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Imposition of the death penalty for corruptors in Indonesia from a utilitarian perspective

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Abstract: Controversy regarding the death penalty in Indonesia is never-ending, particularly with regard to its application for crimes of corruption. This study offers a reflective analysis based on a utilitarian paradigm, which sees beneficiaries as a justification for the enactment of the law. Utilitarianism is used as an analytical tool because corruption is directly linked to state finances, meaning that legal sanctions must be enacted to ensure public benefit. The result of this study shows that the benefit generated by enacting the death penalty is unimpactful, whilst the costs are high, meaning that the imposition of the death penalty for corruptors is not proportionate according to a utilitarian perspective and a cost and benefit analysis.
Keywords: Death Penalty; Utilitarianism.

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Introduction

Legal punishment or legal penalty, according to Soesilo, is a suffering imposed upon law-breakers by a judge by way of a verdict (Kusumo, 2015). There are several opinions which argue that legal penalties are designed for retaliation, that persons are punished in accordance with what they have done (Kholiq & Wibowo, 2016). A person needs to be punished, so that there exists a deterrent. Then, if someone else wants to violate that law, they will be afraid of the same legal punishment (Mertha, 2014).

Some argue that the imposition of legal punishment is for the personal improvement of the offender, that the offender will become a better person after being punished (Syatar, 2018). The first argument is the imposing of legal punishment according to retributive theory, whilst the second argument is the imposing of legal punishment according to utility theory (Mastalia, 2017). Over the course of time, the utility theory has often been seen as superior, as the defining purpose of legal punishment, particularly in the corridor of the criminal law (Kania, 2014). The reason is that the utility theory prioritises the usefulness aspect of legal punishment, rather than simply retaliating against the convicted, allowing the restorative aspect of legal punishment to establish balance and peace in society (Irmawanti & Arief, 2021).

There are many types of legal punishment. One of the most controversial types is the death penalty (Kusumo, 2015). Indonesia is one of 58 countries which continue to exercise the death penalty as a punishment for certain crimes, including corruption (ICJR, 2017). The controversy regarding the death penalty has led to a narrower debate about whether or not those convicted of corruption should be given the death sentence. Corruption is a specially treated crime, because it is seen to cause widespread disadvantages and have a systematic negative impact on people's lives (Wijayanti & Kasim, 2022). As an example, economic losses in Indonesia caused by corruption throughout 2020 were IDR 56.7 trillion (Aslam, 2022). This is even more incredible when one considers that 2020 saw a decrease in the Indonesian Corruption Perception Index by three points from the previous year. Because of this, there are various voices that argue that the death penalty should apply to those convicted of corruption under several specific conditions.

According to law, the imposition of the death penalty in Indonesia is possible under certain circumstances based on Article 2, Section (2) of *Undang-Undang No.31 Tahun 1999 tentang*

Pemberantasan Tindak Pidana Korupsi. The explanation of that provision has been amended based on Article 1, Clause 1 of *Undang-Undang No.20 Tahun 2001 tentang Perubahan Atas Undang-Undang No.31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.* "Certain circumstances" include: (1) The corrupted funds are funds intended as countermeasures for national hazards, nation-wide natural disasters, and widespread social unrest, as well as overcoming economic and monetary crises; and (2) The repetition of a corruption crime. The reasoning behind these provisions is that some people are considered no longer to be able to be helped through imprisonment, which comes at a high cost to the state. Consequently, the death penalty is the last option for those kinds of people, but when enacted, the state's obligations to maintain their life in prison subsides (Sumanang & Purnawan, 2021). Imposition of death penalty also creates satisfaction among the victims, as the crimes that have been committed against them can be redeemed by death sentences (Yuhermansyah & Fariza, 2017).

The death penalty in Indonesia had never been applied for crimes of corruption. The most severe penalty ever imposed against corruptors has been a life imprisonment sentence (Andryanto, 2021), despite the fact that some charges of corruption have included demands for the death penalty's imposition. Given the opportunity for corruptors in Indonesia to be sentenced to death, it is worthy to ask whether the death penalty will bring any benefits. It is also necessary to ask whether the imposition of death penalty will result in greater happiness for society. If it does not yield any happiness for public, then what is the need for the death penalty to be imposed upon corruptors? This article was written to discuss those issues not only in terms of effectiveness of implementing death penalty for corruptors, but also in a more reflective, philosophical way, using the utilitarian perspective from Jeremy Bentham.

Based on the explanations and problems stated above, the issues to be discussed in this paper may be formulated as follows: (1) How do we compare the cost to be paid and the benefits to be generated by the imposition of death penalty for corruptors in Indonesia? and (2) How would the public society perceive happiness with the imposition of death penalty for corruptors in Indonesia?

Methods

This research involves two research methods: empirical legal research and legal comparative research. The empirical legal research method is research concerning the enforcement of legal norms (law in action) on every facet of society (Benuf & Azhar, 2020). The research object is the effectiveness of death penalty implementation for corruptors in Indonesia. Since the death penalty has never been imposed for corruptors in Indonesia, a comparative approach had to be undertaken to see how effective the implementation of the death penalty for corruption was in other countries. We also analysed how effective the death penalty has been for narcotics and terrorism crimes in Indonesia. The purpose is: by concluding the effectiveness of the death penalty, we may compare its application for narcotics and terrorism-based crimes with its application for crimes of corruption. Based on this comparison, if the death penalty for corruptors in other countries resulted in a good Corruption Perception Index ("**CPI**"), and if the imposition of the death penalty for narcotics and terrorism criminals in Indonesia resulted in a decreasing rate of those crimes, then there may be a very strong indication that the death penalty for corruptors in Indonesia would be effective. Conversely, if the imposition of the death penalty for corruptors in other countries resulted in a *poor* CPI, and/or the imposition of the death penalty when applied to narcotics and terrorism criminals in Indonesia *did not* reduce the number of those crimes, then imposing the death penalty for corruptors in Indonesia could be argued as being ineffective. This study continues by looking at the penalty's effectiveness from a utilitarian perspective. This effectiveness will be measured using cost and benefit calculations, as well as by linking the function of law and order with the happiness of the nation's people. What costs must be paid, what benefits will be obtained and what impact this has people's happiness will all be explored. This paper will not only provides a descriptive analysis of the imposition of the death penalty for corruptors in Indonesia, but also offer a reflective, philosophical view through the paradigm of utilitarianism.

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We also mentioned about the usage of cost and benefit analysis in this paper. Nevertheless, the meaning of the cost and the benefit in this paper are not limited to a strait definition which only assesses its quantification based on money (Rahmiyati et al., 2019). Instead, we define 'cost' in this paper as anything associated with pain, whilst what is meant by 'benefit' is defined as anything which is associated with pleasure; both pain and pleasure being measured according to the theory of utility. There will be no mathematics formula which may be normally founded in the other cost and benefit analysis-based researches, for example as in (Neto & Ferreira, 2020) and (Rahman et al., 2021). The cost and benefit analysis in this paper is carried out by taking the following steps: (1) Analysing what benefits would arise from the imposition of death penalty for corruptors in Indonesia. In other words, what pleasures can be felt by the public by applying such punishments; (2) Analysing what costs would be incurred in implementing death penalty for corruptors in Indonesia. In this case, the costs would be the pain which arises from the application of such punishments; (3) Comparing the costs and the benefits that have been analysed; and (4) Answering the question of whether the application of the death penalty brought any significant impact and if it is worth implementing.

Results and Discussion

Theoritical Framework: Utilitarianism

Utilitarianism originated from the understanding that human feelings can basically be separated into two categories: pleasure and pain (Mill, 2016). According to Bentham (1996), there are numerous simple pleasures of which human is susceptible, including: (1) The pleasure of sense, in which pleasure is generated by the five of human's senses, e.g.: someone feeling happiness for seeing something beautiful or tasting a delicious food; (2) The pleasure of wealth, in which pleasure is generated by possessing or having something, e.g.: being happy because of wealth; (3) The pleasure of skill, in which pleasure is generated by having certain abilities, e.g.: being happy due to having a legal expertise; (4) The pleasure of power, in which pleasure is generated by having power to influence others, suppress others, as well as giving hope or threating others; (5) The pleasure of benevolence, in which pleasure is generated because of the other person's happiness; and (5) The pleasure of malevolence, in which pleasure is generated from seeing another person's suffering.

Pain also has several categories, including: (1) The pain of privation, in which pain is generated from not having anything; (2) The pain of awkwardness, in which pain is generated from failing to apply any particular instrument to its uses; (3) The pain of enmity, in which pain is generated from illness, being in unhealthy condition, or living in a diseased environment; (4) The pain of piety, in which pain is generated due to dissatisfaction or disappointment with God's (supreme being) decision; (5) The pain of benevolence, in which pain is generated from seeing other people enjoying pleasure; and (6) The pain of malevolence, in which pain is generated by seeing other people feeling pain.

The examples given above were stated by Bentham (1996) to emphasise the fact that humans live by pleasure and pain. Humans judge values and weigh their actions by the likely pleasure and pain such an act might evoke (Wibowo, 2019). The most important idea in utilitarianism is "The Greatest Happiness Principle", which evaluates right and wrong according to the benefits produced by an act, so that the act can bring the greatest happiness to the greatest number of people (Hamudy, 2019). The benefits produced become a justification for the formation and/or the implementation of legal norms. For example, democracy is associated with benefits in terms of protecting human rights and enforcing the rule of law. By ensuring those benefits, people who live in democratic countries will be relatively happy. Thus, based on a utilitarian paradigm, the democratic system is the ideal governmental system for a nation (Kalu & Attamah, 2020).

When judging legal norms, the right norms are those which can bring the greatest happiness through their benefits, because basically and instinctively, humans will seek pleasure and avoid pain (Karnouskos, 2021). Therefore, the true and essential purpose of law according to Bentham's utilitarianism is the benefit of the law itself. If the law is beneficial and will bring a lot of pleasure

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or happiness, then the purpose of the law has been achieved. Conversely, if the law is not beneficial and will not generate any happiness, or even may cause a lot of pain, then the purpose of the law has not been achieved.

This kind of thought was strongly influenced by the development of humanism, which accentuated and prioritised the intrinsic value of human dignity through the expression of the self as an individual, personal entity. Thus, according to Bentham (1996), it makes sense to use happiness as an indication of the merit of the law. Likewise, on the imposition of legal punishments, the paradigm states that the right legal punishments are the ones which lead to the most benefits with the smallest cost, thus creating the greatest happiness.

By nature, every human's action is based on the calculation of cost and benefit. In terms of utilitarianism, these calculation of cost and benefit were named "The Principle of Beneficence" (Savulescu et al., 2020). Similiar to The Greatest Happiness Principle, The Principle of Beneficence also values the right or wrong according to its cost and benefit. The lesser cost to be paid and the more benefit to be produced is reciprocal with The Principle of Beneficence, and vice versa (Varkey, 2021). Therefore, a reflection based on utilitarianism is not possible to be separated from the cost and benefit analysis (Katsourides, 2020).

Classic utilitarianism determined pleasure as a measure of benefit. According to Bentham (1996), there are four parameters of pleasure, consisting of (1) Its intensity; (2) Its duration; (3) Its certainty; and (4) Its familiarity.

In terms of legal norms, its intensity is the substance of what is regulated in the norm, and the extent to which it will affect public happiness. Its duration refers to how long the norms will be in effect and how long they will affect the happiness of society. The certainty refers to the legal certainty of the related norms, their harmoniousness with the existing law and how certain the enforcement is. Its familiarity is how consistent the norms are with the public knowledge of matters regulated to such norms Bentham (1996).

In its development, utilitarianism sustained a slight shifting of its benefits measurement. According to modern utilitarianism, measuring happiness with the parameters provided by classic utilitarianism was not convenient, as the calculation often turned out to be abstract and notional. Subsequently, modern utilitarianism argued for the replacement of those parameters with human preferences. Humans choosing which is the most satisfying and profitable option can clearly define whether something is beneficial to them or not (Savulescu et al., 2020).

We concluded that each of the views above have its own advantages and disadvantages. The classic utilitarianism sometimes tends to be blur in measuring happiness, but it can foresee what actions will produce what benefits. In modern utilitarianism, the preference will only arise if the subject had prior experience relating to the action they intend to perform. Although modern utilitarianism has a clearer measurement, its weakness is that it must be preceded by initial experience. Because both classic and modern utilitarianism have their respective strengths and weaknesses, we argue that both of the views can complement each other in evaluating the cost and benefit of the death penalty for corruptors.

Corruption as an Extraordinary Crime

Civilizations around the world are developing rapidly towards modernisation, affecting human lifestyle andbehaviour. Modernisation is also leading to an increase in 'extraordinary crime'. It is called 'extraordinary' because it is interpreted as a crime that threatens world order and brings with it a tremendous negative impact on humanity. With the approval of the Rome Statute in 1998, the definition of extraordinary crimes is limited to: (1) genocide; (2) crimes against humanity; (3) war crimes; and, (4) crimes of aggresion (Hobbs, 2020).

Nonetheless, boundaries regarding the terms "extraordinary crime" are getting wider with the times, as serious crimes against human rights are generally categorised as extraordinary crimes. Any crimes that have a major impact on political stability and order are also classified as extraordinary crimes (Siswadi, 2015). In Indonesia, various crimes are categorised as extraordinary crimes even though they do not belong to any of four categories mentioned in The Rome Statute. These crimes included corruption (Binaji & Hartanti, 2019), narcotics and psychotropic crimes, as well as heavy enviromental pollution (Prahassacitta, 2016). Several characteristics of corruption

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classified as an extraordinary crime in Indonesia can be seen in these following matters: (1) Its systemic, endemic and widespread adverse impact, which is not only detrimental to state finances but also violates the social and economic rights of society; (2) The institution authorized to eradicate corruption is an independent institution, unrestrained from influences of any power; (3) Burden of proof is limited to the defendants of corruption (shifting the burden of proof) (Samosir, 2017); (4) Minimum penalty, fines and compensation are higher than for other ordinary crimes; and (5) There is the possibility of imposing the death penalty for corruptors in certain conditions.

Hence, corruption in Indonesia is classified as an extraordinary crime that receives special attention and treatment from the legal world.

Data

When looking at the implementation of the death penalty for corruptors outside of Indonesia, we gathered several countries to use as comparisons, such as Iran, Cuba, Vietnam, North Korea and China. In this section, we will explain the process of implementation of the death penalty for corruptors in those countries, as well as the Corruption Perceptions Index ("**CPI**") in each country from 2017 to 2021. All CPI data was collected from the official website of Transparency International (2021) which can be accessed at www.transparency.org. The CPI will be associated with the implementation of the death penalty in each country that we examined and will be analysed based on how effective the implementation was.

According to Amnesty International, in 2018 Iran sentenced Vahid Mazloumin and Mohammad Esmail Ghasemi to death on charges of corruption. Amnesty also mentioned that Iranian authorities had violated international law by doing so (Amnesty International, 2018). Iran's CPI from 2017 to 2021 was 30, 28, 26, 25 and 25 points respectively.

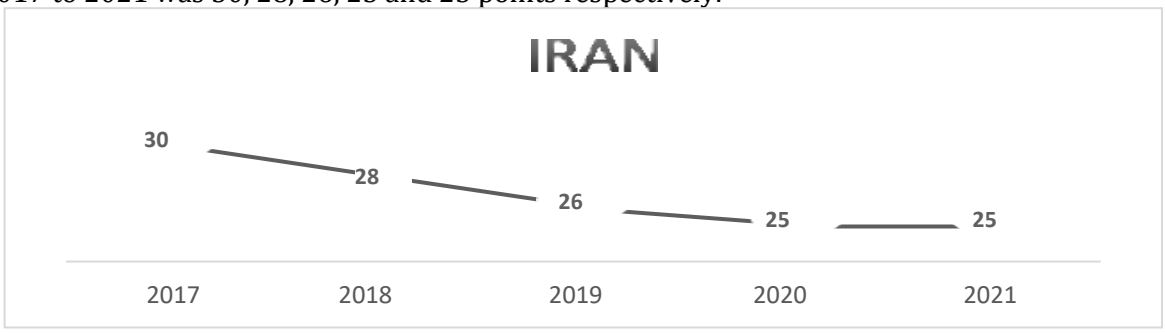

Figure 1. Iran's CPI

In 'Cuba Sentences Officers to Death for Corruption', the Washington Post stated that the death penalty has been imposed since 1989. The punishment was given to Arnaldo Ochoa Sanchez and four government officials on charges of corruption and narcotics smuggling, in 1989. Cuba's CPI from 2017 to 2021 was 47, 47, 48, 47, and 46 points respectively.

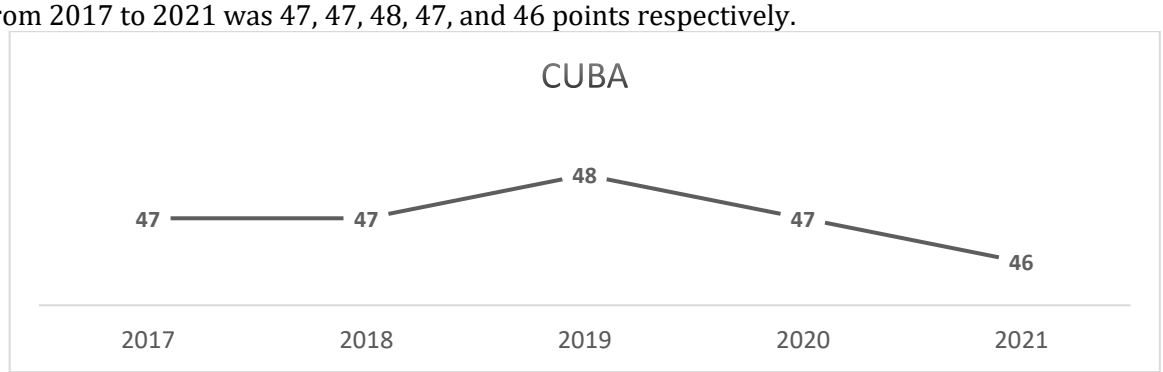

Figure 2. Cuba's CPI

In Vietnam, the last death penalty for corruption was carried out in 2017. According to '*Terbukti Korupsi, Mantan Dirut PeroVietnam divonis Mati*' from Merdeka. the punishment was imposed upon Nguyen Xuan Son, a former President Director of Petro Vietnam in a case of embezzlement

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that resulted in state losses. Vietnam's CPI from 2017 to 2021 was 35, 33, 37, 36, and 39 points respectively.

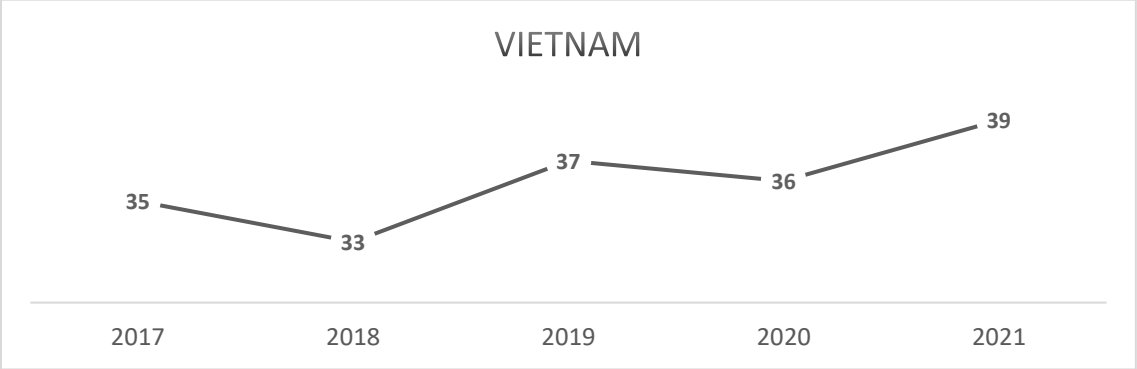
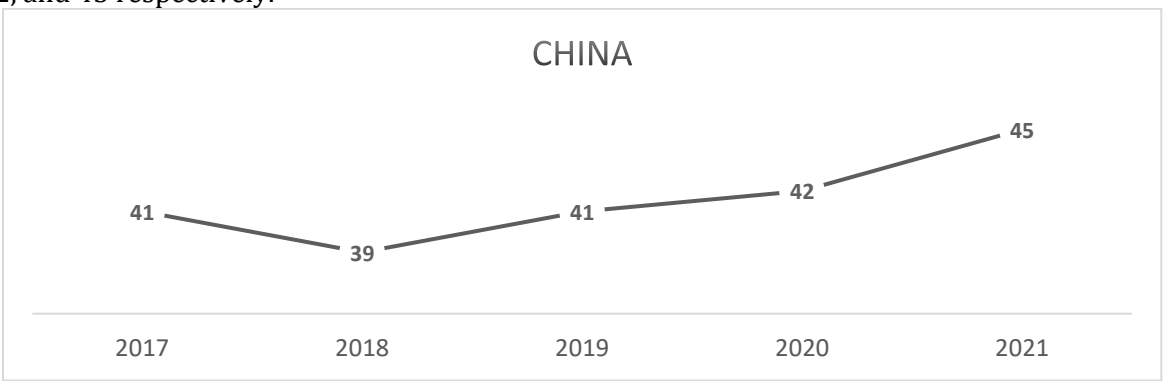


Figure 3. Vietnam's CPI

North Korea, which often imposes the death penalty, has also sentenced corruptors to death. According to news reported by 'dw.com' entitled '*North Korea executes military chief for corruption*', the death penalty was carried out on Ri Yong in 2016 North Korea's CPI from 2017 to 2021 was 17, 14, 17, 18, and 16 points respectively.

Figure 4. North Korea's CPI

Meanwhile, China also imposed the death penalty for corruption on Lai Xiaomin due to his involvement in bribery as a member of the parliament in 2021 (even though the populace did not seem to support such punishment) (Liu, 2021). From 2017 to 2021, China's CPI was 41, 39, 41, 42, and 45 respectively.



Graphic 5. China's CPI

From the information above, it can be analysed that from 2017 to now, Iran has experienced a constant downfall in their CPI score, until it steadied at 25. Cuba, Vietnam and North Korea have all experienced random fluctuation in their CPIs. Meanwhile, China have achieved a constant rise in their CPI, except from 2017 to 2018. We classified the countries into three groups: (1) Worsened (Iran); (2) Elevated (China); and (3) Uncertain (Cuba, Vietnam, and North Korea).

On this metric, the imposition of the death penalty failed to prove its effectiveness in suppressing corruption, as the standard for a sufficient (that is, not corrupt) CPI is 50 (Transparency,

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2021). Even though there were countries in which CPI is improved from year to year, all the countries analysed had a CPI below the international standard.

According to Transparency International, the kinds of corruptions that CPI covers are measured by following manifestations (Transparency International, 2021), (1) Bribery; (2) Diversion of public funds; (3) Officials using their public office for private gain without consequences; (4) Ability of governments to contain corruption in the public sector; (5) Excessive red tape in the sector which may increase opportunities for corruption; (6) Nepotistic appointments in the civil service; (8) Laws ensuring that public officials must disclose their finances and potential conflicts of interest; (9) Legal protection for people who report cases of bribery and corruption from state capture by narrow vested interests; and (10) Access to information on public affairs/government activities.

Based on this list, we decided to looked into point three as it includes the matter of consequences. which we consider to be the most integral aspect regarding the imposition of the death penalty. The other points, whilst considered, we found to be less relevant to the death penalty, although they clearly also affect CPI measurement.

With regards to the data from Transparency International, we tried to uncover the methodology that the source used. We decided to bring up numerous details from an indicator that Transparency International uses. The report from Bertelsmann Stiftung Sustainable Governance Indicators 2020 include the question: To what extent are public officeholders prevented from abusing their position for private interest?

Preventive actions are meant to keep state and public servants from accepting bribes by applying mechanism to guarantee the integrity of office holders. The indicators are: (1) Auditing of state spending; (2) Regulation of party financing; (3) Citizen and media access to information; (4) Accountability of officeholders; (5) Transparent public procurement system; (6) Effective prosecution of corruption.

Effective prosecution of corruption' led us to the concept of the death penalty. Although the death penalty applies to corruptors in the countries we studied, there was no significant improvement for the CPI that a country held when the penalty was carried out for corruption crimes. The CPI did not grow in line with the death penalty being used for corruptors. It does not appear to be accurate to say that the death penalty leads to an improved CPI.

The next indicator that Transparency International uses is the Bertelsmann Stiftung Transformation Index 2022, which includes the question: 'To what extent are public officeholders who abuse their positions prosecuted or penalised?' The following metrics were applied:

1a. A low of 1 point, where "officeholders who break the law and engage in corruption can do so without fear of legal consequences or adverse publicity" to
2a. A high of 10 points, where "officeholders who break the law and engage in corruption are prosecuted rigorously under established law and always attract adverse publicity.

We can assume that the parameters from point two regard how strict the law for corruption crime is. A subsequent question from the index, is: to what extent does the government successfully contain the corruption? This assessment can be explained using the following metrics:

1b. From a low of 1 point, where "the government fails to contain corruption and there is no integrity mechanism in place", to
2b. A high of 10 points, where "The government is successful in containing corruption and all integrity mechanisms are in place and effective."

In addition to the data above, we also researched the three countries with the highest CPI in 2021. These countries; Denmark, Finland and New Zealand, all revoked the death penalty long ago.

In Denmark, the last death penalty was imposed in 1892 and in 1933 the death penalty was removed from the Danish positive law. As of today, Denmark has achieved the highest CPI in the world with a score of 88. Finland and New Zealand have also eliminated the possibility of imposing death penalty, in 1826 and 1989 respectively (Vuorela, 2018).

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We did not use the data above to claim that if a country does not apply the death penalty for corruptors, then that country will always have a good CPI. However, it could be concluded that countries with a good CPI seem no longer to enforce the death penalty; in fact it has been removed for a long time.

The imposition of the death penalty against corruptors has never happened in Indonesia, although theoretically, it is possible to do so. However, the death penalty has been used as a sentence in cases other than corruption, including narcotics and terrorism cases. In 2014, the Indonesian Supreme Court sentenced Freddy Budiman, a drug kingpin, to death, through Indonesia Supreme Court Decision Number 1093 K/Pid.Sus/2014, dated September 8, 2014. His execution was carried out in 2016. Even though the death penalty has been applied in narcotics cases, the crime rate in this sector has increased to an urgent level in Indonesia (Hartanto, 2017). This is a strong indication that death sentences handed down to drug kingpins had no correlation to reducing the level of narcotics crime.

In 2018, the death penalty in the terrorism case against the *Mako Brimob* was handed down through Decision Number 1034/Pid.Sus/2018/PN Jkt.Tim against Anang Rachman and other convicts. In the same year, the death penalty was imposed in the "Sarinah Bomb" terrorism case against Aman Abdurrahman through Decision Number 140/Pid.Sus/2018/PN JKT.SEL. inconsistent to the narcotics crime sector, according to the National Counterterrorism Agency (*Badan Nasional Penanggulangan Terorisme*), terrorism crimes have been increasing steadily up until the present day (Windiani, 2018).

It can be concluded that the imposition of death penalty has failed to achieve the ideal conditions, or at least had no effect on the narcotics and terrorism crime level. These crimes are still committed at a high rate and can even be seen to be increasing based on some information.

Analysis

Based on Bentham's version of classical utilitarianism, pleasure and pain have several simple constructions. If those constructions are associated with the imposition of the death penalty for corruptors, it results in this analysis:

First, Pain of privation: The imposition of the death penalty for corruptors failed to improve the welfare of state finances, or at least to restore state finances to the condition they enjoyed before the corruption was committed. This can be seen from the low CPI of countries that apply the death penalty for corruptors. From the CPI data of other countries that apply the death penalty, it can be concluded that there is no relationship between the application of the death penalty and increasing CPI. We are fully aware that the CPI shown in the data section were not only influenced by the type of punishment applied to corruptors, but several other factors. Nevertheless, one can clearly see that there is no significant relationship between the application of the death penalty and increasing CPI. The imposition of the death penalty in a country that sacrificed a person's life will result in benefits which are not yet clear and obvious in contributing to increased CPI. Thus, why should we sacrifice a human's life for an uncertain outcome?

Second, Pain of awkwardness: The imposition of the death penalty in the field of non-corruption crimes in Indonesia, in this case narcotics and terrorism crimes, has failed to achieve effectiveness. Narcotics and terrorism crimes are currently at a high level in Indonesia, even increasing. In other words, the death penalty does not affect the amount of these crimes in Indonesia. There are indications that if the same type of punishment is going to be applied for corruptors, it will also generate unclear benefits, at the cost of a person's life, which is an absolute human right.

Third, Pain of piety: For some people, it is suffering to see the absolute right to live, as given by God (Jatmiko, 2018), be revoked by human laws that are not absolute. In Goldstein-Greenwood et al. (2020), it was stated that people tend to regret when they are caught in a dilemma between killing someone for the sake of the people and not killing at all, particlarlu when the outcome is to kill the person on the basis of utility. We drew this analogy into the imposition of the death penalty, which can cause regret because the public senses people's right to live being revoked, even if it is for the interests of many people based on utility.

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Fourth, Pleasure of malevolence: Because people are happy to see the suffering of those convicted of corruption crimes who are sentenced to death; and Fifth, Pleasure of power: Because having the death penalty in the criminal law can be seen as a threat to those who want to commit corruption.

The three most important points from above actually refer to the cost to be paid. The first is the pain of privation, which is significant because corruption crimes are closely related to state finances. The question is, why impose the death penalty when it is not a solution to improve state finances? The second is the pain of awkwardness, which is important because Indonesia has already experienced a lack of effectiveness regarding to the imposition of death penalty in the narcotics and terrorism crimes sector. The third is the pain of piety, which is notable because the sacrifice of something absolute (a human life) is done to produce an unclear benefit. The right to live is an absolute right (Jatmiko, 2018), while the benefits of its cessation are still uncertain. Pleasure to see corruptor sentenced to death will only last a moment, because it is not followed by state economic welfare. The increase in happiness from having laws that threaten using the death penalty is also ineffective. The death penalty, which has normatively become a threat to corruptors in Indonesia, has not generated fear of the threat.

Based on modern utilitarianism which relies more on preferences based on experience, the imposition of the death penalty for corruptors will also not produce clear benefits: First, Countries that apply the death penalty for corruptors have a low CPI. This shows that there are no significant impacts produced by the application of the death penalty. We need to re-emphasise that the impact of imposing the death penalty is not in proportion to revoking human's life. We were not saying that the death penalty will bring down a country's CPI, but the insignificant effect on increasing CPI is unquestionable. Second, Countries with the highest CPI in the world do not enforce the death penalty. We are aware that the consequences (the punishment) faced by corruptors are not the only indicator in measuring CPI. However, the data shown is enough to conclude that no significant benefits are generated through imposing the death penalty. And third, The death penalty in Indonesia has been imposed for narcotics and terrorism crimes, but the rates of these two crimes are still increasing. Again, this data shows no clear benefits from death penalty imposition.

From the information above, Indonesia should be able to determine its preference: whether to continue to apply the death penalty for corruptors in a normative manner, or to revoke the norm of threatening the death penalty for corruptors. The results of the analysis resulted in the cost and benefit conclusions detailed in the following points. First, the most important cost to be paid is a human's life. The sacrifice of absolute rights given by God is the cost that must be paid when choosing to enforce the death penalty for corruption. As bad as corruptors are, they are still human beings who have absolute rights. Second, the resulting benefits are neither clear nor measurable. From the data presented and the utilitarian analysis, there is no definite conclusion that the imposition of the death penalty for corruptors would make a large contribution to increasing the CPI. Instead, there must be a particular punishment applied other than death penalty that can clearly contribute to the eradication of corruption. Third, the imposition of the death penalty on corruptors demands too much cost and is not followed by benefits that are as high as the costs-even the resulting benefits are not yet clear.

Therefore, we conclude that the imposition of the death penalty for corruptors in Indonesia does not and will not bring pass any cost and benefit test.

Conclusion

There is no evidence to suggest that the costs to be paid outweigh the benefits that are still unclear, in the imposition of the death penalty for corruptors. There is no clear evidence that imposing the death penalty to corruptors is associated with raising CPI. The sacrifice of a human's life does not and will not contribute to increasing the CPI. Similarly, the happiness that should be created from the application of a legal norm cannot be achieved with the application of the death penalty for corruptors in Indonesia. Thus, the imposition of such a penalty cannot be justified from the utilitarian perspective.

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Although the death penalty has never been applied to corruption convicts, it is still able to be imposed in Indonesia. Therefore, we propose that the regulations regarding the imposition of the death penalty on corruptors to be repealed and be replaced with other legal punishments that are more beneficial to society and the state. It is time for Indonesia to reflect on the formulation of appropriate legal punishment for corruption crimes, punishments which are appropriate with regards to costs and benefits. This could ensure pleasure and happiness for society, for example: additional punishments in the form of severe economic sanctions and revocation of certain rights in the political field.

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