An Analysis of Maqasid al-Shariah on Alternatives to the Death Penalty in Law No. 1 of 2023 Concerning the Criminal Code

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Abstract
The research was a qualitative legal study concerning alternatives to the death penalty as stipulated in Law Number 1 of 2023 on the Criminal Code, and it was evaluated from the perspective of maqashid al-shari’ah. The method involved initially collecting both primary and secondary data, which were then scrutinized within relevant literature. After examining and analyzing the data, the researcher concluded that the alternative provisions to the death penalty in Law Number 1 of 2023 on the Criminal Code exhibit both similarities and differences compared to Islamic law as interpreted by maqashid shariah. The similarities include that both the Law and Islamic law offer alternative sanctions that no longer involve taking a life, which in the context of the National Criminal Code could be considered aligned with maqashid shariah. However, a notable difference lies in cases of murder or taking another’s life, where Islamic law does not allow for the alternative sanction of diyat (financial compensation) unless the victim’s family forgives the perpetrator. For the National Criminal Code to align with maqashid shariah in providing an alternative to the death penalty for murder (resulting in the loss of life), it must first secure forgiveness from the victim’s family as a prerequisite to commuting the sentence from death to life imprisonment or a maximum of 20 years in prison.
I. Introduction

The disparities between the previous and current Indonesian Criminal Code, also known as the National Criminal Code, as stipulated in Law Number 1 of 2023, particularly regarding the utilization of capital punishment as a final option, have emerged as a noteworthy subject of discussion. According to Article 98 of Law Number 1 of 2023 on the Criminal Code, courts have the authority to sentence individuals to death, albeit with the condition of a ten-year probationary period. While on probation, if the prisoner can exhibit positive behavioral transformation, the President may commute the death penalty to life imprisonment based on recommendations from the Supreme Court (Zulkifli, 2020).

The regulation of the death penalty is outlined in Article 98, which highlights that this kind of punishment is only administered as a final option, with the primary objective of deterring crime and ensuring societal safety. Article 99 delineates the protocols for implementing capital punishment, highlighting that executions are not performed in a public setting and are executed in a prescribed fashion. The execution is also postponed for pregnant women, lactating mothers, or anyone with mental instability.

The adoption of the death penalty is an adaptive and targeted solution, as stated by Deputy Minister of Law and Human Rights, Edward Omar Sharif Hiariej. The death sentence is not regarded as a principal form of punishment, but rather as a disciplinary measure imposed in specific circumstances (Bessler, 2023). In the realm of international human rights, the implementation of capital punishment gives rise to contradictions with universally acknowledged concepts of human rights. Nevertheless, exceptions permit the utilization of capital punishment for exceedingly grave and perilous offenses. The death penalty is governed as a substitute choice and final recourse according to Law Number 1 of 2023 on the Criminal Code. If a criminal demonstrates positive behavioral improvement, the death penalty may be carried out following a ten-year probationary period.

The discourse around capital punishment showcases a wide range of perspectives from different stakeholders, shedding light on more overarching inquiries regarding the objectives and efficacy of the criminal justice system. A focus group discussion conducted in Bandung examined the existing legislative loopholes in the regulation of the death sentence and emphasized the need to evaluate the implementation of these rules.

Indonesia's strategy for delaying the implementation of the death sentence considers both international pressure and the gravity of the crimes committed. The primary justifications for upholding this practice encompass safeguarding public security and interests, as well as honoring commitments under international human rights
accords. Nevertheless, delaying the implementation of the death sentence provides an opportunity for additional assessment and contemplation over the future of capital punishment in Indonesia. The retention of the death penalty in Indonesia is justified by a range of factors that mirror the distinct social, political, and legal circumstances of the country. However, Indonesia also upholds the death penalty as part of its adherence to international human rights accords.

The criminal law reform in Indonesia demonstrates a dedication to striking a balance between upholding public order and security and respecting human rights. It also acknowledges and conforms to international norms and standards. The justification for the retention of the death penalty centers around safeguarding public welfare, upholding principles of justice, and acknowledging the importance of humanitarian ideals and human rights (Xinglong, 2005).

The primary objective of Al-ahkam al-jinayah (criminal law) in Islam is to safeguard the welfare of people and establish a secure and well-organized society. The death penalty is replaced with an alternate form of punishment to reassess the case and consider the condition of the convict. This change follows the principle of maqashid sharia, which gives priority to the preservation of life (Absar, 2020). This technique exemplifies the tenets of justice and mercy in Islam, wherein punishment is formulated to rectify, enlighten, and safeguard society.

To look at the death sentence from the points of view of Islamic law and human rights, maqashid sharia is used. Al-Syatibi, an expert in maqashid sharia, also says that Islamic laws can be put into groups based on the amount of welfare they provide. These groups include dharuriyat (basic needs), hajiyat (supplementary needs), and tahsiniyat (development needs). In the context of maqashid al-shariah, alternatives to the death sentence must be based on the ideas of protecting life, doing what's right, and stopping crime. To fully grasp this new rule and what it means for the law system in Indonesia, one must study Law No. 1 of 2023 (Mumīsa et al., 2015)

The goal of this study is to investigate alternatives to the death sentence in Article 100 paragraph (1) of Law No. 1 of 2023 using maqashid al-sharia, to protect life. This research tries to find a link between how Islamic law is usually understood and how the criminal justice system in Indonesia works now. The study’s results will talk about how much this different sentence follows the principle of life preservation in maqashid al-sharia and what it adds to the discussion of Islamic law today. This study should give us new information about how to use and how well alternatives to the death sentence work in achieving Sharia goals and helping to change criminal law in the context of human rights and Islamic law.

2. Research Method

The research was conducted using the library research method by using information
from books and official government publications (Alotaibi, 2021). This research is qualitative research and normative juridical research that uses the analysis of Law No. 1 Year 2023. The research approach used is a legal approach and a conceptual approach. This research uses qualitative data obtained from the research object and secondary data sources such as primary legal materials and literature books (Sonjaya, 2020; Rido, 2020). The data analysis used is a qualitative analysis without using statistical formulas. The conclusion is based on logical thinking from the data that has been explained in the form of a description. Data is presented and analyzed simultaneously to maintain its relevance (Wang et al., 2023).

3. Results and Discussion

Implementation of Legal Protection for Lampung Robusta Coffee Geographical Indications in Improving the Economy of West Lampung Coffee Farmers

Legal regulations in Indonesia threaten the death penalty for various crimes, including serious crimes, economic crimes, political crimes, and crimes related to illicit drugs (Komnas HAM, 2008). The reason for the death penalty set with the new formulation is to protect the community and avoid emotional and violent community reactions. The death penalty is expected to be applied selectively by judges and based on rational considerations (Arief, 2005). The purpose of the death penalty is to release the emotions that arise because of the crime and reveal the motivation for revenge. In the Concept of the Criminal Code, the death penalty has shifted from a basic penalty to a special or exceptional penalty. The death penalty is seen as a last resort to protect society. Although it is considered a violation of the right to life, the death penalty is still applied in Indonesia. The imposition of the death penalty is only carried out if other efforts, such as prevention, have not worked (Hamzah & Sumangelipu, 1984). The crime itself should not be possible to hurt the punished. The division of opinion on what is fair or not depends very much on the party who feels it. The death penalty raises questions about the legitimacy of the government in imposing punishment (Jan, 2003). The ruler of the country has this authority in special situations and conditions. Judicial power gives the state the power to do justice through a fair court system (Asshiddiqie, 2009).

The Urgency of Alternative Alternatives to the Death Penalty in the Law of the Republic of Indonesia Number 1 Year 2023 on the Criminal Code

The existence of the death penalty in Indonesia is regulated in the Criminal Code, which is a legacy from the Netherlands. However, in the Netherlands itself, the death penalty was abolished in 1870, except for crimes that disturb the stability of the country (Ludiana, 2020; Robby et al., 2016). Formally, the death penalty is contained in Article 10 of the Criminal Code as the most severe capital punishment (Moeljatno, 2003). The implementation of the death penalty changed after the issuance of Presidential Decree Number 2 of 1964 on the Procedure for the Execution of the Death Penalty. Data shows that in 2020 and 2021, there were 117 and 114 death penalty cases, with most cases related to narcotics, murder, and terrorism. However, the implementation of the death penalty in Indonesia is still controversial and contrary to human rights and has received criticism from the UN and the
international world. Therefore, the discussion of the Criminal Code proposed the idea of the "Indonesian way" which changes the death penalty to a conditional death penalty.

In this concept, the convict will be given a probationary period of 10 years, and if he shows a change of good behavior and remorse, his sentence can be changed to life. The Criminal Code Bill was approved in 2022 and will come into force in 2026. With this change, Indonesian criminal law has its own national Criminal Code based on the values of Pancasila (Lindsey, 2018). The conditional death penalty is aimed at convicts who show remorse and hope to improve themselves, as well as being involved in criminal acts. The jury will decide on a conditional death penalty with a probationary period of 10 years, and if the convict shows a commendable attitude, the sentence can be changed to life imprisonment. With the imposition of the conditional death penalty, it is hoped that the convicts can do good and improve themselves during the probationary period, under the correctional system based on Pancasila. However, changing the death penalty to a conditional death penalty still raises questions about the Supreme Court’s judgment and its effectiveness in carrying out the purpose of convict construction. Therefore, that clear criminal sanctions should be given from the beginning of the trial, so that the death penalty can be given with certainty and caution. It is also important to consider juridical reasons in giving punishment, so as not to damage the integrity of the law (Anugrah & Desril, 2021).

**Alternative Issues for Death Penalty Substitutes in Law Number 1 of 2023 on the Criminal Code**

Criminal sanctions are given to prevent crime and reward criminals. The death penalty underwent changes from the Criminal Code to the Criminal Code Bill. In 1983/1984, the Criminal Code Bill classified the death penalty as a special crime, no longer as a basic crime. A conditional death sentence is given on the verdict of a panel of judges with a probationary period of 10 years and certain criminal acts. During probation, the defendant will be evaluated based on confession, remorse, and hope to change for the better.

The President’s decision after obtaining the consideration of the Supreme Court obtains legal certainty in the death penalty arrangement. Article 100 paragraph (4) of the Penal Code states that the death penalty can be changed to life imprisonment if the convict shows commendable actions during the probationary period. However, the broad interpretation of the phrase "may" creates legal uncertainty. There is no time limit for the president’s decision to change the sentence. In addition, the change of the death penalty status to life imprisonment depends on the term of office of the President, which can be political in nature.

The impact is that there are opportunities for corruption from convicts to the Head of Prison, the Supreme Court, and the Attorney General. In addition, diplomatic problems with foreign countries can arise, because they want their citizens to be punished with life imprisonment. The system is also complicated in giving a trial period. The granting of conditional criminal sanctions requires the fulfillment of the conditions of sentencing. In the case of the death penalty, the decision must be based on important considerations and convictions.
Arrangements for the Execution of the Death Penalty against Death Convicts After the Rejection of a Legally Certain Pardon in the Future

Since the court's decision has permanent legal force, those sentenced to death can take special legal measures to obtain a pardon by submitting a pardon application to the President. Pardons are granted by the Head of State in the form of changing, mitigating, reducing, or canceling the execution of court decisions against perpetrators of criminal acts.

Applications for clemency can be submitted no later than 1 (one) year after the court decision that has permanent and binding legal force was read by the judge. It is not uncommon for those sentenced to death to apply for clemency to be able to reduce their sentence, especially in this case canceling the execution of the death penalty. In Law No. 22 of 2002 as amended into Law No. 5 of 2010 Concerning Pardons gives good rights to death row inmates, death row inmates, and families of death row inmates to apply for clemency, on the other hand, the Minister of Law and Human Rights based on the initiative the institution can ask the above parties to file a special legal action.

When an application is submitted to the president as the head of state, a delay to the execution can be requested, while waiting to see if the application is granted by looking at the various considerations available. A President approves a pardon application by paying attention to the convict's psychological condition, such as the convict's advanced age, health conditions that must receive intensive treatment, changes in the convict's behavior and good behavior as well as the existence of a high sense of humanity (Dientia, 2013)

The fundamental reason why then only the execution of the death penalty sentence can be delayed until the pardon application is finally accepted is that the execution of the death penalty is related to the lost individual life, so the application for pardon is highly dependent on the decision of the pardon application itself whether it is rejected or granted (National Legal Professional Association, 2024). In the legal provisions that regulate the issue of pardon, it is not explicitly mentioned the pardon that can be given to a death row inmate, the object of his application is the cancellation of the execution of the death sentence, when his pardon application is granted, what kind of punishment can be given to him. However, in its implementation, the cancellation of the death penalty can be changed to life imprisonment, as stipulated in the existing law (Bessler, 2023). Again, in the context of the acceptance or rejection of the pardon, when it is granted, it will grant pardon to the death row but what then if the pardon application is rejected by the president?

The problem that is a problem now is how the legal certainty is related to when the execution of the death penalty will be carried out after the rejection of the pardon application for the convicted. Because the technical regulations do not regulate the period of execution of the death penalty either after applying for clemency or if it is not accepted, and for those sentenced to death who do not apply for clemency. A pardon application can be made several times considering the provisions of Article 2 of the Pardon Law which gives space to death row inmates to re-submit a pardon application if the previous one was rejected by the president and two years have passed since the first pardon application was rejected.
If a clemency request is rejected by the president, the condemned prisoners must endure an ongoing period of uncertainty. Although regulations allow those whose clemency petitions are denied to reapply after a two-year interval from the date of the rejection decision, this period extends the psychological and emotional strain on the prisoners as they await the possibility of reapplying for clemency. This procedural aspect highlights a critical area of concern in the application of the death penalty, emphasizing the need for careful consideration of the human rights implications and the mental well-being of those on death row (Purnomo, 2016; Zaini, 2013). If a second clemency request is rejected by the president, what happens regarding the execution date for the death row inmate?

Considering the explanations of the articles in the clemency legislation, it could create new consequences. Could this revised clemency law provide certainty for death row inmates? Although the time limits for resolving clemency applications have been set, a rejection introduces uncertainty regarding when an execution can be carried out. This issue remains problematic to this day. While serving his sentence and waiting for the execution at RTM Poncol, Baros, Cimahi, Eddy submitted a clemency request to President Soeharto, but it was rejected. In August 2015, Eddy Sampak reapplied for clemency to President Joko Widodo. However, Jokowi rejected his clemency through Presidential Decree Number 31/G of 2015 dated August 31. Eddy is still confined in Class I Cirebon Prison at the age of 83.

The uncertainty of carrying out death sentences, when viewed from the perspective of judicial decisions that have permanent legal force and are binding, must be respected and implemented. This becomes obstructed when faced with such situations. Ideally, the state should provide legal certainty about when a judge’s decision should be fully implemented according to its mandate. If the state allows for the filing of special legal measures against a death row inmate, it is a mandate from the constitution. However, it should also be considered when such an application is rejected when the execution should be carried out.

This effort is made with the understanding that judicial decisions must be respected and implemented by the relevant parties; if this continues, then judicial decisions merely become written orders without any certainty of when they will be executed. According to Law Number 22 of 2002, as amended by Law Number 5 of 2010 on Clemency, the legislation substantially only regulates the procedures for clemency applications, who has the right to apply, and the deadlines for such applications. In the new Criminal Code, there is an article regarding clemency, as stipulated in Article 101, which states that if a clemency application is rejected and if the execution of the death penalty is not carried out within ten years from the rejection of the clemency and not because the convict has escaped, then the death penalty status may subsequently be changed to life imprisonment through a decision by the head of state.

Legally, this article at least provides certainty that if a clemency request is denied and if the execution cannot be carried out after ten years, then the status of the death sentence and the death penalty can be changed to life imprisonment through a decision from the president. According to the author’s opinion, this article at least provides legal certainty to the death row inmate whether he will be executed or not after ten years. However, the regulation regarding the timeframe for execution after the rejection of special legal remedies, referred to as clemency, should be clearly and
firmly stated in the legislation. This issue is certainly a note for the state that when the death penalty is still applied, its implementation must be legally accountable. Therefore, a legal reconstruction regarding the implementation of the death penalty after the rejection of clemency by the president in legislation is necessary. This is in line with the Concept of Legal Reform, certainly needed to respond and provide solutions to current and future issues regarding the imposition of the death penalty after all legal remedies, including clemency, have been rejected.

This revision effort also represents the state’s accountability regarding the death penalty; it should not only regulate formally but also ensure the proper implementation of those rules. The essential content that must be included and regulated in the clemency legislation is the legal certainty of when an execution can be carried out after a clemency request from a death row inmate is rejected by the President. The time frame needs to be re-evaluated by the lawmakers to ensure that the implementation of the death penalty is ideal for both the present and the future. This involves not only refining the existing provisions but also aligning them with ethical considerations, human rights standards, and international expectations to address the multifaceted challenges and criticisms associated with the death penalty.

Analysis of the Alternative Provisions to the Death Penalty in Law Number 1 of 2023 on the Criminal Code

1. Based on Restorative Justice Theory

Restorative justice theory focuses on the use of more humane penalties that are oriented toward the rehabilitation of both victims and offenders. The implementation of social work penalties as an alternative to imprisonment for less than 5 years indicates that these penalties aim to rehabilitate offenders and prevent the occurrence of new crimes. From this explanation, it can be concluded that Law Number 1 of 2023 on the Criminal Code emphasizes the importance of using penalties that are more humane and oriented towards the recovery of both victims and offenders. These provisions are based on restorative justice theory, which underscores the importance of rehabilitating offenders and preventing new crimes (Lex, 2023). The use of the death penalty as a last resort and the application of social work penalties as an alternative to imprisonment for less than 5 years demonstrate that this law focuses on using penalties that are more humane and oriented towards the rehabilitation of both victims and offenders.

2. Based on Human Rights Theory

The perspective of human rights views the death penalty as a violation of fundamental human rights, particularly the right to life. Every individual is recognized as having the right to life, and the imposition of the death penalty is seen as a serious infringement of this right. The human rights perspective also emphasizes protection against torture, cruel treatment, inhuman or degrading acts, or insults to dignity (Dewanto & Susanti, 2023). The use of the death penalty tends to promote a retributive approach, whereas in the current criminal law paradigm, the focus has shifted to restorative justice. In a broader context, traditional views argue that the death penalty is a crucial measure to deter people from breaking the law.
However, comprehensive surveys conducted by the UN in 1988 and 1996 found that there is no scientific evidence to support that the death penalty has a stronger deterrent effect than life imprisonment. Despite this, it is important to note that Indonesia has legal sovereignty, and the policy regarding the death penalty is a prerogative right of the state. The death penalty in Indonesia is imposed on perpetrators of crimes considered extremely severe, such as premeditated murder, terrorist acts, drug trafficking, and crimes against state security.

The death penalty as a special type of punishment in the new Criminal Code is regulated from Articles 98 to 102. The reforms made in the new Criminal Code stipulate that judges impose the death penalty with a probation period of 10 years. This is found in Article 100 of Law Number 1 of 2023 on the Criminal Code. Article 100, paragraph (1) of the Criminal Code states that judges impose the death penalty with a probation period of 10 years, considering the defendant's remorse and the hope for self-improvement or the defendant's role in the criminal act. Article 100, paragraph (2) explains that the death penalty with a probation period as referred to in paragraph (1) must be included in the court's judgment. Therefore, if during this probation period, the individual demonstrates a commendable attitude and behavior, the death penalty can be changed to life imprisonment. This is done through a Presidential Decree (Keppres) after receiving consideration from the Supreme Court (MA). "The life imprisonment referred to in paragraph (4) is counted from when the Presidential Decree is established," as mentioned in Article 100, paragraph (5). "If the convict during the probation period as referred to in paragraph (1) does not show commendable attitude and behavior and there is no hope for improvement, the death penalty may be executed by order of the Attorney General," as regulated in Article 100, paragraph (6).

The reform of the death penalty regulations in the new Criminal Code is considered a compromise for groups both for and against the death penalty. The new Criminal Code still accommodates the death penalty but provides an opportunity for the sentence to be changed to life imprisonment if the convict behaves well during the 10-year probation period. This provides a space for a moratorium on the death penalty in Indonesia. The death penalty regulated in the new Criminal Code also considers individual interests, such as provisions for postponing execution for pregnant women and people with mental disorders.

The alternative provisions to the death penalty in Law Number 1 of 2023 on the Criminal Code, reviewed from a Human Rights Theory perspective, focus on the use of more humane punishments. In the context of human rights, these alternative provisions represent an effort to respect and protect the fundamental rights of every individual. This approach aligns with the evolving global norms that increasingly advocate for the abolition of the death penalty, emphasizing rehabilitation over retribution, and underscores the intrinsic value of human life. The stipulations in the law reflect a progressive shift towards prioritizing the dignity and rights of individuals, even those who have committed serious crimes, by offering a structured path towards potential redemption and life preservation rather than irreversible capital punishment.

3. Based on Maqashid Al-Shariah Theory

When examining the alternative provisions to the death penalty from the
perspective of Islamic Law, it’s crucial to understand that crimes are referred to as *jarimah* or *jinayah*. The term ‘delik’ in Indonesian, which is synonymous with *jarimah*, means an act that is punishable for violating or contradicting the law, also referred to as a criminal act. This includes crimes like murder, robbery, corruption, and various other forms of criminal behavior.

Linking this with the Alternative Death Penalty Provisions in Law Number 1 of 2023 on the Criminal Code, there are similarities and differences. The similarity between Law Number 1 of 2023 and Islamic law is that both provide alternative penalties where the ultimate cost is no longer a life; in this sense (alternative to the death penalty), the National Criminal Code can be said to align with the objectives of *maqashid* al-shariah. However, there is a notable difference, particularly in cases of murder or when a life is taken. In Islamic law, an alternative penalty such as *diyat* (blood money) is not permissible unless the victim’s family forgives the perpetrator (Kalingga, 2019). Therefore, in cases of murder or actions resulting in the loss of life (such as terrorism or severe human rights violations leading to death), for the National Criminal Code to align with *maqashid* al-shariah in providing an alternative to the death penalty, the perpetrator must first receive forgiveness from the victim’s family. This forgiveness is a prerequisite for changing the sentence from death to life imprisonment or a maximum of 20 years in prison.

Based on this, the ideal legal recommendations for alternatives to the death penalty in Law Number 1 of 2023 on the Criminal Code, analyzed from the theories of Restorative Justice, Human Rights, and Maqashid Shariah, are as follows:

1. Based on Restorative Justice Theory, the implementation of alternatives to the death penalty in Law Number 1 of 2023 on the Criminal Code should include:

   a. Involvement of Victims and Community: The evaluation and rehabilitation process for death row inmates should involve victims and the community. This could be through mediation programs or reconciliation meetings where victims, perpetrators, and community members participate in the recovery process.

   b. Focus on Rehabilitation: A comprehensive rehabilitation program should be implemented during the 10-year deferment period. This includes psychological counseling, skill training, and social activities that help convicts reintegrate into society.

   c. Regular Monitoring and Evaluation: Periodic evaluations should be conducted by an independent team consisting of psychologists, criminologists, and community representatives to assess the progress of the convict’s behavior.

   d. Transparency and Accountability: The process of sentence modification should be transparent and accountable, involving public reporting and participation of various stakeholders to ensure that decisions are made based on objective criteria.

2. Based on Human Rights Theory, the implementation of alternatives to the death penalty in Law Number 1 of 2023 on the Criminal Code should regulate:
a. Elimination of the Phrase "May": Replace the phrase "may" in Article 100, paragraph (4) with "must" to ensure legal certainty. Thus, if the convict shows commendable behavior and actions during the probation period, the death penalty must be changed to life imprisonment.

b. Decision Time Limit: Establish a clear timeframe for the President to decide based on the Supreme Court’s considerations, for example within 6 months after receiving the recommendation.

c. Protection Against Abuse of Power: Establish a strict oversight mechanism to ensure that sentence modification decisions are based on objective evaluations and free from political intervention or external pressures.

d. Right to Life and Dignity: Ensure that any decision made respects the right to life and human dignity, providing a fair opportunity for rehabilitation and reintegration.

3. Based on Maqashid Shariah Theory, the implementation of alternatives to the death penalty in Law Number 1 of 2023 on the Criminal Code should apply:

a. Preservation of Life (Hifz al-Nafs): Seek alternative punishments that do not involve taking life, such as life imprisonment, to preserve the right to life in accordance with Maqashid Shariah principles.

b. Justice (Al-'Adl): Ensure that every decision made is fair and proportional, based on a comprehensive evaluation of the convict’s behavior and potential for rehabilitation.

c. Recovery and Reconciliation: Integrate a restorative approach focused on the recovery and reconciliation between the perpetrator, the victim, and the community, to achieve more comprehensive and sustainable justice.

d. Public Interest (Maslahah): Establish that decisions to change the death sentence must consider the public good, aligning the National Criminal Code with Maqashid Shariah. For the National Criminal Code to offer an alternative to the death penalty, it must first receive forgiveness from the victim's family as a prerequisite for changing the sentence from death to life imprisonment or a maximum of 20 years in prison. Also, those who receive an alternative to the death penalty should be able to contribute to society after rehabilitation.

By integrating principles from Restorative Justice, Human Rights, and Maqashid Shariah, the legal recommendations in this study aim to create a more humane, just, and rehabilitation-focused system. This approach not only respects human rights and the value of life but also promotes ongoing recovery and reconciliation within society.

4. Conclusion
The alternative provisions to the death penalty in Law Number 1 of 2023 on the
Criminal Code are detailed in Articles 64, 67, 98, 99, 100, 101, and 102. An alternative to the death penalty can be implemented after the convict has exhibited good behavior for 10 years, with the President’s approval following recommendations from the Supreme Court. The sentence can then be changed to life imprisonment. There are similarities and differences between the Criminal Code and Islamic law. In Islamic law, if there is a murder, the perpetrator must receive forgiveness from the victim’s family as a condition to change the sentence to life imprisonment or a maximum of 20 years in prison.

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