



TESIS

Judul:

PELAKSANAAN HUKUMAN MATI DALAM PERSPEKTIF
BUDHA
DHARMA DI INDONESIA

Disusun oleh:

LOSA LUSIANO ARAUJO
NIM. 207211015

PROGRAM STUDI MAGISTER HUKUM
FAKULTAS HUKUM
UNIVERSITAS TARUMANAGARA
2024

**PELAKSANAAN HUKUMAN MATI DALAM PERSPEKTIF
BUDHA DHARMA DI INDONESIA**

TESIS

Diajukan untuk Memenuhi Salah Satu Syarat Guna Memperoleh Gelar
Magister Hukum di Fakultas Hukum Universitas Tarumanegara

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2024

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BUDHA DHARMA DI INDONESIA
Title : IMPLEMENTATION OF THE DEATH PENALTY FROM A
BUDDHIST DHARMA PERSPECTIVE IN INDONESIA

Tesis ini telah dipertahankan di hadapan Dewan Penguji Program Studi MAGISTER HUKUM Fakultas Hukum Universitas Tarumanagara pada tanggal 20-Januari-2024.

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Yang menyatakan



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ABSTRACT

This dissertation is entitled Legal Considerations for the Application of Death Penalty Based on Criminal Law in the Perspective of Buddhist Dhamma in Indonesia. This dissertation was written by Warsito, NIM 210021800015. I chose this title against the background of the large number of death row convicts, totaling 417 people until 2022, who are waiting to be executed. Based on the 1945 Constitution, Article 28A and Article 28i paragraph 1 confirms that everyone has the right to defend his life and life and the right to life is a human right that cannot be reduced under any circumstances. The purpose of this writing is to describe and analyze the legal considerations for applying the death penalty based on Criminal Law in the perspective of Buddhism in Indonesia. Second, to find out the regulation of positive law in deciding death penalty in Indonesia, how is it implemented and the relevance between normative rules and their implementation from the perspective of Buddha Dhamma. The research used is normative juridical research, secondary data obtained from literature in the form of draft laws, results research, textbooks, scientific journals, newspapers and others. This study used a qualitative method with a library research approach and was guided by the content analysis model.

The Supreme Court's decision on the death penalty is the basic reference for maximum criminals. However, in the Constitutional Court Decision No. 2-3/PUU-V/2007 regarding the request for review of Law No. 22 of 1997 concerning Narcotics in the 1945 Constitution. This type of punishment is so detrimental to constitutional rights that it is clear that there has been a violation of the Right of life. The death penalty which has just been passed as an alternative (special) sentence, death penalty can be suspended due to: (1) The probationary period of 10 (ten) years, when: a) the reaction given by society is not too great for the convict; b) the convict shows guilt and hopes for self-improvement; c) the position of the convict is not too important in the participation of criminal acts; d) a mitigating reason is found. (2) If during the probationary period, the convict shows as stated in paragraph (1) shows commendable attitudes and actions, then the death sentence sentenced to the convict may be transferred to life imprisonment or a maximum of 20 (twenty) years.

The death penalty is not justified in Buddhist Dhamma because it contradicts the Buddhist Pancasila, the first precept, which is to avoid killing living beings which is in line with the humanitarian principles in the theory of Jhon Locke, the Declaration of Human Rights, and the opinion of the international Buddhist figure Dalai Lama. Countries of origin of Buddhism such as Nepal have abolished the death penalty long ago and a Buddhist country, Thailand, has also never executed death penalty offenders. Rehabilitation efforts have also been introduced to Buddhism with the teachings of love, Hinduism with non-violence and Christian and Catholic teachings regarding the prohibition of killing.

Keywords: Legal Considerations, Death Penalty, Criminal Law, Buddha Dhamma

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Keywords: Legal Considerations, Death Penalty, Criminal Law, Buddha Dhamma

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Jakarta, 3 Januari 2024

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DAFTAR LAMPIRAN

Lampiran 1	Daftar Riwayat Hidup
Lampiran 2	Surat Penugasan Dosen Pembimbing
Lampiran 3	Berita Acara Bimbingan
Lampiran 4	Surat Keterangan Turnitin
Lampiran 5	Hasil Turnitin
Lampiran 6	<i>Letter of Acceptance (LoA)</i>