
URGENCY OF LEGAL TRANSFORMATION FOR CORRECTIONAL INSTITUTIONS IN HANDLING DEATH ROW INMATES

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ABSTRACT

KEYWORDS

Legal Transformation,
Correctional
Institutions,
Death Row
inmates

This research discusses the urgency of legal transformation for correctional institutions in managing death row inmates, particularly concerning the regulatory gap regarding the protection of their rights prior to execution. Although correctional law in Indonesia has stipulated the basic rights of inmates, no specific provisions regulate the treatment and services for death row inmates, resulting in legal uncertainty and potential violations of human rights. Through a normative juridical analysis with a legislative and conceptual approach, this study explores the weaknesses of current legal policies and proposes a more effective legal protection model, including mental and physical rehabilitation. This transformation is necessary to ensure that the human rights of death row inmates are protected and to create a more just and humane correctional system.

INTRODUCTION

The correctional system in Indonesia is an integral part of the criminal justice system aimed at handling lawbreakers in a more humane and rehabilitative manner (Astarawinata, 1994). The correctional institution (LP) is a government agency that serves to accommodate inmates and detainees who are undergoing legal processes. In this context, the correctional institution is not merely a place for executing sentences, but also a facility for rehabilitation and social reintegration for the convicted individuals (Prakoso, 2019). According to Law Number 12 of 1995 on Corrections, correctional institutions are expected to carry out a mentoring role for inmates so they can reintegrate into society with positive changes (Arifai & Zainuddin, 2021). The main function of correctional institutions within the legal system is to enforce sentences and ensure public safety. On one hand, these institutions are responsible for maintaining order and security for both inmates and staff within their facilities. On the other hand, correctional institutions also have a rehabilitative goal, which is to assist inmates in self-improvement through various mentoring programs that include education, skills training, and counselling (Mustofa, 2017). Through this process, it is hoped that offenders can better prepare themselves to reintegrate into society, reduce the risk of recidivism, and create a safer social environment. Additionally, correctional institutions also have a role in protecting the human rights of inmates. In carrying out this function, it is expected that correctional institutions not only enforce the sentences given but also pay attention to the physical and mental well-being of the inmates (Putri, 2024). This includes providing access to health care, education, and rehabilitation programs aimed at reducing the negative stigma often associated with former inmates.

According to Law Number 12 of 1995 on Corrections, correctional institutions, hereinafter abbreviated as LAPAS, are defined as institutions that function to carry out rehabilitation for inmates and correctional students (Sitepu & Hasibuan, 2024). In this context, inmates refer to individuals who are serving prison sentences as a result of court decisions that have permanent legal force (DP, 2018). In this regard, LAPAS plays a primary

role in providing guidance for convicts serving prison sentences, whether life sentences or temporary imprisonment. However, in reality, LAPAS is also inhabited by convicts who receive the death penalty and those under house arrest, which indicates that the functions of LAPAS have extended beyond its primary duties (Anggun, 2024).

The presence of death row inmates in correctional institutions raises various issues, especially related to the regulatory aspects governing their treatment. While provisions regarding services for death row inmates lack specific regulations, there are rules that govern the treatment of detainees, such as Regulation of the Minister of Justice of the Republic of Indonesia Number M. 04. UM.01.06 of 1983. This regulation outlines the procedures for placement, care, and discipline for state detainees but does not provide clear guidance for handling death row inmates. This creates challenges in the execution of LAPAS's duties, particularly in providing proper services for inmates awaiting execution (Novianti et al., 2020).

More broadly, the function of LAPAS as a correctional institution is to conduct rehabilitation that supports the reintegration of inmates. Rehabilitation in this context is a process involving the use of various resources, including human resources, equipment, money, and time, to effectively achieve predetermined goals. This process includes the planning and development of programs aimed at facilitating behavioral change in inmates so they can reintegrate into society after serving their sentences. Thus, LAPAS is expected not only to function as a detention center but also as an institution capable of making a positive contribution to the lives of its inmates, including those awaiting the death penalty (Sutton, 2024).

The handling of death row inmates in correctional institutions in Indonesia faces a range of complex issues and challenges, particularly concerning their physical and mental conditions. Death row inmates often experience significant psychological stress due to uncertainty about their future, including the possibility of execution at any time (Ali et al., 2023). This condition can be exacerbated by a detention environment that is often unfavorable, where access to physical and mental health care is limited (Von Werthern et al., 2018). In many cases, death row inmates may experience mental health issues such as depression and anxiety, which negatively impact their quality of life inside LAPAS. The uncertainty and fear of death can create situations where they feel alienated and disconnected from normal life, further exacerbating their psychological conditions.

Human rights aspects are also a crucial issue in the treatment of death row inmates. According to human rights principles, every individual, without exception, has the right to humane treatment and respect for their dignity, even if they have been convicted. However, in practice, the treatment of death row inmates often does not reflect these principles. Ambiguity in the regulations governing the treatment of death row inmates can lead to human rights violations, such as a lack of access to education, training, and rehabilitation, which should be part of the rehabilitation process. Additionally, conditions within LAPAS, which are often overcrowded and unsanitary, add burdens on death row inmates, potentially resulting in unjust and inhumane treatment.

The social and psychological impacts on death row inmates also have broader implications, not only for the individuals themselves but also for their families. The families of death row inmates often face social stigma and marginalization from society (George, 2016). Their lives are significantly disrupted, both emotionally and economically, as they

must deal with the consequences of their family member's actions. Feelings of loss, shame, and isolation can create additional pressures that disturb the mental and social well-being of the family. On the other hand, the conditions faced by death row inmates in LAPAS, which do not meet rehabilitation standards, may reinforce the cycle of violence and legal violations, potentially leading to greater social problems in the community.

In the legal vacuum, these challenges become increasingly difficult to address. The lack of clear regulations concerning the treatment of death row inmates and the minimal psychological support and adequate rehabilitation available indicate an urgent need for reform within the correctional system. Without a strong and clear legal framework, the human rights of death row inmates will continue to be neglected, and they will continue to experience prolonged negative impacts, both individually and collectively. Therefore, it is essential for stakeholders, including policymakers and correctional institutions, to identify and address these issues to create a more humane and just correctional system.

METHOD RESEARCH

The normative legal research method is an approach that focuses on the analysis of legal norms applicable within the legal system. In this context, researchers will examine various regulations, legislation, and relevant legal doctrines pertaining to the issues under study. This approach aims to understand and analyze how legal norms are regulated and applied, and their implications for legal practice in the field. Additionally, this study also evaluates the consistency and applicability of these norms and their impact on regulation and handling legal issues, including those related to death row inmates. Meantime, the legislative and conceptual approaches are key elements of normative legal research. The legislative approach emphasizes systematic analysis of existing positive law, identifying legal gaps, and providing recommendations for regulatory improvement. Conversely, the conceptual approach invites researchers to explore the legal concepts underlying these norms, such as human rights and justice principles. By integrating these two approaches, the research can provide deeper insights into the dynamics of prevailing law and the challenges in its application, as well as suggest legal reform better suited to the handling of death row inmates in correctional institutions.

RESULT AND DISCUSSION

1. Legal Regulations Related to Death Row Inmates in Correctional Institutions Under Applicable Legislation

Legal regulations concerning death row inmates within correctional institutions in Indonesia represent a complex and challenging issue. In the Indonesian legal system, the death penalty is imposed as the highest sanction for certain crimes deemed very serious, such as corruption, drug offenses, and terrorism. Despite this, the implementation of the death penalty and the treatment of death row inmates within correctional institutions often face various problems, from legal, human rights protection perspectives to the effectiveness of the rehabilitation programs that are supposed to be offered. The ambiguity in regulations overseeing services for death row inmates creates legal gaps that can lead to unfair and inhumane treatment (Kemp & Tomczak, 2024).

The issues facing death row inmates in Indonesia include placement and services that need to be provided by correctional institutions (LAPAS) before execution is carried out. It is important to note that although death row inmates face the heaviest punishment, they remain human beings with rights that must be protected during their detention.

These rights include the right to receive health care and physical treatment, as well as humane treatment until execution is carried out. Law Number 12 Year 1995 concerning Corrections outlines several rights that must be provided to inmates, including the right to worship according to their beliefs, receive spiritual and physical care, obtain adequate health services, file complaints, and access reading materials and non-prohibited media. In addition, death row inmates also have the right to receive visits from family and legal advisors.

However, although these rights are recognized, clear provisions regarding how services for death row inmates must be conducted within LAPAS are not yet entirely available. This creates confusion and uncertainty for LAPAS officers in executing their duties. Without concrete guidelines, officials may struggle to provide appropriate services, which can lead to unfair treatment of death row inmates. Over time, the death penalty remains a controversial issue in many parts of the world (Zavatta, 2017). On one hand, there are arguments supporting the retention of the death penalty as a sanction for serious crimes, while on the other hand, there are movements demanding the abolition of the death penalty based on the protection of the right to life.

In Indonesia, the death penalty has been accepted in the legal system since the colonial era and is still maintained today, even though many countries, including the Netherlands, have abolished it (Riyadi, 2024). The Penal Code (KUHP) regulates the death penalty as a type of principal punishment applicable to serious violations. Article 10 of the Penal Code explains the types of punishments, including the death penalty, which are also included in other specific laws, such as laws on narcotics, the eradication of corruption, and human rights courts. Although there are supporters of the death penalty's implementation, opposition persists from various parties, including the National Commission on Human Rights (KOMNASHAM), which is divided between pro and contra regarding the existence of the death penalty.

The Indonesian correctional system perceives punishment not merely as retribution but also as a means of rehabilitation to reintegrate inmates into society. The rehabilitation concept proposed by experts emphasizes the importance of a fostering process aimed at making inmates aware of their mistakes and improving themselves. Law Number 12 of 1995 concerning Corrections contains explanations about corrections as activities carried out to foster inmates, as well as a correctional system that prioritizes an integrated approach between fosterers, inmates, and society. Articles 2 and 3 of this law state the objectives and functions of the correctional system in shaping inmates into responsible individuals, so that they can be accepted back by society after serving their sentences (Duguid, 2000).

The legal gap in the provision of services for death row inmates in Indonesia is one of the crucial issues affecting their treatment and living conditions within correctional institutions (Tarmizi & Marbun, 2022). Although Law Number 12 of 1995 concerning Corrections stipulates basic rights for inmates, including death row inmates, regulations that specifically govern how these services should be conducted are still minimal. This creates confusion among LAPAS officers and the inmates themselves regarding the rights they can obtain during detention. Without clear guidelines, law enforcement officers often find themselves caught in dilemmas about how they should execute their

duties, potentially resulting in uneven or even discriminatory treatment of death row inmates.

As a consequence of the lack of specific regulations for death row inmates, various problems arise that have the potential to violate human rights. One such problem is the difficulty in fulfilling the basic rights of death row inmates, such as access to adequate health services, fulfillment of psychological needs, and humane treatment within the detention environment. In the absence of clear guidelines, many death row inmates do not receive the necessary medical attention, both for physical ailments and mental health issues. Moreover, psychological services intended to assist death row inmates in coping with the mental and emotional pressures stemming from their sentences often aren't available or are inadequate.

This legal gap also creates challenges related to the rehabilitation and mentoring of death row inmates. In countries that have stricter regulations in place, there are rehabilitation programs specifically designed to support death row inmates in coping with their time in detention. However, in Indonesia, the lack of specific provisions for these rehabilitation programs can lead death row inmates to feel alienated and hopeless regarding self-improvement. In the absence of effective rehabilitation programs, not only is the potential for social reintegration of death row inmates hindered, but it can also tarnish the public's perception of the correctional system. Additionally, this issue of legal gaps also has implications for public perceptions of the death penalty. The ambiguity in regulations can reinforce negative stigma towards death row inmates, which in turn creates social injustice for them and their families. Society may view death row inmates in a one-sided manner, neglecting their rights and conditions within LAPAS.

2. Transformation of Legal Protection for Death Row Inmates in Correctional Institutions

The transformation of legal protection for death row inmates in correctional institutions is an important issue that reflects the state's commitment to respecting human rights, even for individuals who have been sentenced to the highest penalty. In the context of the criminal justice system, death row inmates remain human beings with basic rights that must be protected, including the right to humane treatment, access to health services, and opportunities for rehabilitation. Although Indonesia still retains the death penalty in its legal system, the challenges faced in implementing legal protection for death row inmates are quite complex. The lack of clear and specific regulations regarding the services and rights of death row inmates often results in uncertainty and potential violations of human rights.

A review of existing legal policies shows that regulations concerning the protection of death row inmates in Indonesia are very limited. Law Number 12 of 1995 concerning Corrections is the main regulation governing the rights of inmates, including death row inmates. This law recognizes certain rights, such as the right to practice religion, the right to health care, and the right to receive visits. However, these provisions do not explicitly cover the mechanisms and procedures that should be followed in fulfilling these rights for death row inmates. In other words, even though rights are acknowledged, there is no clear guidance on how these rights should be implemented, leading to confusion among LAPAS officers in carrying out their duties.

In addition, existing regulations do not address specific legal protections for death row inmates regarding their imprisonment conditions and services they should receive (Gann & Palmer, 2021). For example, there are no provisions governing death row inmates' access to mental health services and psychological support, which are crucial given the emotional stress faced by individuals in such situations. This situation potentially leads to human rights violations, as death row inmates may not receive adequate medical attention for their physical and mental health issues. The presence of such shortcomings highlights the pressing need to strengthen the existing legal framework, not only to recognize these rights but also to provide concrete and operational guidelines for their implementation.

Another observed weakness in current legal policies is the lack of an interdisciplinary approach in addressing death row inmates. Current policies tend to focus on formal legal aspects and often overlook the social and psychological dimensions that impact the lives of death row inmates (Haney, 2005). For instance, there are no rehabilitation programs designed specifically to help death row inmates adapt to their detention conditions and prepare for possible reintegration into society. Without adequate programs, death row inmates may feel alienated and despairing, which in turn can worsen their mental conditions.

The design of an effective legal protection model for death row inmates needs to consider various aspects that encompass not only formal regulations but also real implementation mechanisms in the field. This model should focus on three main pillars: recognition of the basic rights of death row inmates, ensuring access to mental and physical health services, and comprehensive rehabilitation programs. First, it is important to develop regulations that explicitly govern the basic rights of death row inmates, including the right to receive health services, education, and psychological support. Additionally, it is also crucial to include transparent complaint mechanisms so that death row inmates can report the violations of their rights without fear of retribution (Johnson, 2018).

Second, comparative studies with countries that have better legal protection models, such as Norway or the Netherlands, indicate that protections for death row inmates must be integrated with rehabilitation programs aimed at preparing them for reintegration into society. For example, in Norway, the correctional system focuses on rehabilitation and reintegration, where inmates—including death row inmates—are provided access to education, skill training, and mental support (Denny, 2016; Dugdale, 2020; Rocha et al., 2024). This demonstrates that a more humane and rehabilitative approach can reduce the risk of recidivism and improve the quality of life for death row inmates, while also increasing public trust in the legal system.

In the context of human rights protection, the state has a legal and moral responsibility to ensure that the rights of death row inmates are protected. The application of justice and humanity principles in the treatment of death row inmates is a significant step in ensuring they are treated with dignity, even though they have been given the most severe sentence. This includes recognizing that death row inmates still have the right to be treated with respect, as well as the right to receive information about legal processes and decisions made against them. Accordingly, the state must formulate

policies that not only respect positive laws but also reflect international norms related to human rights, such as the International Covenant on Civil and Political Rights.

The implementation of appropriate rehabilitation and mentoring programs for death row inmates is a crucial aspect of an effective legal protection model. These programs should include skill training, education, and psychological support to help death row inmates adapt to their detention conditions and prepare for potential reintegration into society. Mental and physical rehabilitation is paramount in supporting legal protection since a favorable psychological condition can help death row inmates cope with the stress and uncertainty associated with their sentences.

Correctional institutions (LAPAS) bear a significant responsibility for providing legal protection for death row inmates. This responsibility encompasses the provision of adequate health services, the implementation of rehabilitation programs, and the adoption of policies that ensure the rights of death row inmates are upheld. However, the challenges faced by LAPAS in executing these legal protections are substantial. Limited resources, insufficient training for LAPAS staff, and social stigma against death row inmates often hinder their efforts to provide optimal protection. Therefore, enhancing the capacity and training of LAPAS staff, as well as better resource allocation, is essential to creating a safer and more humane environment for death row inmates. By formulating a comprehensive legal protection model that involves all parties, it is hoped that the protection of human rights for death row inmates in Indonesia can be ensured, thus creating a correctional system focused on rehabilitation and reintegration, rather than mere punishment.

CONCLUSION

This study aims to evaluate the legal protection for death row inmates in correctional institutions (LAPAS) in Indonesia and propose a more effective legal protection model. The main findings reveal significant regulatory gaps regarding the services and rights of death row inmates, which create legal uncertainty and pose potential violations of human rights. The study highlights the need for a more holistic legal approach, including mental and physical rehabilitation, to ensure fairer and more humane protection. This research contributes by identifying weaknesses in current legal policies and providing specific recommendations for legal reforms, which can serve as references for policymakers and other legal institutions. However, the study is limited by its focus on a normative juridical approach without incorporating empirical data from inmates or LAPAS officers. Future research is suggested to include interviews or surveys to complement the normative analysis. As a practical recommendation, the government and policymakers should urgently draft clearer and more operational regulations regarding the protection of the rights of death row inmates and enhance the training of LAPAS officers to ensure effective and equitable policy implementation.

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