

**ANALISIS PASAL 100 UNDANG – UNDANG NOMOR 1 TAHUN 2023  
TENTANG HUKUMAN MATI BERSYARAT BERDASARKAN ASAS  
KEADILAN DAN ASAS KEPASTIAN HUKUM**

**Oleh**

**Indah Lestari, Nim 2014101072**

**Program Studi Ilmu Hukum**

**Abstrak**

Penelitian ini bertujuan (1) untuk mengetahui dan menganalisis bagaimana mekanisme pelaksanaan hukuman mati menurut peraturan yang berlaku di Indonesia saat ini, (2) mengetahui faktor penghambat dalam pelaksanaan hukuman mati pasca putusan hakim. Jenis penelitian yang digunakan oleh peneliti adalah penelitian hukum normatif, yakni melalui pendekatan peraturan perundang – undangan, dan pendekatan konseptual. Sumber bahan hukum yang digunakan yaitu Undang – Undang Dasar 1945, Peraturan Presiden, TAP MPR, dan Peraturan Kapolri. Teknik pengumpulan bahan hukum yang dilakukan yaitu dengan mengkaji atau menganalisis peraturan perundang – undangan, Undang – Undang Dasar 1945, dan peraturan lainnya. Hasil penelitian menunjukkan bahwa (1) Dari pengaturan terkait tata cara pelaksanaan pidana mati dalam UU No. 2/PNPS/1964 belum mengatur terkait tenggat waktu pelaksanaan pidana mati. Didalamnya hanya mengatur sebatas pemberitahuan menjelang eksekusi mati yakni 3 x 24 jam. Ketidakpastian ini tentunya menimbulkan suatu ketidakpastian hukum dan akan berdampak pada psikologis terpidana. Di Indonesia sendiri terkait rentang waktu pasca putusan hakim hingga ia benar – benar akan di eksekusi nyatanya memerlukan waktu yang cukup lama. Karena di peraturan perundang – undangan in casu tidak mengatur hal ini. Mengenai kapan terpidana akan dieksekusi sepenuhnya tergantung pada kebijakan jaksa selaku eksekutor. Hal ini tidak dapat dilakukan karena seharusnya hukum di indoneisa mengatur dari segi hukum materiil, formil, hingga tahap pelaksanaannya. (2) Terkait faktor penghambat pidana mati pasca putusan hakim ada banyak seperti faktor perundang – undangan, penegakan hukum, dan sarana fasilitas. Maka dari itu perlu kiranya diatur terkait pelaksanaan pidana mati. Karena dengan tidak adanya aturan ini menyebabkan kebingungan tersendiri bagi Masyarakat dan juga terpidana yang dijatuhi hukuman mati. Selain itu diharapkan melalui KUHP yang baru dijelaskan terkait syarat apa saja yang harus dipenuhi terpidana sehingga hukuman mati bisa berubah menjadi hukuman seumur hidup. Karena jika dilihat dari aturan yang ada hanya dijelaskan terkait rasa penyesalan pelaku dan keterkaitan pelaku dalam tindak pidana. Jika hanya memperhatikan dua faktor ini dikhawatirkan kedepannya akan menimbulkan kejahatan berulang.

**Kata kunci :** Pidana mati, Hak Asasi Manusia, Kepastian Hukum, Hukuman Mati Bersyarat.

**ANALYSIS OF ARTICLE 100 OF LAW NUMBER 1 OF 2023  
CONCERNING CONDITIONAL DEATH PENALTY BASED ON THE  
PRINCIPLE OF JUSTICE AND THE PRINCIPLE OF LEGAL  
CERTAINTY**

**By**

**Indah Lestari, Nim 2014101072**

**Law Study Program**

***Abstract***

*This study aims (1) to find out and analyze how the mechanism for implementing the death penalty according to current regulations in Indonesia, (2) to find out the inhibiting factors in the implementation of the death penalty after the judge's decision. The type of research used by researchers is normative legal research, namely through a statutory approach, and a conceptual approach. The sources of legal materials used are the 1945 Constitution, Presidential Regulation, MPR TAP, and Police Chief Regulation. The technique of collecting legal materials carried out is by reviewing or analyzing laws and regulations, the 1945 Constitution, and other regulations. The results showed that (1) From the regulations related to the procedures for the implementation of the death penalty in Law No. 2 / PNPS / 1964 has not regulated the deadline for the implementation of the death penalty. It only regulates the extent of notification before execution, which is 3 x 24 hours. This uncertainty certainly creates legal uncertainty and will have an impact on the psychology of the convict. In Indonesia itself, regarding the time span after the judge's decision until he will actually be executed, in fact, it takes quite a long time. Because in casu laws and regulations do not regulate this. Regarding when the convict will be executed depends entirely on the policy of the prosecutor as executor. This cannot be done because the law in Indonesia should regulate in terms of material, formal, and implementation laws. (2) Regarding the inhibiting factors of the death penalty after the judge's decision, there are many such as statutory factors, law enforcement, and facilities. Therefore, it is necessary to regulate the implementation of the death penalty. Because the absence of this rule causes its own confusion for the community and also convicts sentenced to death. In addition, it is hoped that through the new Criminal Code, it is explained what conditions must be met by convicts so that the death penalty can be changed to a life sentence. Because when viewed from the existing rules, it is only explained related to the perpetrator's remorse and the perpetrator's relationship in criminal acts. If you only pay attention to these two factors, it is feared that in the future it will cause repeat crimes.*

**Keywords:** *Death Penalty, Human Rights, Legal Certainty, Conditional Death Penalty.*