Journal of Islamic Mubādalah

DOI: https://doi.org/10.70992/rxg14q66
Volume 3 Number 1 June 2026

Human Dignity, State Punishment, and Reciprocal Justice: A Comparative *Mubādalah* Perspective from Indonesia and South Korea

Zuliza Mohd Kusrin Rashi[1*] Muhammad Rujaini Tanjung[2]
[1.] Faculty of Islamic Studies, Universiti Kebangsaan Malaysia (UKM), Malaysia
[2.] Judge of the Pengadilan Agama Tarempa, Indonesia

Abstract: This article examines how human dignity, state punishment, and reciprocal justice shape death penalty policies in Indonesia and South Korea, despite both countries being States Parties to the International Covenant on Civil and Political Rights (ICCPR). This study aims to explain why comparable constitutional commitments and international legal obligations have produced divergent death penalty policies by employing a comparative socio-legal approach informed by the *Mubādalah* perspective. The study adopts a qualitative research design integrating Retentionism–Abolitionism Theory, International Human Rights Norm Diffusion Theory, Legal Implementation Theory, and the *Mubādalah* perspective. Data were obtained from national legislation, constitutional court decisions, international human rights instruments, reports published by human rights organizations, and scholarly literature. The findings show that Indonesia continues to maintain a retentionist framework despite the suspension of executions since 2016, whereas South Korea has developed a de facto abolitionist practice reflecting the internalization of the right-to-life norm. This study affirms that the legitimacy of the death penalty should be assessed on the basis of legal validity, reciprocal recognition of human dignity, proportional state authority, and balanced justice. The *Mubādalah* perspective enriches the study of comparative criminal law and international human rights law.

Keywords: Comparative Criminal Law, Humanity, *Mubādalah*, State Punishment

Abstrak: Artikel ini mengkaji bagaimana martabat manusia, penghukuman oleh negara, dan keadilan resiprokal membentuk kebijakan pidana mati di Indonesia dan Korea Selatan, meskipun kedua negara merupakan Negara Pihak pada *International Covenant on Civil and Political Rights* (ICCPR). Penelitian ini bertujuan menjelaskan mengapa komitmen konstitusional dan kewajiban hukum internasional yang sebanding menghasilkan kebijakan pidana mati yang berbeda melalui pendekatan *socio-legal* komparatif berperspektif *Mubādalah*. Penelitian menggunakan desain kualitatif dengan mengintegrasikan *Retentionism–Abolitionism Theory*, *International Human Rights Norm Diffusion Theory*, *Legal Implementation Theory*, dan perspektif *Mubādalah*. Data diperoleh dari peraturan perundang-undangan, putusan mahkamah konstitusi, instrumen hak asasi manusia internasional, laporan organisasi hak asasi manusia, dan literatur ilmiah. Hasil penelitian menunjukkan bahwa Indonesia tetap mempertahankan kerangka retensionis meskipun eksekusi ditangguhkan sejak 2016, sedangkan Korea Selatan mengembangkan praktik abolisionisme *de facto* yang mencerminkan internalisasi norma hak untuk hidup. Penelitian ini menegaskan bahwa legitimasi pidana mati harus dinilai berdasarkan validitas hukum, pengakuan timbal balik atas martabat manusia, proporsionalitas kewenangan negara, dan keadilan yang berimbang. Perspektif *Mubādalah* memperkaya kajian hukum pidana komparatif dan hukum hak asasi manusia internasional.

Kata Kunci: Hukum Pidana Komparatif, Kemanusian, *Mubādalah*, Penghukuman oleh Negara.

Corresponding author:
Zuliza Mohd Kusrin Rashi
Email: zuli@ukm.edu.my

How to cite this article:
Kusrin Rashi, Z. M., & Tanjung, M. R. (2026). Human Dignity, State Punishment, and Reciprocal Justice: A Comparative *Mubādalah* Perspective from Indonesia and South Korea. *Journal of Islamic Mubadalah*. *3* (1). 1-26
DOI: https://doi.org/10.70992/rxg14q66

Introduction

The debate over capital punishment remains one of the most prominent and enduring issues in global human rights scholarship, largely because it directly implicates the foundational principle of the right to life. At the international level, the abolitionist movement has continued to gain significant traction, as documented in Amnesty International's *Mubādalah* and widely analyzed across academic literature (Schabas, 2012; Hood & Hoyle, 2015). While a growing number of states have abolished the death penalty as an affirmation of their commitment to safeguarding human dignity, others maintain it as a legitimizing instrument within their criminal justice frameworks. This persistent tension between the universality of human rights and the prerogatives of national legal sovereignty creates a particularly complex terrain of debate, where normative values such as justice, public security, and the right to life intersect, conflict, and compete within contemporary penal policy discourses (Donnelly, 2013).

Beyond the legal controversy surrounding capital punishment, contemporary human rights scholarship increasingly frames the debate within the broader concept of human dignity. The right to life is no longer understood merely as protection against arbitrary deprivation of life but also as recognition of every individual's intrinsic worth, regardless of the gravity of the offence committed. From this perspective, the legitimacy of state punishment is evaluated not only by its compliance with domestic law but also by its capacity to preserve human dignity throughout the criminal justice process. Consequently, discussions on capital punishment have gradually shifted from purely punitive considerations toward ethical questions concerning proportionality, humanity, and the moral limits of state authority in administering irreversible punishment (Carozza, 2008; Waldron, 2012).

Divergent approaches to capital punishment are shaped by an interplay of historical evolutions, legal traditions, political ideologies, and socio-cultural dynamics specific to each national context. Comparative studies consistently demonstrate that even among democratic states, attitudes and policy orientations toward the death penalty vary considerably (Johnson & Zimring, 2009). This suggests that, although the right to life is widely acknowledged as a universal human rights norm, its incorporation into domestic legal systems is far from uniform. Accordingly, any meaningful analysis of capital punishment must be situated within the broader socio-political structures and developmental trajectories of a country's criminal justice system.

Indonesia and South Korea represent two Asian democracies that exhibit sharply contrasting patterns in their capital punishment policies. Indonesia, despite having ratified the International Covenant on Civil and Political Rights (ICCPR), continues to retain the death penalty and carry out executions, particularly in drug-related cases. The *Mubādalah* (2021) indicates that more than 70% of the Indonesian public still supports capital punishment for certain offenses. (McRae, 2017) further argues that the application of the death penalty in Indonesia is heavily influenced by public pressure, the nature of specific crimes, and prevailing national security discourses.

Although both Indonesia and South Korea formally recognize the right to life through constitutional and international legal commitments, the normative foundations underlying their death penalty policies differ substantially. Indonesia tends to justify capital punishment through considerations of public protection, deterrence, and social order, whereas South Korea increasingly places greater emphasis on democratic accountability and respect for human rights. These differences indicate that the debate is not merely about whether the death penalty should be retained or abolished, but also about how each legal system conceptualizes the relationship between state authority, criminal accountability, and the inherent dignity of human beings. Such divergence provides an important basis for

comparative inquiry beyond conventional legal doctrinal analysis (Miethe, Lu, & Deibert, 2005).

In contrast, South Korea has maintained a de facto moratorium since 1997, even though capital punishment remains codified in the *Mubādalah*. (Bae, 2016) attributes this shift to the country's political transition toward democratization and the strengthening of human rights advocacy. Although both states are democracies, Indonesia currently has more than 420 death-row inmates with new sentences issued annually, particularly for narcotics offenses (ICJR, 2022; The Death Penalty Project, 2021). Meanwhile, South Korea records approximately 59 death-row prisoners and has not carried out an execution since 1997 (Amnesty International, 2023). These divergent trajectories illustrate fundamental differences in policy orientation and commitment to the protection of the right to life

The developments in both jurisdictions reveal a persistent gap between *Mubādalah* the normative expectation for states to respect the right to life under international human rights instruments and *Mubādalah*, or the concrete practices embedded within national judicial systems. In Indonesia, this gap is manifested through execution practices frequently criticized by the international community for alleged fair-trial violations, political pressure, and insufficient legal transparency (Human Rights Watch, 2015). Such practices have resulted in heightened diplomatic tensions particularly in cases involving the execution of foreign nationals and contributed to potential legal uncertainty for death-row prisoners. In South Korea, the gap appears in the form of juridical ambiguity: while the state retains the legal basis for capital punishment, it refrains from carrying out executions, generating debates over the country's actual commitment to full abolition and the implications this has for the legitimacy of its domestic legal norms.

A comparative examination of capital punishment policies in Indonesia and South Korea is essential, as both are democratic states that face international normative pressures yet respond in markedly different ways. Understanding the factors that shape these differences from domestic politics and legal structures to socio-cultural value systems provides a significant contribution to the literature on comparative criminal law and international human rights studies. This analysis is also of practical importance for policymakers seeking to formulate legal reforms that align with democratic principles and the protection of the right to life. The central argument of this research is that although Indonesia and South Korea are both Asian democracies that have ratified the ICCPR, they exhibit substantively different challenges in their approaches to capital punishment, resulting in contrasting social dynamics and legal implications. In Indonesia, the continuation of executions reflects a law enforcement orientation rooted in deterrence and responsiveness to public pressure, particularly concerning narcotics and terrorism offenses. Studies by McRae (2017) and Johnson & Zimring (2009) emphasize that strong public support for the death penalty in Indonesia has generated a form of collective justification for executions, while simultaneously increasing the risk of procedural injustice due to systemic weaknesses in the criminal justice system.

This article further argues that examining capital punishment solely through conventional legal and human rights frameworks remains insufficient to explain the ethical dimensions of state punishment. An additional analytical perspective is therefore required to assess whether criminal justice not only protects society but also preserves the reciprocal dignity of all parties involved, including victims, offenders, and the state itself. In this regard, the *Mubādalah*perspective offers an important conceptual contribution. Originally developed as a framework for reciprocal justice and equal human dignity within Islamic thought, *Mubādalah* emphasizes mutual recognition, balance of rights and obligations, and the rejection of domination in social relations (Kodir, 2019). Although primarily applied in gender discourse, its ethical principles provide a broader normative lens for evaluating whether state punishment reflects justice grounded in reciprocity rather than solely retribution or

deterrence. Incorporating this perspective enables a more comprehensive dialogue between international human rights principles and Islamic ethical reasoning in assessing the legitimacy of capital punishment.

Conversely, South Korea faces a different set of challenges: despite having carried out no executions since 1997, the state continues to retain the legal basis for capital punishment within its *Mubādalah*. This condition has produced what Bae (2016) characterizes as "normative ambivalence" a tension between the moral commitment to abolition and the perceived need to maintain the legitimacy of a legal framework that still codifies the death penalty. The social phenomena emerging in South Korea include growing public support for abolition and active civil society engagement in human rights advocacy, coupled with ongoing debates regarding whether the state should formally abolish capital punishment to ensure normative coherence. Accordingly, the gap between *Mubādalah* and *Mubādalah* manifests differently in each country. In Indonesia, the gap is practical reflected in the continued implementation of executions whereas in South Korea it is normative-institutional, with the legal provision persisting despite de facto abolition. These divergent configurations produce distinct implications for the development of the right to life, legal reform trajectories, and public perceptions of state legitimacy.

A wide body of international scholarship has contributed significantly to understanding the dynamics of capital punishment, yet much of this research still offers only partial accounts of Indonesia and South Korea when examined separately. McRae (2017) highlights the influence of domestic politics and public pressure in sustaining the death penalty in Indonesia, whereas Bae (2016) explains South Korea's de facto moratorium through the roles of democratic institutions and civil society movements. Hood and Hoyle (2015) present a global perspective on abolitionist trends but do not address Southeast and East Asian contexts concurrently. Johnson and Zimring (2009) focus on policy transformations in East Asia, while Kim (2014) demonstrates how public discourse reinforces support for abolition in South Korea. Sarat and Boulanger (2017) underscore the relationship between legal culture and death penalty policy across Asian states, and findings from *Mubādalah* (2021) map Indonesian public attitudes that strongly favor retaining capital punishment. Nevertheless, these studies largely concentrate on single-country analyses or macro-level trends without directly comparing two Asian democracies whose policy trajectories sharply diverge.

Across this literature, a clear research gap emerges: no existing study offers a comparative analysis that integrates international human rights norms, national legal frameworks, political dynamics, and social constructions of public attitudes to explain the divergent policy directions of Indonesia and South Korea. This article offers a distinct contribution by placing both countries within a unified analytical framework to explain why Indonesia continues to carry out executions while South Korea moves toward abolition despite retaining capital punishment within its legal code. In doing so, this research not only enriches comparative criminal law scholarship but also provides new insight into how Asian democracies respond to international normative pressures on the right to life.

Accordingly, this study does not merely compare two national legal systems; rather, it seeks to integrate comparative criminal law, international human rights discourse, and Islamic ethical reasoning into a unified analytical framework. Instead of treating human dignity and reciprocal justice as two distinct normative traditions, this article explores their points of convergence in assessing the legitimacy of capital punishment in democratic states. This approach advances comparative legal scholarship by demonstrating that debates concerning state-imposed punishment can be enriched through an interdisciplinary dialogue among legal theory, international human rights law, and contemporary Islamic jurisprudence. Another significant contribution of this article lies in its analysis of the differences in the legal regulation and practical implementation of the death penalty in Indonesia and South Korea,

as well as the extent to which international human rights norms have influenced policy orientations in both countries. The analysis employs Retentionist–Abolitionist Theory to explain the divergence between Indonesia, which actively retains and enforces capital punishment, and South Korea, which formally retains the death penalty but has maintained de facto abolition since 1998. Furthermore, International Human Rights Norm Diffusion Theory is applied to evaluate the influence of the International Covenant on Civil and Political Rights (ICCPR), General Comment No. 36, and the Universal Periodic Review (UPR) on the policy commitments of both states. Legal Implementation Theory is utilized to identify the gap between das sollen (the normative guarantees of the right to life and the right to a fair trial) and das sein (the actual practices of capital sentencing, the de facto moratorium, and the conditions experienced by death row prisoners). This analytical framework is further strengthened by Legal-Political Theory, which explains how political factors, threat perceptions particularly those associated with narcotics-related crimes and pressures from civil society shape the persistence of capital punishment in each country. Through this integrated theoretical framework, the article offers a comprehensive analysis of the dynamics of death penalty policy, the evolving normative challenges surrounding its application, and their implications for the protection of the right to life in Indonesia and South Korea as two democratic states in Asia.

Method

This study employs a qualitative approach with a comparative socio-legal design to examine how capital punishment is conceptualized and implemented in Indonesia and South Korea from the perspectives of human dignity, state punishment, and reciprocal justice. This approach is used because the study does not merely compare statutory provisions, but also investigates how legal norms, judicial practices, political contexts, social dynamics, and ethical considerations interact in shaping each country's death penalty policy.

A comparative socio-legal design enables legal rules to be read alongside their institutional and normative contexts, thereby providing a broader understanding of the relationship between criminal justice, state authority, and the protection of fundamental human rights (Cotterrell, 1998; Banakar & Travers, 2005).The comparative framework focuses on two Asian democracies that have both ratified the International Covenant on Civil and Political Rights (ICCPR) but have adopted contrasting approaches to capital

punishment. Indonesia continues to retain and impose the death penalty despite a de facto moratorium on executions since 2016, whereas South Korea has not carried out executions since 1997 while formally retaining capital punishment in its Criminal Act. The existence of death row populations in both jurisdictions serves as an important empirical indicator for evaluating not only legal policy but also the practical implications of prolonged capital punishment for human dignity and the realization of the right to life.

Primary data consist of constitutional provisions, national legislation, constitutional court decisions, and international human rights instruments, particularly the ICCPR, the Second Optional Protocol to the ICCPR, and General Comment No. 36. Secondary data include peer-reviewed journal articles, scholarly books, reports from Amnesty International, Human Rights Watch, the Institute for Criminal Justice Reform, The Death Penalty Project, official documents, public opinion surveys, and statistical data on death sentences, executions, and death row populations.

Data analysis was conducted through an integrated comparative procedure combining thematic document analysis and socio-legal interpretation. Following Miles, Huberman, and Saldaña (2014), the analysis involved data condensation, thematic categorization, cross-country comparison, and interpretative synthesis. The data were classified into five analytical dimensions: legal regulation of capital punishment, institutional implementation and judicial practice, political and socio-cultural factors influencing penal policy, compliance with

international human rights standards concerning the right to life and fair trial guarantees, and ethical evaluation through reciprocal justice. Within this stage, the *Mubādalah*perspective was operationalized into three analytical indicators: human dignity, which evaluates whether legal norms and criminal justice practices recognize the intrinsic worth of every person, including offenders sentenced to death; reciprocal justice, which examines whether state punishment balances the rights and legitimate interests of victims, offenders, society, and the state; and proportional state authority, which assesses whether capital punishment is exercised within the limits of necessity, proportionality, accountability, and ethical restraint. These indicators were applied to legal documents, judicial decisions, human rights reports, and policy developments in both countries to determine whether capital punishment reflects reciprocal justice rather than merely retributive or deterrent objectives (Kodir, 2019).

To strengthen analytical rigor, the study employed source triangulation, methodological triangulation, and theoretical triangulation. Constitutional provisions, statutory regulations, judicial decisions, international human rights instruments, reports from national and international human rights organizations, and peer-reviewed academic literature were examined comparatively through the integrated lenses of Retentionism Abolitionism Theory, International Human Rights Norm Diffusion Theory, Legal Implementation Theory, and the *Mubādalah* perspective. Retentionism–Abolitionism Theory explains differences in penal orientation; Norm Diffusion Theory analyzes the influence of international human rights standards; Legal Implementation Theory evaluates the gap between normative commitments and institutional practice; while the *Mubādalah* perspective provides an ethical framework for assessing whether state punishment embodies reciprocal justice grounded in equal human dignity. This combination distinguishes the study from ordinary comparative legal analysis by moving beyond descriptive comparison toward a multidimensional evaluation of how democratic states negotiate sovereign penal authority, international human rights obligations, and reciprocal justice in the protection of human dignity.

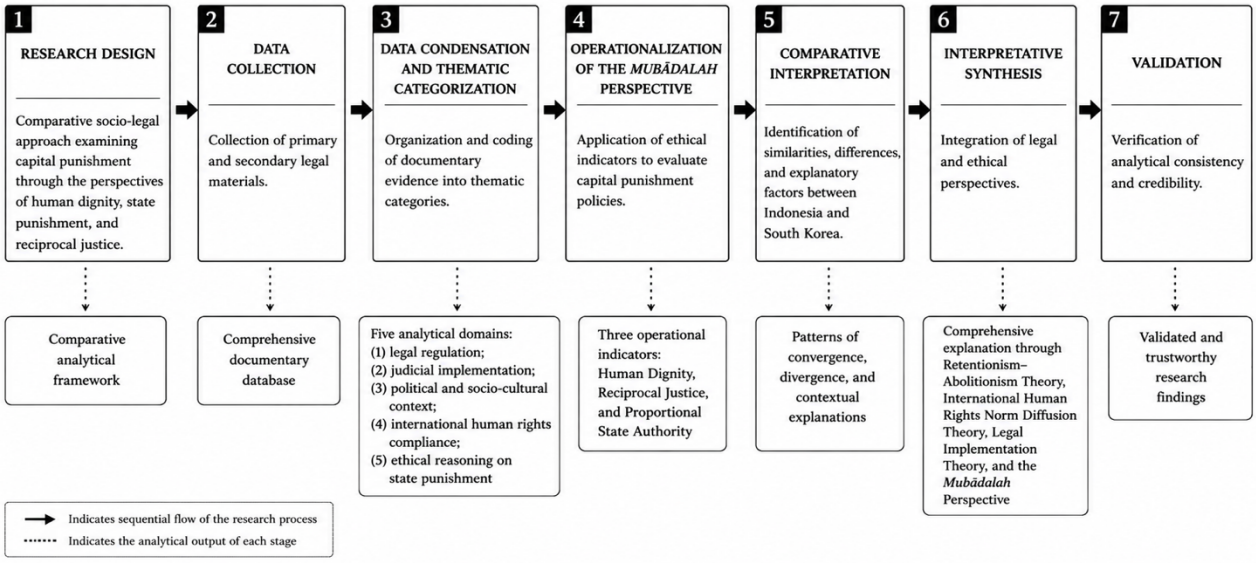

Figure 1. Research Methodology Workflow

Results

Human Dignity and the Right to Life in Indonesian and South Korean Capital Punishment Policies

The comparative analysis demonstrates that human dignity constitutes the principal normative foundation through which both Indonesia and South Korea justify, constrain, and reinterpret the use of capital punishment (Siregar & Kim, 2024, hlm. 95). Although both

countries constitutionally recognize the right to life and have ratified the International Covenant on Civil and Political Rights (ICCPR), this shared legal commitment has produced markedly different penal trajectories. This finding indicates that constitutional recognition of the right to life alone is insufficient to explain state practice regarding capital punishment. Rather, the practical realization of human dignity depends upon how each legal system balances individual rights against state interests in criminal justice (Purnomo & Ramadhan, 2023, hlm. 240). Consequently, the debate over the death penalty should not be viewed merely as a legal question concerning punishment, but as a broader inquiry into how democratic states define the moral boundaries of state authority over human life.

In Indonesia, the findings reveal that human dignity is interpreted through a conditional framework in which the protection of society is frequently regarded as a legitimate justification for restricting the right to life in cases involving extraordinary crimes (Amnesty International & Institute for Criminal Justice Reform, 2018, hlm. 12). Capital punishment continues to be presented as an instrument for safeguarding public order, combating narcotics trafficking, terrorism, and other offences considered to threaten national security (Yusuf & Rahman, 2022, hlm. 48). However, the analysis demonstrates that this security-oriented approach generates a persistent normative dilemma. While the state seeks to protect collective interests, the continued imposition of death sentences despite the absence of executions since 2016 has produced prolonged legal uncertainty for death row prisoners (Pribadi, 2023, hlm. 105). This situation suggests that the legitimacy of state punishment cannot be evaluated solely by reference to statutory legality; it must also consider whether prolonged exposure to capital punishment is compatible with the preservation of human dignity, procedural fairness, and protection from inhuman treatment (Bedner, 2017, hlm. 3). These findings contribute to comparative human rights scholarship by illustrating that retention without execution may generate a distinct form of rights vulnerability that extends beyond the conventional retentionist–abolitionist dichotomy.

Documentary evidence further reinforces these normative findings by demonstrating substantial differences in the practical implementation of capital punishment in both jurisdictions. In Indonesia, although executions have not been carried out since 2016, courts continue to impose death sentences, resulting in a significant number of prisoners remaining on death row for prolonged periods. Reports published by the Institute for Criminal Justice Reform (ICJR) indicate that the continued accumulation of death row inmates has generated legal uncertainty, prolonged psychological suffering, and growing concerns regarding compliance with the principles of legal certainty and humane treatment (Supriyadi, 2023; Amnesty International & ICJR, 2018). By contrast, South Korea has maintained a consistent de facto moratorium on executions since 1997 while simultaneously experiencing increasing constitutional and public debate regarding the complete abolition of capital punishment. Although death sentences remain legally available, judicial practice and institutional policy have increasingly reflected restraint in exercising the state's authority over life (National Human Rights Commission of Korea, 2020; Siregar & Kim, 2024). These empirical differences demonstrate that the realization of human dignity is influenced not only by the formal existence of capital punishment but also by the consistency between statutory regulation, institutional implementation, and constitutional commitment. Consequently, the practical protection of the right to life should be assessed through both legal norms and the actual operation of criminal justice institutions.

South Korea presents a contrasting pattern in which human dignity increasingly functions as a constitutional limitation on the exercise of punitive state power. Although capital punishment formally remains part of the Criminal Act, the absence of executions since 1997 reflects a significant institutional shift toward minimizing irreversible punishment. Rather than representing complete abolition, this practice demonstrates an evolving

constitutional culture in which democratic legitimacy is increasingly associated with restraint in the exercise of coercive authority. Nevertheless, the analysis also identifies an important normative inconsistency (National Human Rights Commission of Korea, 2020, hlm. 2). Death row prisoners continue to face the legal possibility of execution despite the state's longstanding refusal to carry out death sentences (Sihombing, 2021, hlm. 150). This finding suggests that de facto abolition does not entirely resolve the tension between legal certainty and human dignity, but instead creates a transitional model in which constitutional values develop more rapidly than statutory reform. Such evidence expands existing comparative literature by showing that the practical protection of human dignity may precede formal legislative abolition (Pratama & Wijaya, 2024, hlm. 1145).

A comparison between the two jurisdictions reveals several structural similarities that are often overlooked in conventional comparative legal studies. Both Indonesia and South Korea formally retain capital punishment within their legal systems while simultaneously operating under prolonged periods without executions. Both have incorporated international human rights commitments into their constitutional and legal frameworks, yet neither has fully reconciled domestic penal sovereignty with evolving international expectations concerning the right to life. These similarities indicate that legal classification alone provides only a partial explanation of death penalty policy. Instead, institutional practice, constitutional interpretation, political dynamics, and societal perceptions collectively shape how human dignity is protected in criminal justice (Situmorang, 2022, hlm. 315). This finding reinforces the argument that comparative analysis should extend beyond textual legal comparison to include the interaction between law, institutions, and normative values.

Despite these similarities, the comparative findings reveal a fundamental divergence in the normative orientation of state punishment. Indonesia continues to emphasize deterrence, social protection, and penal severity as central justifications for retaining capital punishment, whereas South Korea increasingly frames the legitimacy of punishment within constitutional restraint and international human rights standards (Supriyadi, 2023, hlm. 7). This divergence demonstrates that the practical realization of human dignity depends less upon the formal existence of capital punishment than upon the manner in which state authority is exercised. Consequently, the comparison contributes to contemporary comparative criminal law by illustrating that differences in penal philosophy not merely differences in legislation shape the ethical legitimacy of state punishment. This analytical distinction also challenges the conventional binary categorization of retentionist and abolitionist states by revealing important variations within each model of capital punishment (Gunarto, 2024, hlm. 425).

Viewed through the *Mubādalah* perspective, these findings suggest that the legitimacy of capital punishment cannot be determined solely by whether a state retains or abolishes the death penalty. Instead, ethical legitimacy depends upon whether the criminal justice system maintains reciprocal recognition of dignity among victims, offenders, society, and the state. Reciprocal justice requires that punishment protect victims and public security without reducing offenders to objects of state coercion or undermining their inherent human worth. From this perspective, Indonesia and South Korea illustrate two different pathways in negotiating the relationship between human dignity and state punishment. Indonesia faces the challenge of ensuring that security-oriented penal policies do not diminish the protection of fundamental rights, while South Korea confronts the challenge of aligning statutory law with constitutional and institutional practice. These findings establish the analytical foundation for the subsequent discussion on how differences in legal regulation, institutional implementation, and public policy influence the development of reciprocal justice within contemporary capital punishment systems.

Table 1. Comparative Findings on Human Dignity and the Right to Life in Indonesia and South Korea

Analytical Dimension	Indonesia	South Korea	Comparative Finding
Constitutional recognition of the right to life	Recognized constitutionally and through international human rights commitments	Recognized constitutionally and through international human rights commitments	Both countries acknowledge the right to life as a constitutional and human rights principle.
Legal status of capital punishment	Retained and actively imposed by courts	Retained in legislation but not implemented in practice	Both remain retentionist in law but differ substantially in implementation.
Execution practice	No executions since 2016 despite continued sentencing	No executions since 1997 under a de facto moratorium	South Korea demonstrates greater institutional restraint in exercising state punitive power.
Orientation of state punishment	Prioritizes deterrence, public security, and protection of society	Prioritizes constitutional restraint, democratic legitimacy, and human rights protection	Different penal philosophies shape different understandings of human dignity.
Implications for human dignity	Prolonged death row creates legal uncertainty and psychological burden	Legal retention creates constitutional inconsistency despite practical restraint	Human dignity is affected not only by legal regulation but also by institutional implementation.
Reciprocal justice (*Mubādalah*)	Greater emphasis on protecting society from extraordinary crimes	Greater emphasis on limiting state coercive authority	Both models seek justice but differ in balancing the dignity of victims, offenders, society, and the state.

Source: Developed by the authors based on comparative analysis of constitutional provisions, statutory regulations, judicial decisions, and human rights reports (2026).

Table 1 summarizes the principal comparative findings derived from the analysis of constitutional provisions, legal regulations, judicial practices, and human rights policies in Indonesia and South Korea. The comparison demonstrates that although both countries formally recognize the right to life, they differ substantially in the manner through which human dignity is interpreted and operationalized within capital punishment policy. These findings further indicate that the ethical legitimacy of state punishment depends not only on statutory regulation but also on institutional implementation and the extent to which reciprocal justice is maintained among victims, offenders, society, and the state.

Reciprocal Justice (*Mubādalah*) in the Practice of Capital Punishment

The comparative findings indicate that the legitimacy of capital punishment cannot be adequately assessed solely through the binary framework of retention and abolition. Rather, the analysis demonstrates that the ethical legitimacy of state punishment depends upon whether the criminal justice system preserves reciprocal justice among all parties affected by crime, including victims, offenders, society, and the state. Viewed through the perspective of *Mubādalah*, justice is understood as a reciprocal relationship that recognizes the equal human dignity of every individual while simultaneously acknowledging the rights and responsibilities attached to each legal actor. Accordingly, the implementation of capital punishment should not merely pursue retribution or deterrence but should also ensure that the exercise of state authority remains proportionate, accountable, and consistent with the inherent dignity of human beings (Kodir, 2019; Sihombing, 2021). This finding broadens contemporary human rights discourse by introducing reciprocal justice as an ethical criterion for evaluating the legitimacy of criminal punishment beyond conventional legal analysis.

The Indonesian experience demonstrates that reciprocal justice continues to be interpreted predominantly through the protection of collective interests. Public security,

social order, and the rights of victims frequently constitute the principal justification for retaining capital punishment, particularly in cases involving terrorism, narcotics trafficking, and premeditated murder. While these objectives reflect the state's constitutional responsibility to protect society, the findings reveal that the interests of offenders are often discussed primarily within procedural legality rather than through the broader framework of reciprocal human dignity. Consequently, the prolonged placement of offenders on death row creates an ethical imbalance in which punishment extends beyond judicial sentencing and evolves into sustained psychological uncertainty. From the perspective of *Mubādalah,* reciprocal justice requires not only protection of victims and society but also recognition that offenders remain human beings whose dignity cannot be extinguished by criminal conviction alone (Amnesty International & ICJR, 2018; Pribadi, 2023; Pratama & Wijaya, 2024).

A different pattern emerges in South Korea. Although capital punishment remains formally recognized under the Criminal Act, the longstanding moratorium on executions reflects an institutional tendency to reconcile criminal justice with constitutional values emphasizing restraint in the exercise of coercive state power. The findings suggest that South Korea increasingly understands justice as balancing public protection with respect for the inherent dignity of offenders, even in cases involving the gravest crimes. Nevertheless, the continued legal existence of the death penalty also creates a normative paradox. Offenders remain subject to the possibility of execution despite the state's consistent refusal to implement capital punishment. From the *Mubādalah* perspective, reciprocal justice requires coherence between legal norms and institutional practice because legal ambiguity may undermine not only the dignity of offenders but also public confidence in the consistency and integrity of the legal system itself (National Human Rights Commission of Korea, 2020; Siregar & Kim, 2024).

The comparative analysis further demonstrates that Indonesia and South Korea differ not only in the implementation of capital punishment but also in the ethical orientation underlying state punishment. Indonesia tends to construct reciprocal justice from the perspective of protecting society against extraordinary crimes, whereas South Korea increasingly approaches reciprocal justice through constitutional restraint and respect for fundamental rights. These contrasting approaches indicate that reciprocal justice is not synonymous with equal treatment in a formal legal sense. Rather, it requires an equitable balance between competing rights and legitimate interests without allowing one interest to dominate entirely over another. This finding contributes to comparative criminal law by demonstrating that ethical legitimacy is shaped not only by statutory regulation but also by the normative philosophy guiding state punishment. Consequently, reciprocal justice provides a broader analytical framework for evaluating penal policy than the conventional retentionist–abolitionist distinction (Bedner, 2017; Gunarto, 2024; Yusuf & Rahman, 2022).

An important implication emerging from these findings concerns the evolving relationship between international human rights norms and Islamic legal ethics. Contemporary debates on capital punishment are generally framed within the universal language of the right to life, proportionality, and fair trial guarantees. The *Mubādalah* perspective complements rather than contradicts these principles by emphasizing reciprocity, mutual recognition, and the equal moral worth of every human being. In this regard, the findings demonstrate that reciprocal justice offers an ethical bridge capable of connecting international human rights discourse with contextual legal reasoning in Muslim-majority societies such as Indonesia. This approach expands existing scholarship by showing that Islamic ethical principles may contribute constructively to global discussions on criminal justice reform without diminishing the universality of human rights norms (Kodir, 2019; Sihombing, 2021; Yusuf & Rahman, 2022).

Overall, the findings suggest that reciprocal justice should be understood as a normative benchmark for evaluating the legitimacy of capital punishment in democratic legal systems. The question is therefore no longer confined to whether the death penalty should be retained or abolished, but extends to whether the criminal justice system preserves reciprocal recognition of dignity among victims, offenders, society, and the state throughout the entire penal process. From this perspective, Indonesia and South Korea illustrate two distinct pathways toward negotiating the relationship between state punishment and human dignity. While Indonesia continues to prioritize collective security within a retentionist framework, South Korea increasingly emphasizes constitutional restraint despite maintaining statutory retention. These findings position the *Mubādalah* perspective not merely as a theological concept but as an operational analytical framework capable of enriching comparative legal scholarship by integrating human dignity, state punishment, and reciprocal justice into a coherent model for assessing the ethical legitimacy of capital punishment.

The Meaning of the Right to Life and Its Relationship to Capital Punishment

The right to life is a fundamental and universal human right. It affirms the inherent value of human existence: no individual may be coerced into any act, harmed in any manner, and above all, deprived of life without consent (Raden Mas Jieang, 2012). The right to life is categorized as a *Mubādalah*, meaning a human right that cannot be revoked, suspended, or diminished under any circumstances (Adnan Buyung Nasution dan A. Patra M. Zen, 2006). This principle is codified in the amended 1945 Constitution, which states: "The right to life, the right to recognition as a person before the law, and the right not to be prosecuted under retroactive legislation are human rights that cannot be limited under any circumstances" (Asrun, 2016).

Prior to its constitutional formulation, the non-derogable nature of the right to life had been affirmed in the People's Consultative Assembly Decree No. XVII/MPR/1998 on Human Rights, which declares: "The right to life is a human right that cannot be reduced under any circumstances" (MPR, 1998). This principle was further reinforced in Law No. 29 of 1999 on Human Rights, which stipulates that the right to life "shall not be diminished under any circumstances and by anyone" (Asrun, 2016). The Indonesian legal framework concerning the right to life is inseparable from international human rights law governing non-derogable rights, most notably Article 4(1) of the International Covenant on Civil and Political Rights (ICCPR).

Under the ICCPR, the right to life is identified as one of the rights that must never be restricted, as it forms the core of all civil and political rights. Any state party that violates this right may be deemed to have committed a serious human rights violation, or *Mubādalah* (Miftahul Huda, 2012). Even in times of emergency, a state may not delay or reduce the enjoyment of certain rights, including those explicitly listed in relevant articles of the ICCPR pertaining to the right to life.

Article 28I (1) of the 1945 Constitution reflects a similar spirit to that found in the ICCPR. It acknowledges that while certain human rights and fundamental freedoms may be restricted or temporarily limited under specific conditions, several rights including the right to life are explicitly identified as non-derogable and thus cannot be reduced under any circumstances. Any limitation placed upon them would be regarded as a human rights violation. Although differences exist between the 1945 Constitution and the ICCPR (for example, the Constitution does not expressly designate freedom from torture or cruel, inhuman, or degrading treatment as a non-derogable right), both instruments unequivocally classify the right to life as a non-derogable right (RI, 1945).

Any discussion of the right to life is inherently intertwined with the issue of capital punishment. The death penalty is regulated under the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). This protocol was adopted and proclaimed by United Nations General Assembly Resolution 44/128 on 15 December 1989 (United Nations, 1989). The Second Optional Protocol was advanced with the explicit objective of abolishing the death penalty. It affirms that States Parties must recognize that the abolition of capital punishment contributes to the enhancement of human dignity and the progressive development of human rights.

Nevertheless, the human rights discourse surrounding the right to life particularly in relation to capital punishment remains contested. These debates persist not only within international human rights scholarship but also across cultural and normative traditions, including longstanding tensions between Islamic perspectives and Western human rights interpretations.

Overview of Capital Punishment in Indonesia and South Korea

Table 2. Comparative Characteristics of Capital Punishment Systems in Indonesia and South Korea

Aspect	Indonesia	South Korea
Death row population (year of data)	509 inmates (ICJR 2023)	59 inmates (The Advocates for Human Rights 2025)
Method of execution	Firing squad under implementing regulations of the Criminal Code	Hanging under the Korean *Criminal Act*
Execution status	De facto moratorium since 2016, though new death sentences continue annually	De facto abolition since 1997 98; death sentences very rarely imposed
Legal status	Retained in the new Criminal Code and sectoral legislation	Legally maintained but not enforced

Since the onset of the Reform Era, the practice of capital punishment in Indonesia has exhibited a complex trajectory. Although the last execution was recorded in 2016, courts have continued to impose death sentences, resulting in a significant growth in the death-row population in recent years. For instance, ICJR reported approximately 509 individuals on death row as of October 2023, with a marked increase in new capital convictions particularly in narcotics cases a trend that continued into 2024 as additional convictions accumulated (Iftitahsari, 2024). This ostensibly "tough" stance on narcotics appears to reflect a punitive and deterrence-oriented penal orientation; however, it concurrently generates substantial human rights criticism concerning fair-trial guarantees, prison conditions, and the use of capital punishment as a repressive instrument, as emphasized in recent national scholarly analyses (Joko, 2025).

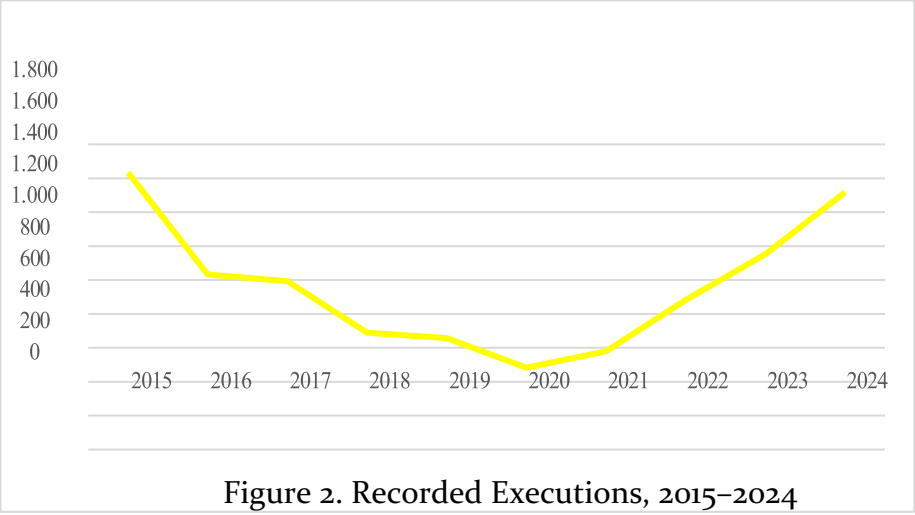

Figure 2. Recorded Executions, 2015–2024

International monitoring bodies, including Amnesty International, have also underscored a global escalation of death sentences and executions that provides an important comparative context for understanding external pressure on Indonesia's capital punishment practices. Amnesty International documented 1,518 executions worldwide in 2024 an increase of 32% (365 cases) from the 1,153 executions recorded in 2023 representing the highest number reported since the peak of 1,634 executions in 2015. These data illustrate broader regional and global dynamics that may influence on.

In summary, the year-to-year trends reveal a paradox: the rise in death sentences and the growing accumulation of death row inmates coexist with an ongoing halt in executions. This places Indonesia in the position of an *Mubādalah* a form of de facto moratorium that

generates urgent legal and humanitarian implications requiring further examination (Adhigama, 2023).

The data clearly indicate that the state is in a factual state of de facto moratorium, even though no official moratorium has ever been declared. Death sentences have remained high between 2017 and 2023, with most of them handed down by first-instance courts. This situation has contributed to the accumulation of death row populations across correctional facilities. The condition is further exacerbated by concerns over prison overcrowding, uncertainty regarding the fate of death row inmates, and potential violations of fair trial standards, as documented in reports by ICJR and Amnesty International.

In contrast, although capital punishment remains codified in South Korea's *Mubādalah*, the country has not carried out an execution since 1998, positioning it as a clear example of de facto abolition. Kuk Cho (2008), in his article *Mubādalah*, notes that this moratorium began during the administration of President Kim Dae-Jung and has since been reinforced by active efforts from civil society organizations, the National Assembly, and the National Human Rights Commission to advocate for full abolition.

Human rights data show that the number of inmates on death row remains significant despite the absence of executions reflecting a persistent normative tension between the formal criminal law and actual political-juridical practice. Human Rights Watch (2025) reports that although executions are no longer carried out, the continued existence of individuals on death row has resulted in a phenomenon of *Mubādalah*, attracting international criticism for potential violations of the right to life and the psychological well-being of inmates.

These developments underscore that South Korea's democratization, along with sustained pressure from civil society groups and human rights bodies, has played a pivotal role in shaping the country's trajectory. Over time, legislation and Constitutional Court decisions have revealed ongoing interpretive conflicts regarding the constitutionality of capital punishment. Moreover, abolitionist trends in other Asian countries as highlighted in cross-regional comparative scholarship reinforce the narrative that South Korea is undergoing a transitional shift toward a more human-rights-oriented criminal justice reform.

The comparison between Indonesia and South Korea highlights a pronounced divergence in their capital punishment policies. In Indonesia, death sentences continue to be imposed actively despite the existence of a de facto moratorium on executions. Conversely, in South Korea, the death penalty remains codified in national law, yet executions have not been carried out for several decades. Findings from normative legal research indicate that both countries employ markedly different legal mechanisms. As demonstrated in *Mubādalah*, the categories of offenses eligible for capital punishment and the procedures for imposing such sentences differ substantially between Indonesia's *Mubādalah* and South Korea's *Mubādalah*.

This divergence is further reinforced by the role of constitutional courts. Analysis published in *Mubādalah* reveals that the constitutional courts of both countries have upheld the legality of the death penalty while simultaneously affirming contextual rights such as the right to life. This dual stance creates a legal paradox that reflects a conservative approach in interpreting non-derogable human rights (Griya Jurnal). To clarify these contrasts, Table 1 presents comparative data on death row populations, execution trends, and the legal status of capital punishment in both countries. This table serves as a critical foundation for subsequent comparative analysis that explores the political, social, and normative factors shaping each country's policy direction.

Findings on the Regulatory Framework and Implementation of Capital Punishment in Both Countries

Table 3. Comparative Dimensions of Legal Regulation, Judicial Practice, and Penal Policy

Comparative Aspect	Indonesia	South Korea
Legal Basis	Provided under the Criminal Code (Law No. 1/2023), the Narcotics Law, the Anti-Terrorism Law, and previously the Anti-Corruption Law	Provided under the *Criminal Act* and several other penal statutes
Categories of Capital Offenses	Predominantly narcotics-related crimes; terrorism; premeditated murder; certain serious offenses	Aggravated murder; terrorism-related offenses; other extreme cases
Execution Status	No executions since 2016 (de facto moratorium)	No executions since 1997–1998 (de facto abolition)
Trend in Death Sentencing	High and increasing (509 inmates on death row as of 2023)	Very low; death row population stable at 59 inmates (as of 2025)
Judicial Procedure	Three-tier court system+judicial review + clemency	Three-tier court system (trial appeal–Supreme Court)
Fair Trial Safeguards	Challenging: issues include limited access to legal counsel and lack of transparency in execution procedures (ICJR 2023)	Relatively strong; the Korea National Human Rights Commission actively monitors protections
Influence of International Human Rights Norms	Weak to moderate; the state consistently rejects abolition	Strong; regularly aligns with UPR recommendations
Policy Orientation	Security-driven penal policy emphasizing deterrence	Rights-based criminal policy grounded in democratic and human rights commitments
International Position	Retentionist	De facto abolitionist
Key Political Drivers	Public pressure and the symbolic "war on drugs" narrative	Civil society pressure and international reputation
Future Trajectory	Status quo; revised Criminal Code maintains the death penalty	Moving toward formal abolition (under legislative discussion)

Table 4. Trends in Death Row Populations in Indonesia and South Korea (Summary Data)

Year	Indonesia (Number on Death Row)	South Korea (Number on Death Row)
1998	~150	65
2005	~200	63
2010	250	61
2015	350	60
2020	450	59
2023–2025	509 (2023) – 562 (2024)	59 (2025)

Table 5. Comparative Influence of International Human Rights Instruments (ICCPR, UPR, GC 36)

Human Rights Instrument	Indonesia	South Korea
ICCPR	Ratified, but shows no policy commitment toward abolition	Ratified and actively follows recommendations
General Comment No. 36	No observable policy adaptation	Several recommendations increasingly considered
Universal Periodic Review (UPR)	Consistently rejects abolition-related recommendations	Accepts several recommendations and strengthens moratorium position
International Pressure	Low–moderate	High; integrated into global reputation strategy

Table 6. Comparative Human Rights Aspects Concerning Death Row Prisoners: Indonesia and South Korea

Human Rights Aspect / Type of Treatment	Country	Description / Explanation

Death Row Conditions	Indonesia	Death row inmates are typically housed in designated cells under strict supervision. Conditions vary by facility; several reports highlight limited space and inadequate amenities. Family contact is allowed but closely monitored.
	South Korea	Death row inmates are confined in near-complete isolation for most of the day. Social interaction is highly restricted. Although prison conditions are more standardized, long-term isolation has drawn significant human rights criticism.
Right to Legal Counsel	Indonesia	Inmates have the right to legal representation, though the quality of assistance depends heavily on access, financial capacity, and support from legal aid organizations. Appeals, cassation, and judicial review remain available.
	South Korea	Access to legal counsel is guaranteed; the state provides attorneys for indigent inmates. Appeals follow a structured process, including judicial review by the Constitutional Court.
Family Access	Indonesia	Family visits are permitted periodically. Prior to execution, visitation rights are expanded to allow final preparations.
	South Korea	Family access is highly limited due to the isolation regime. Visits require strict approval and are generally brief.
Religious and Spiritual Access	Indonesia	Spiritual guidance is available and becomes mandatory prior to execution. Religious leaders are present during the execution process.
	South Korea	Inmates are allowed to worship and receive spiritual visits, although under strict surveillance.
Access to Healthcare	Indonesia	Healthcare services are available but limited. Human rights reports document delays and insufficient medical facilities.
	South Korea	Healthcare access is more adequate and standardized; death row inmates receive basic medical services in accordance with prison regulations.
Execution Notice	Indonesia	No fixed timeline exists. Notification may be given very close to the execution date, drawing criticism for psychological distress.
	South Korea	Under procedural rules, notification of execution is issued according to official protocol within five days after the execution order is released.
Alternatives / Moratorium Status	Indonesia	No moratorium exists; the death penalty remains enforceable. However, discourse regarding its replacement with conditional life imprisonment has emerged.
	South Korea	De facto moratorium since 1998 no executions for more than 25 years, although the death penalty remains legally valid.
Right to Apply for Clemency	Indonesia	Death row inmates may request clemency from the President. The process is often prolonged and discretionary.
	South Korea	Inmates may petition the President for pardon. South Korea has occasionally considered collective amnesty measures.
Psychological Treatment / Death Row Phenomenon	Indonesia	The “death row phenomenon” is common due to long waiting periods and uncertainty surrounding execution dates.

	South Korea	Prolonged isolation triggers significant mental stress, despite the absence of executions since 1997. Human rights critiques frequently target this isolation regime.

The findings of this study regarding the regulation and implementation of capital punishment in Indonesia and South Korea reveal a pronounced structural divergence between the governing legal norms and their enforcement practices. In Indonesia, the legal basis for the death penalty is embedded in the new Criminal Code (Law No. 1/2023) and several sectoral laws (including the Narcotics Law and the Anti-Terrorism Law), reflecting the state's consistent orientation toward using capital punishment as an instrument of penal populism and deterrence. ICJR's 2023 report shows that the majority of death sentences are imposed in narcotics-related cases and that the death row population continues to grow due to the absence of executions since 2016. This pattern aligns with the findings of Maharani, Hidayat, and Nurfatlah (2024), which demonstrate that Indonesia maintains a far broader range of capital offenses than South Korea.

In contrast, South Korea retains the death penalty normatively through its *Mubādalah* but has not carried out an execution since December 1997. As a result, the country is classified internationally as a de facto abolitionist state (Cho, 2008). The South Korean judicial system also features a three-tier review structure that provides stronger procedural safeguards relative to Indonesia. However, findings from *Mubādalah* (2025) indicate that approximately 59 individuals remain on death row, although the state refrains from executing them due to public sentiment, international human rights pressure, and domestic political dynamics increasingly supportive of penal reform.

Furthermore, both countries exhibit a substantial gap between legal norms and implementation. In Indonesia, the death penalty is actively preserved in statutory law but not enforced in practice, resulting in the accumulation of hundreds of inmates facing prolonged procedural uncertainty (ICJR, 2023; Amnesty International, 2024). Meanwhile, in South Korea, the government maintains the legal provisions for capital punishment but deliberately abstains from carrying out executions due to political considerations and human rights concerns creating a form of practical abolition without formal legislative change (HRW, 2021; Cho, 2008). A study published in *Mubādalah* by Omara and Rahman (2024) further demonstrates that the constitutional courts of both countries uphold the constitutionality of capital punishment, though grounded in differing justifications and public rationalities.

Taken together, the regulatory and practical dimensions of capital punishment in Indonesia and South Korea illustrate that death penalty policy is shaped not only by written legal structures but also by political configurations, civil society pressures, democratic trajectories, and the influence of international human rights norms such as the ICCPR, General Comment No. 36, and the UPR cycle. These contrasting policy trajectories underscore Indonesia's tendency toward a security-driven penal policy, whereas South Korea is moving toward a rights-based criminal policy despite not yet formally abolishing capital punishment.

Discussion

Differences in the Regulation and Implementation of Capital Punishment in Indonesia and South Korea

Indonesia and South Korea both retain provisions for the death penalty within their respective positive legal systems; however, their practical implementation demonstrates markedly different patterns. In Indonesia, capital punishment is regulated under the Criminal Code and various sectoral laws (e.g., the Narcotics Law and the Anti-Terrorism Law), resulting in a relatively broad scope of capital offenses. In practice, courts continue to impose death sentences particularly in narcotics-related cases leading to a growing accumulation of inmates

on death row (ICJR, 2023). Despite this, executions have effectively ceased since 2016, placing the country in a position of de facto moratorium while remaining retentionist in its statutory framework and judicial sentencing (ICJR, 2023; Amnesty International, 2024).

South Korea presents a different trajectory: although the death penalty remains codified in the *Mubādalah*, the state has not carried out an execution since late 1997, rendering it an abolitionist-in-practice jurisdiction. The number of inmates on death row has remained relatively stable human rights advocacy reports estimate approximately 59 individuals and the South Korean judicial process generally offers stronger procedural safeguards compared to the Indonesian context (Cho, 2008; The Advocates for Human Rights, 2025).

Table 7. Comparative Treatment of Death Row Prisoners: Indonesia and South Korea

Type of Treatment	Country	Legal Basis (Article)	Description / Explanation
Legality of the Death Penalty	Indonesia	New Criminal Code 2023: Articles 100–101, 98(4)	Capital punishment is classified as a special penalty that may be imposed with a 10-year probation period.
	South Korea	*Criminal Act* Article 41	Capital punishment is recognized as one of the legally valid forms of punishment.
Method of Execution	Indonesia	Law No. 2/1964 on the Implementation of Capital Punishment, Articles 1–11	Executions are carried out by firing squad under the authority of the police.
	South Korea	*Criminal Act* Article 66	Executions are conducted by hanging within correctional institutions.
Postponement of Execution Due to Specific Conditions	Indonesia	Criminal Procedure Code (KUHAP) Article 281	Executions may be postponed for pregnant inmates or individuals suffering from serious illness.
	South Korea	*Criminal Act* Article 67	Executions are suspended for pregnant women and for inmates experiencing mental disorders.
Execution Notification	Indonesia	Law No. 2/1964 Article 6	Inmates are notified prior to execution, but no specific minimum time frame is required.
	South Korea	*Criminal Procedure Act* Article 466	Executions must be carried out within five days after the Minister of Justice issues an execution order.
Required Officials Present at Execution	Indonesia	Law No. 2/1964 Articles 7–9	Executions must be attended by a prosecutor, a medical doctor, a religious representative, and police personnel.
	South Korea	*Criminal Procedure Act* Article 467	Executions must be attended by a public prosecutor, the prison warden, and an official record keeper.
Death Row Waiting Period	Indonesia	Not explicitly regulated in the Criminal Code/Criminal Procedure Code	Waiting periods are extremely long—often exceeding 10 years—due to appeals, cassation, and clemency processes.
	South Korea	Not explicitly regulated; subject to Ministerial regulations	Although legally permitted, executions have not occurred since 1997 (de facto moratorium).
Right to Apply for Clemency	Indonesia	Law No. 22/2002 (as amended by Law No. 5/2010) Articles 2–3	Death row inmates may request clemency from the President after their sentence becomes final and binding.
	South Korea	Constitution of Korea Article 79	The President has discretionary authority to grant pardons or commutations to death row inmates.

Access to Legal Counsel	Indonesia	Criminal Procedure Code (KUHAP) Article 54	Inmates have the right to legal assistance at every stage, including after sentencing.
	South Korea	*Criminal Procedure Act* Article 33	The state provides legal counsel for inmates unable to afford representation.
Religious or Spiritual Assistance	Indonesia	Law No. 2/1964 Article 7(2)	Religious officials must be present and provide spiritual guidance during the execution process.
	South Korea	*Prison Act* Article 18	Inmates are entitled to spiritual services in accordance with their religious beliefs.
Family Visitation Rights	Indonesia	Prison Regulations / Ministry of Law and Human Rights Regulations	Family visits are allowed under supervision and expanded prior to execution.
	South Korea	*Prison Act* Article 41	Family visits are allowed but limited, largely due to the isolation regime.
Healthcare Access	Indonesia	Correctional Law No. 22/2022 Article 13	Death row inmates are entitled to basic healthcare services.
	South Korea	*Prison Act* Article 52	Standardized medical services are provided within correctional facilities.
Isolation Restrictions	Indonesia	Not specifically regulated	Isolation is not a mandatory standard practice for death row inmates.
	South Korea	*Prison Act* and Enforcement Rules	Death row inmates are almost always held in long-term isolation.

From the perspective of Retentionist Abolitionist Theory, these differences reflect distinct penal orientations. Indonesia adopts a predominantly retentionist stance, employing the death penalty as an instrument of deterrence and as a strong political signal against offenses perceived as major threats especially narcotics-related crimes. South Korea, by contrast, has moved toward practical abolition, despite not having abolished capital punishment formally in law. This theoretical lens helps explain how two democratic states can maintain similar legal provisions yet exhibit divergent practices: moral–political orientations and public security priorities drive Indonesia's active imposition of death sentences, whereas considerations of human rights legitimacy and the consolidation of the right-to-life norm underpin South Korea's non-execution practice (Hood & Hoyle, 2015; Cho, 2008).

International Human Rights Norm Diffusion Theory further illuminates this divergence. South Korea appears more responsive to international norms and pressures such as the ICCPR, the UPR process, and recommendations issued by UN bodies leading to the internalization of anti death penalty norms at the level of practice, even in the absence of legislative abolition. Indonesia, on the other hand, exhibits stronger normative resistance; international norms diffuse only partially due to domestic political dynamics, threat perceptions, and the need to maintain the legitimacy of domestic penal policies. Empirical evidence from Amnesty International, Human Rights Watch, and local advocacy reports demonstrates how global pressure and civil society activism shape Korean practice, whereas in Indonesia, international recommendations frequently collide with domestic law-enforcement imperatives and public opinion that largely supports harsh punishment (Amnesty International, 2024; HRW, 2021; The Advocates for Human Rights, 2025).

Viewed through the lens of Legal Implementation Theory, the pronounced gap between regulatory texts and actual enforcement the implementation gap becomes a key analytical focal point. In Indonesia, the presence of laws that permit capital punishment and the high frequency of death sentences do not translate into actual executions. Institutional misalignment between the judiciary and the executive, administrative capacity limitations,

and sustained international human rights pressure jointly produce a factual moratorium while simultaneously creating legal overhang for death row inmates (ICJR, 2023). In South Korea, by contrast, institutional capacity and political choices have resulted in policy drift: the formal legal provisions remain, but execution as an enforcement practice has been indefinitely suspended. This dynamic illustrates how political factors, legal culture, and the influence of social actors (parliament, courts, and civil society) shape the realization of penal policy.

Such an implementation-based understanding is crucial for formulating policy recommendations. The challenge does not lie solely in amending statutory provisions but also in strengthening institutional mechanisms, ensuring due process protections, and developing accountability frameworks capable of bridging the divide between *Mubādalah* and *Mubādalah* (Pressman & Wildavsky, 1973; Peters, 2015).

The divergent trajectories observed in Indonesia and South Korea therefore cannot be attributed solely to differences in statutory regulation. Rather, they reflect broader constitutional cultures that shape how each democratic state understands the relationship between criminal punishment, public authority, and fundamental rights. Indonesia continues to embed capital punishment within a constitutional culture that prioritizes collective security, social stability, and state responsibility to protect society against extraordinary crimes. Consequently, penal philosophy remains closely associated with deterrence and retributive justice as legitimate expressions of sovereign authority. South Korea, by contrast, has gradually developed a constitutional culture in which democratic consolidation, judicial restraint, and the institutionalization of human rights increasingly define the legitimacy of criminal punishment. This shift illustrates that constitutional development influences not only the content of legal norms but also the ethical expectations placed upon state institutions when exercising coercive power. From a comparative perspective, these findings suggest that the practical realization of human dignity depends less upon formal constitutional recognition than upon the evolution of constitutional culture capable of limiting the state's punitive authority in accordance with democratic values (Rosenfeld, 2012; Barak, 2015; Waldron, 2012).

Viewed through the *Mubādalah*perspective, these differences acquire a broader ethical significance. Reciprocal justice does not require the state to abandon criminal punishment altogether; rather, it requires that every exercise of state coercion remain grounded in reciprocal recognition of human dignity among victims, offenders, society, and the state itself. In this framework, punishment derives its legitimacy not merely from legal authorization but from its capacity to preserve balanced justice without transforming offenders into objects of unlimited state power. The comparison between Indonesia and South Korea demonstrates that reciprocal justice may be pursued through different institutional pathways, yet its ethical benchmark remains constant: punishment must simultaneously protect public security and uphold the inherent worth of every individual. This interpretation extends the application of *Mubādalah*beyond interpersonal ethics toward constitutional and criminal justice discourse, thereby positioning reciprocal justice as a normative framework capable of enriching comparative legal scholarship on state punishment and democratic governance (Kodir, 2019; Honneth, 1995).

The Influence of International Human Rights Norms on National Death Penalty Policies in Indonesia and South Korea

International norms concerning the right to life particularly those embedded in the ICCPR and elaborated through General Comment No. 36 establish stringent standards governing the application of capital punishment. These norms encourage restriction, moratorium, and ultimately abolition (UN Human Rights Committee, 2018). Within the retentionist–abolitionist theoretical framework, these standards operate as international benchmarks that challenge retentionist practices; states seeking to preserve international

legitimacy or maintain diplomatic credibility often find themselves compelled to adjust domestic practices (e.g., adopting moratoria) even prior to formal legislative reform. General Comment No. 36 and successive UN General Assembly resolutions on moratoriums provide strong normative and political arguments for abolitionist advocacy, thereby furnishing non-state actors with a foundation for mobilizing human rights claims and exerting pressure for policy change (UN Human Rights Committee, 2018; United Nations General Assembly, 2022).

Domestic responses to international pressure diverge significantly between Indonesia and South Korea, a difference that can be analytically explained through International Human Rights Norm Diffusion Theory. South Korea demonstrates a pattern of normative internalization: although capital punishment remains codified in the Criminal Act, executions have ceased since the late 1990s due to a combination of civil society advocacy, democratization processes, and concerns about international reputation (Cho, 2008; The Advocates for Human Rights, 2025). Following the norm diffusion sequence norm emergence, norm cascade, and norm internalization South Korea appears to have reached the cascade/internalization stage at the level of practice, despite not having completed legal abolition (Cho, 2008). Indonesia, by contrast, exhibits a more partial diffusion process. Although a state party to the ICCPR and a repeated recipient of UPR recommendations, the normative impact on domestic death penalty policy remains limited. Domestic political factors including perceptions of narcotics-related threats, penal populism, and the imperative of domestic legitimacy create selective adaptation or outright resistance to international pressure (ICJR, 2023; Amnesty International, 2024).

A deeper analysis grounded in Legal Implementation Theory highlights that the impact of international norms ultimately depends on institutional capacity, executive commitment, and the interactions among domestic actors (Pressman & Wildavsky, 1973; Peters, 2015). In South Korea, key actors including an executive branch committed to non-execution, a judiciary that safeguards procedural guarantees, and civil society organizations advocating abolition have produced a policy environment where implementation (non-execution) outpaces the formal legal text. This phenomenon may be described as *Mubādalah* or *Mubādalah* (Cho, 2008). In Indonesia, despite maintaining a strong retentionist legal framework, implementation is constrained by institutional inconsistency, judicial transparency issues, and human rights pressures that have yet to meaningfully transform policy orientation. The result is a persistent *Mubādalah*, wherein international norms formally exist but are only unevenly realized in practice (ICJR, 2023; Human Rights Watch, 2021).

The policy implications of these contrasting responses require multidimensional strategies. For South Korea, the next step involves translating its long-standing moratorium into permanent legal abolition. For Indonesia, reforms should prioritize enhancing the quality of legal implementation including improving due process safeguards, strengthening access to legal representation, and increasing transparency while developing institutional capacity to internalize human rights norms. Additionally, advocacy strategies must be context-sensitive to ensure more effective norm diffusion. Theoretically, the integration of retentionism abolitionism, norm diffusion, and legal implementation frameworks offers a robust analytical lens for understanding why international norms yield divergent outcomes in two Asian democracies. These differences are shaped by distinct patterns of normative internalization, political actor configurations, and bureaucratic capacities to translate international obligations into concrete domestic practice (UN Human Rights Committee, 2018; ICJR, 2023; Cho, 2008).

The contrasting influence of the ICCPR in Indonesia and South Korea demonstrates that the effectiveness of international human rights norms depends not simply on treaty ratification but on the domestic processes through which those norms acquire political and constitutional legitimacy. Ratification establishes formal legal obligations, yet it does not

automatically transform institutional behaviour or public policy. South Korea illustrates a relatively advanced stage of norm internalization in which international human rights principles have become embedded within judicial reasoning, executive practice, and democratic political discourse. Indonesia, on the other hand, reflects a pattern of selective adaptation whereby international commitments coexist with domestic penal philosophies emphasizing sovereignty, national security, and crime control. These findings reinforce broader scholarship suggesting that international legal norms become effective only when supported by domestic institutions capable of translating external obligations into locally legitimate constitutional values (Finnemore & Sikkink, 1998; Goodman & Jinks, 2013).

Normative Challenges and Policy Implications for the Protection of the Right to Life

Theoretically, international human rights instruments such as the ICCPR and General Comment No. 36 advocate stringent restrictions on the use of capital punishment and promote a normative trajectory toward its abolition as a means of strengthening the protection of the right to life (UN Human Rights Committee, 2018). In practice, however, state responses remain heterogeneous. South Korea institutionalizes non-execution as a form of international norm internalization an "abolition in practice" despite retaining capital punishment in statutory law. Indonesia, by contrast, maintains a retentionist legal framework and continues to impose death sentences, even though executions have ceased since 2016, resulting in an expanding death row population and a persistent normative ambiguity (ICJR, 2023; Cho, 2008). This gap illustrates that compliance with international norms extends beyond treaty ratification; it requires political, institutional, and societal translation of the obligations embedded in those norms.

Fair trial concerns constitute one of the most salient manifestations of the *Mubādalah* that directly influence the substantive protection of the right to life. In Indonesia, numerous reports highlight uneven access to legal counsel, limited time for defense at the early stages of proceedings, deficiencies in investigative practices, and a lack of transparency in appellate and clemency procedures factors that collectively undermine due process standards in capital cases (Amnesty International, 2024; ICJR, 2023). These deficiencies are exacerbated by the accumulation of inmates on death row, creating legal uncertainty and heightening the risk of human rights violations related to conditions of detention. Without significant procedural improvements and equitable access to justice, international norms on the right to life cannot meaningfully translate into substantive protection for individuals facing capital punishment.

South Korea faces a different normative challenge one characterized by ambivalence. Although its longstanding practice of non-execution demonstrates the influence of international norms and sustained civil society pressure, the continued statutory retention of the death penalty produces prolonged death row situations and a legitimacy conflict. Individuals sentenced to death experience a form of legal limbo in which their right to life remains formally threatened despite the state's de facto moratorium, attracting criticism regarding the human rights implications of prolonged confinement (Cho, 2008; Human Rights Watch, 2021). This ambivalence presents a significant normative dilemma: should the state convert its non-execution practice into formal legislative abolition to ensure coherence between law and practice, or does maintaining this discrepancy perpetuate legal uncertainty and psychological harm for death row inmates?

The policy implications of this normative and implementation gap require multidimensional responses. First, Indonesia must prioritize procedural reforms ensuring equitable access to legal defense, enhancing transparency in appeals, judicial review, and clemency procedures, and strengthening judicial oversight while reconsidering the application of capital punishment in cases vulnerable to due process violations (ICJR, 2023; Amnesty International, 2024). Second, South Korea's next logical step is the transformation of its long-standing de facto moratorium into formal legislative abolition to resolve the

problem of death row prolongation and align statutory law with existing practice (Cho, 2008; The Advocates for Human Rights, 2025). More broadly, implementation theory demonstrates that without sufficient bureaucratic capacity, sustained political commitment, and consistent civil society pressure, international norms yield widely divergent outcomes. As such, policy recommendations must target institutional strengthening and context-sensitive advocacy strategies to ensure greater convergence between *Mubādalah* and *Mubādalah* (Pressman & Wildavsky, 1973; UN Human Rights Committee, 2018).

The findings further suggest that future policy debates should move beyond the polarized question of whether capital punishment ought to be retained or abolished. A more productive approach is to evaluate whether existing criminal justice institutions are capable of guaranteeing procedural fairness, proportionality, accountability, and equal respect for human dignity throughout the penal process. Even where abolition remains politically unattainable, significant human rights improvements may still be achieved through narrowing the scope of capital punishment, strengthening judicial safeguards, improving access to competent legal representation, and establishing transparent clemency mechanisms. These institutional reforms represent practical expressions of the state's responsibility to reconcile criminal justice objectives with the protection of fundamental rights, thereby reducing the implementation gap identified throughout this study (UN Human Rights Committee, 2018; Hood & Hoyle, 2015).

From a theoretical perspective, this study contributes to comparative criminal law by demonstrating that the legitimacy of capital punishment should be assessed through an integrated analytical framework combining constitutional culture, international human rights norm diffusion, legal implementation, and the*Mubādalah*perspective. Existing scholarship generally explains death penalty policy through legal doctrine, political institutions, or human rights obligations independently. This study shows that these dimensions become more analytically meaningful when examined alongside reciprocal justice as an ethical principle governing the relationship between the state and its citizens. Accordingly, *Mubādalah*should not be understood solely as a framework of Islamic social ethics but also as a contemporary normative theory capable of informing comparative constitutionalism, criminal justice reform, and international human rights scholarship. This interdisciplinary contribution represents the principal theoretical novelty of the present study and extends the application of reciprocal justice beyond its conventional field of gender relations into the broader discourse on democratic state punishment.

Conclusion

The This study demonstrates that the divergent trajectories of capital punishment in Indonesia and South Korea cannot be adequately explained solely through differences in statutory regulation or constitutional recognition of the right to life. Although both countries have ratified the International Covenant on Civil and Political Rights (ICCPR) and formally retain capital punishment within their legal systems, they have developed markedly different approaches to the exercise of state punitive authority. Indonesia continues to maintain a broad retentionist framework characterized by frequent death sentencing despite the absence of executions since 2016, resulting in a persistent implementation gap between legal norms and institutional practice. By contrast, South Korea has developed a de facto abolitionist model in which the non-use of capital punishment reflects a stronger internalization of international human rights norms, even though legislative abolition has not yet been achieved. These findings indicate that the practical protection of the right to life is shaped not merely by formal legal commitments but by the interaction between constitutional culture, penal philosophy, democratic development, political legitimacy, and institutional implementation. Consequently, the legitimacy of state punishment should be understood as

a multidimensional question that extends beyond legal validity to encompass ethical accountability and respect for human dignity.

Beyond these empirical findings, this study contributes to comparative criminal law and international human rights scholarship by demonstrating that existing explanations based solely on legal doctrine, political institutions, or international human rights obligations remain insufficient to capture the ethical complexity of capital punishment. The integration of Retentionism Abolitionism Theory, International Human Rights Norm Diffusion Theory, Legal Implementation Theory, and the *Mubādalah*perspective provides a multidimensional analytical framework capable of explaining why states with similar constitutional and international legal commitments nevertheless adopt different penal trajectories. More importantly, this study operationalizes the *Mubādalah* perspective beyond its conventional application in Islamic gender discourse by positioning reciprocal justice as a normative framework for evaluating state punishment. Through the interconnected principles of human dignity, reciprocal justice, and proportional state authority, *Mubādalah* offers an ethical standard for assessing whether criminal justice simultaneously protects victims, offenders, society, and the state without sacrificing the inherent dignity of any party. In this respect, the article contributes not only to Islamic legal thought but also to broader debates in comparative constitutionalism, criminal justice, and international human rights concerning the moral limits of state coercive power.

The findings also carry important policy implications for democratic states seeking to reconcile criminal justice objectives with the protection of fundamental human rights. For Indonesia, strengthening fair trial guarantees, narrowing the scope of capital punishment, enhancing judicial transparency, improving access to competent legal representation, and establishing a formal moratorium constitute essential steps toward reducing the implementation gap and reinforcing the protection of the right to life. For South Korea, the principal challenge lies in translating its longstanding de facto moratorium into formal legislative abolition in order to eliminate the inconsistency between statutory law and institutional practice. More broadly, this study suggests that meaningful penal reform requires not only legal amendment but also constitutional commitment, institutional capacity, political leadership, and sustained public engagement. Future comparative research should therefore investigate how constitutional culture, religious ethics, public opinion, and identity politics influence the evolution of capital punishment across Asian democracies. Expanding comparative analysis to additional jurisdictions would further clarify how reciprocal justice may serve as a normative bridge between international human rights standards and diverse legal traditions. Ultimately, this study argues that the future legitimacy of capital punishment should no longer be assessed solely according to its legal authorization or political necessity, but according to its capacity to preserve human dignity through reciprocal justice and proportionate, accountable state punishment. In this regard, the *Mubādalah* perspective offers not merely an alternative ethical discourse but a practical analytical framework capable of enriching comparative criminal law and advancing contemporary international human rights scholarship.

Bibliography

Adhigama Andre Budiman, Genoveva A.K.S Maya Girlie L. A .Ginting Iftitahsari, Johanna G. S. D. Poerba Maidina Rahmawati. (2023). Laporan Situasi Kebijakan Pidana Mati di Indonesia 2022: Tak Ada yang Terlindungi. https://shorturl.at/WVxPQ

Adnan Buyung Nasution dan A. Patra M. Zen. (2006). Instrumen Internasional Pokok Hak Asasi Manusia. In A. B. Nasution & A. P. M. Zen (Eds.), *Mubādalah*. Yayasan Obor Indonesia. https://perpustakaan.kemlu.go.id/index.php?p=show_detail&id=5109&keywords=

Amnesty International & ICJR. (2018). *Mubādalah*. https://icjr.or.id/wp-content/uploads/2018/08/DEATH-PENALTY-POLICY-final-1.pdf

Amnesty International. (2023). *Mubādalah*. Amnesty International Publications.

Amnesty International. (2024). *Mubādalah* (Global report). Amnesty International. https://www.amnesty.org/en/documents/act50/7952/2024/id/. Amnesty International

Amnesty International. (2025). *Mubādalah*. Amnesty International Indonesia. https://www.amnesty.id

Asrun, A. M. (2016). Hak Asasi Manusia Dalam Kerangka Negara Hukum: Catatan Perjuangan di Mahkamah Konstitusi. *Mubādalah*, *Mubādalah*(1), 133–154. https://doi.org/10.15408/jch.v4i1.3200

Bae, S. (2016). *Mubādalah*. Asian Journal of Criminology, 11(3), 179–197. https://doi.org/10.5509/2009823407

Banakar, R., & Travers, M. (2005). *Mubādalah* Oxford: Hart Publishing. https://www.bloomsbury.com/uk/theory-and-method-in-sociolegal-research-9781841136257/

Carozza, P. G. (2008). Human Dignity and Judicial Interpretation of Human Rights: A Reply. *Mubādalah*, 19(5), 931–944. https://doi.org/10.1093/ejil/chn059

Cho, K. (2008). *Mubādalah* Asian Journal of Comparative Law, 3(1), 1–28. https://doi.org/10.1017/S2194607800000120

Cotterrell, R. (1998). Why Must Legal Ideas Be Interpreted Sociologically? *Mubādalah*, 25(2), 171–192. https://www.jstor.org/stable/1410686

Donnelly, J. (2013). *Mubādalah* (NED-New edition, 3). Cornell University Press. http://www.jstor.org/stable/10.7591/j.ctt1xx5q2

Faqihuddin Abdul Kodir. (2019). *Mubādalah*. IRCiSoD.

Gunarto, G. (2024). The Juridical Review of Death Penalty Imposition in Indonesia Seen from Human Rights Perspective. *Mubādalah*, 5(3), 421–430. https://jurnal.unissula.ac.id/index.php/ldj/article/view/31311/0

Hood, R., & Hoyle, C. (2015). *Mubādalah* (5th ed.). Oxford University Press. https://shorturl.at/vbxRA

Human Rights Watch. (2015). *Mubādalah*. HRW Report. https://www.hrw.org/news/2015/01/15/dispatches-indonesias-death-penalty-double-standard

Human Rights Watch. (2021). *Mubādalah*. Human Rights Watch. https://www.hrw.org/news/2021/03/27/joint-letter-south-koreas-abolition-death-penalty

Human Rights Watch. (2021). *Mubādalah*. HRW. https://www.hrw.org

Human Rights Watch. (2023). *Mubādalah*. Human Rights Watch. https://www.hrw.org

Husairi, A. (2023). *Mubādalah* (article). PSHA / Universitas Islam Indonesia (open access). https://journal.uii.ac.id/psha/article/download/35000/16932/120887. Journal UII

Iftitahsari, Adhigama Andre Budiman, Erasmus A. T. Napitupulu. (2024). Situation Report on Death Pinalty Polices in Indonesia of 2023: Automatic Commutation of the Death

Penalty Penalty Mandated by the New Criminal Code, Institute for Criminal Justice Reform. https://shorturl.at/ARWaF

Institute for Criminal Justice Reform (ICJR). (2023). *Mubādalah*. ICJR. https://icjr.or.id/wp-content/uploads/2024/06/ICJR_Death-Penalty-Report-2023_EN.pdf

International. https://www.amnesty.org/en/documents/act50/7952/2024/id/ *Mubādalah*

Johnson, D. T., & Zimring, F. E. (2009). *Mubādalah*. Oxford University Press. https://shorturl.at/rjj4Y

Joko Supriyanto. (2025).*Mubādalah*Pidana Mati Sebagai Sarana Pemberantasan Tindak Pidana Narkotika di Indonesia, Recidive: *Mubādalah*Vol 4, No 3: 345. https://doi.org/10.20961/recidive.v4i3.40749

Kim, S. (2014). Public Discourse and the Abolition Movement in South Korea. *Mubādalah*8(1), 45–67. https://www.safetylit.org/week/journal_matrix.php?id=23021

Kodir, F. A. (2019). *Mubādalah*. Yogyakarta: IRCiSoD.

Kompas. (2025). *Mubādalah*. Kompas.com. https://nasional.kompas.com

Maharani, N., Hidayat, S., & Nurfatlah, T. (2024). *Mubādalah*. Parhesia, 2(1), 66–72. https://doi.org/10.29303/parhesia.v2i1.3766

McRae, D. (2017). Capital punishment and Indonesian political dynamics: Exploring state narratives and public legitimacy. Journal of Southeast Asian Studies, 48(2), 245–264. https://www.cambridge.org/core/search?q=McRae

Miethe, T. D., Lu, H., & Deibert, D. (2005). *Mubādalah*. In M. Tonry (Ed.), *Mubādalah*(Vol. 33, pp. 353–439). University of Chicago Press. https://doi.org/10.1086/655359

Miftahul Huda. (2012). *Mubādalah*. http://www.miftakhulhuda.com.

Miles, M. B., Huberman, A. M., & Saldaña, J. (2014). *Mubādalah* (3rd ed.). Sage Publications.

National Human Rights Commission of Korea. (2020). *Mubādalah*. https://www.humanrights.go.kr

Omara, A., & Rahman, F. (2024). *Mubādalah*. Volksgeist: Jurnal Ilmu Hukum dan Konstitusi, 7(2), 321–340. https://doi.org/10.24090/volksgeist.v7i2.10773

Peters, B. G. (2015). *Mubādalah* (6th ed.). Routledge. https://shorturl.at/XXTzV

Pratama, A. Y., & Wijaya, H. (2024). *Mubādalah*. *Mubādalah*, 7(2), 1142–1149. https://www.ijsshr.in

Pressman, J. L., & Wildavsky, A. (1973). *Mubādalah* (3rd ed.). University of California Press. https://books.google.co.id/books/about/Implementation.html?hl=id&id=oVoyetu_GSQC&redir_esc=y

Pribadi, K. A. (2023). *Mubādalah*. In S. Butt & J. Lindsey (Eds.), *Mubādalah*. https://lib.ui.ac.id

Purnomo, S., & Ramadhan, F. (2023). The executability of capital punishment under Indonesia's 2023 National Criminal Code. *Mubādalah*, *Mubādalah*(2), 235–248. ubharajaya.ac.id

Raden Mas Jieang. (2012). *Mubādalah Mubādalah*.

Sarat, A., & Boulanger, C. (2017). Culture, politics, and the death penalty in Asia. Law & Social Inquiry, 42(4), 1121–1145. https://doi.org/10.1111/j.1747-4469.2008.00105.x

Schabas, W. (2012). *Mubādalah*. Cambridge University Press. https://doi.org/10.1017/CBO9780511494109

Sihombing, E. N. (2021). *Mubādalah*. In J. Chang & T. Thio (Eds.), *Mubādalah* (pp. 145–168). Cambridge University Press. https://www.cambridge.org

Siregar, G., & Kim, J. H. (2024). *Mubādalah*. *Mubādalah*, 7(1), 89–104. https://ejournal.uinsaizu.ac.id

Situmorang, M. (2022). The death penalty in Indonesia from a human rights perspective. *Mubādalah*, *Mubādalah*(2), 312–319. seaninstitute.or.id

Supriyadi, A. (2023). *Mubādalah*. Institute for Criminal Justice Reform. icjr.or.id

Supriyanto, J. (2015). *Mubādalah*. Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan. https://jurnal.uns.ac.id/recidive/article/view/40749. Jurnal Universitas Sebelas Maret+1

The Advocates for Human Rights. (2025). *Mubādalah*. The Advocates for Human Rights. https://www.theadvocatesforhumanrights.org/Res/TAHR%20TJWG%20WCADP%20LoT%20CERD%20DP%20final.pdf

The Death Penalty Project. (2021). *Mubādalah*. London: The Death Penalty Project. https://deathpenaltyproject.org/

United Nations General Assembly. (2022). *Mubādalah* (see most recent UNGA moratorium resolutions and voting records). UN Digital Library. https://digitallibrary.un.org/

United Nations Human Rights Committee. (2018). *Mubādalah* (CCPR/C/GC/36). Office of the United Nations High Commissioner for Human Rights. https://www.ohchr.org/Documents/HRBodies/CCPR/CCPR_C_GC_36.pdf

United Nations. (1989). *Mubādalah*. https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr-deathpenalty.pdf

Waldron, J. (2012). *Mubādalah*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199915439.001.0001

Wikipedia. (2024). *Mubādalah*. Wikipedia. https://en.wikipedia.org/wiki/Capital_punishment_in_South_Korea

Yulianti, W. E. (2021). *Mubādalah*. Mahkamah Masyarakat (UNDIP e-journal). https://ejournal.undip.ac.id/index.php/mmh/article/view/60074. Undip E-Journal

Yusuf, M., & Rahman, A. (2022). *Mubādalah*. *Mubādalah*, 11, 45–56. https://lifescienceglobal.com