected way. One of the violations deserving of death in the Crook Code is planned homicide which is directed in Article 340 of the Lawbreaker Code. Specific criminal acts that regulate the threat of the death penalty include UUPK.

Some approve of the death penalty for convicts and those who don't. For those who agree, there are various reasons, namely: (a) capital punishment is viewed as more powerful than different kinds of discipline since it makes a hindrance difference, particularly in the wrongdoing of homicide; (b) The death penalty is more economical than other punishments; (c) Death penalty to prevent acts of revenge from the public against the convict; (d) Punishment whose certainty can be determined. By imposing the death penalty, it is intended to provide a deterrent effect to the perpetrators and to people who will commit criminal acts [3]. The reason for discipline as prevention is reflected in the Clarification of the UUTPK, specifically: to accomplish a more powerful objective of forestalling and killing crook demonstrations of debasement, this regulation makes criminal arrangements that are not quite the same as past regulations, in particular deciding explicit least criminal dangers and higher fine, and the danger of capital punishment which is a criminal aggravator.

3.2 The Urgency of Implementing the Death Penalty for Efforts to Eradicate Corruption Crimes

Capital punishment in Indonesia is applied in view of Article 10 of the Crook Code. In this article, capital punishment is the heaviest kind of head discipline. Capital punishment in Indonesia is completed by being shot dead. The execution of capital punishment depends on Regulation Number 2 PNPS of 1964 concerning Systems for Carrying out Death penalties Forced by Courts in the General and Military Equity Climate. The presence of these guidelines demonstrates that capital punishment is as yet applied in Indonesia. Practically speaking, judges apply capital punishment in instances of general violations and unique wrongdoings. Overall violations, capital punishment is forced in instances of savage homicide, for instance in planned murder, where there isn't just a single homicide casualty, etc. For extraordinary violations, capital punishment can be forced on culprits of criminal demonstrations of debasement. Capital punishment for culprits of defilement is managed in Article 2 passage (2) UUPK, which states: " In the

event that a crook demonstration of defilement as alluded to in section (1) is committed, in specific conditions capital punishment can be forced." Besides, what is implied by "certain conditions" is cleared up in the Clarification for Article 2 passage (2) of the UUTPK, specifically assuming debasement is committed: at the point when the nation is in a condition of peril as per the arrangements of the material regulation; at the point when a public catastrophe happens; as a reiteration of criminal demonstrations of defilement; or on the other hand when the nation is in a condition of financial and money related emergency [1].

Activities that can be rebuffed are managed in regulation. Activities that are not recorded in the criminal regulation can't be rebuffed. This is an outcome of utilizing the standard of legitimacy in light of Article 1 passage (1) of the Lawbreaker Code. The guideline of acts that can be rebuffed in criminal regulation is the reason for discipline. In this way, the detailing of activities should be unbending and certain. Vulnerability in the plan of criminal demonstrations in regulation will bring about troubles in figuring out which act is implied, bringing about different translations. Aside from that, it will cause agitation in the public arena (Sudarto, 2009). The definition of criminal demonstrations of defilement that can be condemned to death is expressed in Article 2 section (2) of the UUTPK. Defilement acts completed by culprits should satisfy the components expressed in Article 2 section (2) UUPK. This implies that the culprit's substantial activities should have the attributes or qualities of the crook acts recorded uniquely in Article 2 section (2) of Regulation Number 31 of 1999 concerning the Destruction of Debasement Wrongdoings.

In a report published by the Corruption Eradication Commission (KPK), throughout 2022 the number of suspects in corruption cases who were arrested by the KPK amounted to 149 people, which is an increase of 34.23% from last year. This shows that corruption cases in Indonesia are increasing every year, as indicated by the increasing number of people being arrested as a result of acts of corruption that occur. For this reason, there is a need for preventive measures that must be taken immediately to deal with this. Of the several examples of major corruption cases that were successfully uncovered by the KPK above, there were no corruption cases that were committed under certain circumstances and qualified for the death penalty [11]. If we look further, the impact of state losses in the corruption cases above is very large and is felt to be as serious as corruption committed when a national natural disaster occurs. In the prosecution and enforcement of criminal law, one principle is known as the principle of legality. The principle of legality has the principle that every law enforcement must abide by applicable laws and regulations so that the supremacy of law and a sense of justice can be realized in society and not through coercion.

Constitutionally, Law No.31/1999 which was updated with Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (Tipikor), has indeed included the death penalty as one of the options for punishment for corruptors. However, practically speaking, to this day, not a single corruptor has been sentenced to death in this country. The decisions often handed down by judges are prison sentences and compensation/fines. In this context, when compared with other countries, such as China, for example, Indonesia is lagging. This is because China has dared to impose the death penalty on officials who have been legally and convincingly proven to have committed corruption crimes[4]. The Chinese government implemented whitewashing of corruptors who committed corruption before 1998. All corrupt officials were considered clean, but if the day after the whitening, there were officials who committed corruption, they were

immediately sentenced to death. As of October 2007, around 4,800 Chinese officials had been sentenced to death. In addition, Indonesia's Corruption Perception Index (IPK) in 2011 only rose to 3.0. However, when compared with neighboring countries, Indonesia is still far behind. In 2010 alone, based on the Transparency International report, Indonesia's CPI lagged behind several ASEAN countries such as Singapore (9.3), Brunei (5.5), Malaysia (4.4) and Thailand (3.5). This means that the rate of eradicating corruption in this country is still not running optimally. Therefore, the discourse to implement the death penalty is very reasonable. Students and anti-corruption activist networks, such as ICW, GeRAK, and GeMPAR who are members of the Anti-Corruption Community Network, are demanding that the death penalty be implemented seriously for corruptors.[12].

4 Conclusion

1. Corruption is a criminal act that is considered very detrimental to the State. The impact of these criminal acts is not only felt by the state as the administrator of government but also has an impact on the wider community. Various aspects that should build community welfare include infrastructure development and, the creation of installations to support the lives of many people.
2. Capital punishment in Indonesia is applied in light of Article 10 of the Crook Code. In this article, capital punishment is the heaviest kind of head discipline. Capital punishment in Indonesia is completed by being shot dead. The execution of capital punishment depends on Regulation Number 2 PNPS of 1964 concerning Systems for Carrying out Death penalties Forced by Courts in the General and Military Equity Climate. The presence of these guidelines demonstrates that capital punishment is as yet applied in Indonesia.
3. Capital punishment is the most noteworthy punishment that can be forced for specific lawbreaker acts that are viewed as significant. Capital punishment is forced by ending the existence of a got an extremely durable convict court choice and all legitimate cures have been depleted. Capital punishment in Indonesia applies a terminating crew framework, in spite of the fact that Article 11 of the Crook Code manages capital punishment by hanging, this is presently not substantial.

5 Suggestion

1. It is hoped that in the prosecution and enforcement of criminal law, one of the principles known as the principle of legality is known. The principle of legality has the principle that every law enforcement must abide by applicable laws and regulations so that the supremacy of law and a sense of justice can be realized in society and not through coercion.
2. It is trusted that considering the undeniably widespread crook demonstrations of debasement in Indonesia, it is dead on assuming capital punishment is applied to culprits of defilement who hurt the nation's funds and economy. In any case, the use of capital punishment is as yet a fascinating discussion among specialists, large numbers of whom reject the use of capital punishment to culprits of debasement.

3. It is trusted that the law overall depends on a local area understanding in which the aggregate will is communicated. On the off chance that there is conduct that the aggregate will should be rebuffed, this should be portrayed or recorded in the law all along.

References

- [1] Yanto, "Penjatuhan Pidana Mati Pelaku Tindak Pidana Korupsi Dalam Keadaan Tertentu (Death Penalty to Corruptors in A Certain Condition)," *Indones. J. Legis.*, vol. 14, pp. 119–127, 2014.
- [2] Setyaningrum, *Memetakan Lokasi Bagi Politik Identitas Dalam Wacana Politik Poskolonial" Dalam Politik Perlawanan*, 2nd ed. Yogyakarta, 2005.
- [3] Purwanto, "Analisis Terhadap Hukum Islam dan Hukum Positif dalam Pemberantasan Korupsi di Indonesia," *Tak. J. Pendidik. Agama Islam*, vol. 03, pp. 89–115, 2015.
- [4] Melani, "Disparitas Putusan Terkait Penafsiran Pasal 2 Dan 3 UU Pemberantasan Tindak Pidana Korupsi," *J. Yusdisia*, vol. 03, pp. 55–65, 2014.
- [5] Yasmirah, "Problematika Gratifikasi Dalam Sistem Pembuktian Tindak Pidana Korupsi (Analisis Undang-Undang Nomor 31 Tahun 1999 Jo. Undang-Uundang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi)," *J. Huk. Responsif*, vol. 05, pp. 17–33, 2017.
- [6] M. Rukmini, , *Perlindungan HAM Melalui Asas Praduga Tak Bersalah dan Asas Persamaan kedudukan Dalam Hukum Pada Sistem Peradilan Pidana Indonesia*, 3rd ed. Jakarta: PT Genta Publishing, 2012.
- [7] L. J. Moleong, *Metodologi Penelitian Kualitatif*, 7th ed. Bandung: PT. Remaja Rosdakarya, 2004.
- [8] Amirudin, *Pengantar Metode Penelitian Hukum*, 1st ed. Jakarta: PT Rajawali Press, 2010.
- [9] Ramdan, "Pengaruh Putusan Mahkamah Konstitusi No. 77/PUU-XII/2014 Terhadap Pemberantasan Money Laundering Perbandingan Indonesia dengan Tiga Negara Lain," *J. Penelit. Hukum. Bandung Dep. Huk. Pidana Fak. Huk. Univ. Padjadjaran*, vol. 01, pp. 32–49, 2020.
- [10] Diokomulya, *Catatan Harian Soerang Jaksa Mengungkap KasusKasus Subversi, Korupsi dan Manipulasi*, 1st ed. Semarang: Dahara Prises, 2012.
- [11] Suharianto, "Restorative Justice dalam Pidanaan Korporasi Pelaku Korupsi demi Optimalisasi Pengembalian Kerugian Keuangan Negara," *J. Kemenkumham*, vol. 05, pp. 22–43, 2016.
- [12] Budi Saiful, "Penguatan Alat Bukti Tindak Pidana Pencucian Uang dalam Perkara Tindak Pidana Korupsi di Indonesia," *J. Integritas*, vol. 02, pp. 55–75, 2016.