



Narcotics Death Row Inmates in the Transition to the National Criminal Code: A Dignified Justice Perspective

Pietro Grassio Eko
Yulio*

Universitas Pelita Harapan,
Indonesia

Agus Budianto

Universitas Pelita Harapan,
Indonesia

Teguh Prasetyo

Universitas Pelita Harapan,
Indonesia

***Corresponding author:**

Pietro Grassio Eko Yulio, Universitas Pelita
Harapan, Indonesia.

✉ pietro.ekoyulio@uph.edu

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Abstract

Background: Narcotics offenses are treated as extraordinary and organized crimes in Indonesia, while the continued use of the death penalty raises legal and humanitarian concerns for inmates who remain in correctional institutions awaiting execution.

Objective: This study examines the legal position and treatment of death row inmates convicted of narcotics offenses under Law No. 1 of 2023 on the Criminal Code from the perspective of dignified justice.

Methods: A normative-empirical legal approach was employed by combining an analysis of legislation and legal literature with interviews involving the Rehabilitation Division of the Class I Tangerang Correctional Institution and two death row inmates convicted of narcotics offenses. The empirical component was limited to one correctional institution and involved two death row inmates as interview participants.

Results: The new Criminal Code repositions the death penalty as an alternative punishment and provides a ten-year probationary period; however, the absence of detailed procedures for commutation and assessment criteria creates legal uncertainty. Field findings also indicate prolonged psychological pressure among inmates, while correctional outreach, rehabilitation activities, religious and work programs, and psychological evaluations support humane treatment and behavioral assessment.

Conclusion: The principle of *lex favor reo* should guide the transitional application of the new Criminal Code, supported by clear commutation procedures and coordinated, measurable assessments to ensure legal certainty and dignified justice.

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INTRODUCTION

Indonesia is one of the countries committed to eradicating all narcotics-related crimes (Pambudi & Redi, 2024; Yudhoyono & Soponyono, 2024). The fight against narcotics is carried out in the interest of national defense and the enforcement of national criminal law. These efforts are crucial because an increasing variety of narcotics are circulating in Indonesia (Sumardin et al., 2019). Article 1 Paragraph 1 of Law No. 35 of 2009 on Narcotics defines narcotics as substances or drugs derived from plants or non-plant sources, whether synthetic or semisynthetic, which can cause a decrease or alteration in consciousness, loss of sensation, reduction or elimination of pain, and can lead to dependence. Narcotics-related crimes are also classified as extraordinary crimes, and they constitute organized crime involving strong transnational syndicates. This classification encompasses crimes that have profound and multidimensional impacts on the social, cultural, economic, and political spheres, with the negative consequences resulting from these crimes

being exceptionally severe. For this reason, extraordinary punishment is considered necessary for this exceptionally grave type of crime, which has permeated various aspects of societies worldwide as a transnational crime ([Sudanto, 2017](#); [Vukusic, 2019](#)).

Considering that this criminal phenomenon has become so rampant across the globe that it has developed into a deep-rooted scourge in society, the United Nations convened a convention to address the prohibition of the illicit narcotics trade worldwide, which led to the adoption of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1988. This comprehensive convention aims to eradicate the illicit trade in narcotics and psychotropic substances. The convention has served as a foundation for global efforts involving nations in combating narcotics-related crimes, including through measures to prevent such crimes; facilitate detailed identification through rules concerning extradition between nations; provide mutual legal assistance; combat illicit drug trafficking by sea; implement controlled delivery; strengthen anti-money-laundering regimes, including the seizure and forfeiture of proceeds derived from drug crimes; criminalize the diversion of precursors; and establish controls over precursors.

Indonesia is one of the countries facing a massive illicit narcotics trade. According to a survey by the National Narcotics Agency, the prevalence of drug abuse for the 2023–2025 period was recorded at 2.11 percent, equivalent to 4.15 million Indonesians. This figure has increased compared with the prevalence rate of drug users in 2023, which stood at 1.73 percent. The survey, conducted among the working-age population aged 15–64 nationwide across 34 provinces and 134 cities and regencies, found that social and environmental conditions are the primary factors driving the continued rise in drug abuse ([Humas BNN, 2026a](#)). The widespread circulation of narcotics has also been observed by the Indonesian National Police (POLRI), which received 43,899 reports of drug-related cases during the first 11 months of 2025.

This figure places narcotics-related crime as the second most frequently reported type of crime handled by the Indonesian National Police during the year. This phenomenon serves as a reminder that the threat posed by drugs remains prevalent in society, affecting all segments of the population regardless of age or profession. As a frontline law enforcement agency, the Indonesian National Police continues to work to eradicate illicit trafficking networks, ranging from individual users to large syndicates operating across regions ([Pusiknas Bareskrim Polri, 2026](#)). These figures are relevant to the present study because sustained narcotics enforcement contributes to a substantial correctional population, while the continued availability of capital punishment for serious narcotics offenses means that legal uncertainty surrounding death-row transition and sentence review is not merely an isolated institutional issue.

Indonesian Deputy Minister of Law Eddy Hiariej stated that several factors contribute to Indonesia's status as fertile ground for drug offenders, one of which is its geographical location. Indonesia has the world's second-longest coastline after Canada. Additionally, a hedonistic culture has fueled the widespread abuse of narcotics in Indonesia. He also characterized drug offenses as unique because they are crimes in which the victims are not necessarily the direct targets of the offenders' conduct. Furthermore, a high proportion of inmates are convicted of narcotics-related crimes; specifically, 59.4 percent (or approximately 142,000 out of 271,000 prison inmates) are drug offenders. This has contributed to overcrowding in correctional institutions ([Humas BNN, 2026b](#)).

Pursuant to Law No. 22 of 2022 on Corrections, the correctional system constitutes an integral part of the integrated criminal justice system and is responsible for the treatment of detainees, children, and inmates during the pre-adjudication, adjudication, and post-adjudication stages ([Republic of Indonesia, 2022](#)). All of this is carried out through a correctional system that upholds an integrated framework and policy for the implementation of correctional functions, meaning that correctional institutions play a strategic role in determining how inmates are treated. The correctional system emphasizes rehabilitation and social reintegration, encompassing efforts and actions related to planning, formulation, development, guidance, utilization, and control in an effective and empowered manner. All of this constitutes a correctional system that transforms the paradigm of punitive incarceration into genuine rehabilitation and a process of rehabilitating inmates that views them as God's creatures,

individuals, and members of society (Budianto & Piliang, 2022). Therefore, the treatment provided by correctional institutions must comply with the provisions of the Corrections Act to ensure justice for all inmates, particularly those sentenced to death for narcotics-related offenses.

Narcotics death-row inmates in correctional institutions throughout Indonesia face the uncertainty of awaiting execution and the emotional turmoil associated with such uncertainty. For example, at the Class I Tangerang Correctional Institution, death-row inmates experience psychological distress because there is no legal certainty regarding when the death sentences imposed on them will be carried out. Normatively, under the former Criminal Code, Article 10 distinguishes between principal and additional penalties (Criminal Code). Principal penalties include the death penalty, imprisonment, detention, fines, and confinement, while additional penalties include the revocation of certain rights, forfeiture of property, and public announcement of the court's decision. When compared with Law No. 1 of 2023 on the Criminal Code (New Criminal Code), the differences are significant.

Article 100 provides that a death sentence is imposed with a 10-year probationary period, taking into account the defendant's remorse and prospects for rehabilitation, or the defendant's role in committing the criminal act. Furthermore, Article 101 states that if a death-row inmate's petition for clemency is denied and the death sentence is not carried out within 10 (ten) years from the denial of clemency, provided that the inmate has not fled, the death sentence may be commuted to life imprisonment by Presidential Decree (Republic of Indonesia, 2023). This means that a person convicted of a narcotics-related offense and sentenced to death by a court may pursue legal remedies through the final stage of the criminal process, namely clemency; however, the operation of the new Criminal Code's 10-year mechanisms must be distinguished between the 10-year probationary period under Article 100 and the 10-year period following denial of clemency under Article 101. Furthermore, there are death-row inmates who have been awaiting execution for more than a decade, or even decades, while the New Criminal Code now provides a 10-year probationary framework for death sentences imposed under its regime.

What will become of these inmates? Will they be able to receive the benefit of this 10-year probationary period? If they are indeed permitted to benefit from the new law, questions of legal certainty and equal treatment arise concerning death-row inmates who have already endured waiting periods of more than a decade or even decades. Conversely, if they are not permitted to benefit from the new framework, questions of justice likewise arise because they have endured an excessively long waiting period without execution by the state. Justice is, by its very nature, essential for individuals to obtain, as it is one of the primary objectives of law. Therefore, for death-row inmates who have been awaiting execution in correctional institutions, the author takes as a case example the Class I Tangerang Correctional Institution, where justice as mandated by law must be upheld. This study will examine this matter in detail.

Accordingly, this study examines the legal position of narcotics death-row inmates whose judgments became final under the legal regime preceding Law No. 1 of 2023 but remain subject to enforcement during the transition to the New Criminal Code. The analysis focuses on the application of the *lex favor reo* principle in determining whether the transition provides a basis for sentence commutation or instead requires a legally structured review, while also considering the role of correctional rehabilitation, behavioral records, and psychological assessments in that process. From the perspective of dignified justice, the study seeks to clarify how transitional criminal law should be applied in conjunction with correctional practice. The findings are expected to contribute academically to the development of transitional criminal law discourse and, practically, to the formulation of clearer institutional coordination and measurable sentence-review procedures, without presuming that the transition automatically entails commutation.

METHOD

This study employed normative-empirical legal research to examine the regulation and practical treatment of death-row inmates convicted of narcotics offenses under the National Criminal Code. The normative component analyzed relevant legislation and legal documents, particularly Law No. 1 of 2023 on the Criminal Code, Law No. 22 of 2022 on Corrections, the former Criminal Code, and related legal literature. This analysis focused on the legal status of the death penalty, the 10-year probationary mechanism, the principle of *lex favor reo*, and the correctional framework. The empirical component examined how these legal norms were

reflected in practice at the Class I Tangerang Correctional Institution.

The research data consisted of secondary legal materials, including legislation, books, journal articles, and other relevant legal sources, as well as primary data obtained through interviews with the Head of the Rehabilitation Division and two death-row inmates convicted of narcotics offenses, supported by information collected at the research site. The data were analyzed qualitatively by comparing the applicable legal provisions with the empirical findings and interpreting the relationship between legal certainty, correctional practice, and dignified justice. The combination of normative and empirical analysis was used to identify gaps between the legal framework and its implementation in correctional practice.

The empirical participants were selected purposively on the basis of their direct relevance to the research problem: the Head of the Rehabilitation Division represented the institutional function responsible for correctional treatment and assessment, while the two inmate participants were individuals serving final death sentences for narcotics offenses at the research site. Interviews with Inmates X and Y were conducted and recorded on March 4, 2026, while the interview with the Rehabilitation Division was conducted and recorded on April 7, 2026. The interview domains concerned the inmates' legal status and experiences during the waiting period, access to legal information, rehabilitation activities, psychological conditions, behavioral monitoring, and the institution's understanding of possible sentence adjustment. The source record did not provide a standardized interview duration; therefore, no interview length was added to the manuscript.

For qualitative analysis, the empirical material was organized into four themes derived from issues that consistently emerged from the interviews and field information: legal uncertainty, psychological impact, rehabilitation practices, and assessment mechanisms. The analysis compared the two inmate accounts with information obtained from the Rehabilitation Division and subsequently examined those empirical findings against the applicable statutory provisions and relevant legal scholarship. This source triangulation was used to distinguish individual perceptions from institutional practices and normative legal requirements. No software-based coding procedure was reported because such a procedure was not documented in the research record.

Ethical reporting was maintained by identifying the inmate participants only as Inmate X and Inmate Y and by limiting the presentation of personal information to facts necessary for the legal and correctional analysis. The study did not assert an ethics-review approval number or a formal consent protocol because those details were not contained in the available research record. This limitation was stated to avoid introducing unsupported methodological information while preserving participant privacy in the published report.

RESULTS AND DISCUSSION

Results

Empirical Findings on Narcotics Death Row Inmates in the Class I Tangerang Correctional Institution

Field findings at the Class I Tangerang Correctional Institution show that six inmates convicted of narcotics offenses are currently under death sentences that have become final and binding pursuant to court decisions issued before the enactment of Law No. 1 of 2023 on the Criminal Code. Their legal position creates uncertainty regarding whether the former or new criminal-law regime will govern the execution or possible commutation of their sentences. In response, the correctional institution has conducted outreach to explain the new Criminal Code and the possibility for death row inmates to participate consistently in rehabilitation programs and demonstrate behavioral improvement as part of future sentence-assessment processes.

Legal Status and Institutional Uncertainty of Death Row Inmates

The legal position of these six inmates illustrates a transitional problem in the implementation of criminal punishment. Their death sentences were imposed and became final and binding before the National Criminal Code introduced a new legal construction of the death penalty as an alternative punishment. At the correctional level, however, the institution does not

possess the authority to alter a final judicial sentence on its own initiative. The institution is therefore required to continue carrying out its correctional duties while awaiting a clearer legal mechanism that can connect the final judgments already imposed with the sentence-adjustment and commutation mechanisms introduced by the new Criminal Code. This situation creates an institutional form of uncertainty: the inmates remain formally under sentences of death, while the legal system has simultaneously introduced mechanisms under which a death sentence may be changed to life imprisonment under specified statutory conditions.

Information obtained from the Rehabilitation Division shows that correctional officers have responded to this transitional situation through legal and correctional outreach. Death row inmates are informed that the National Criminal Code creates mechanisms for sentence adjustment and commutation, particularly where the requirements provided by the new legal framework are fulfilled. The correctional institution nevertheless emphasizes that such mechanisms cannot be treated as an automatic commutation. Until the applicable implementing mechanism is sufficiently clear, the institution continues to record conduct, participation in rehabilitation, and psychological development as part of the inmate assessment process. In this way, the practical work of the correctional institution is directed not only toward maintaining security but also toward preparing objective information that may become relevant when a competent authority evaluates a future sentence modification.

Psychological Impact of Prolonged Death-Row Uncertainty

Interviews with two narcotics death row inmates demonstrate the psychological consequences of prolonged uncertainty. Inmate X has been on death row for 23 years and has exhausted available legal remedies, including a clemency petition, but has not been executed. He described sustained psychological pressure, stress, and despair caused by waiting for an execution whose timing remains uncertain. Inmate Y has been on death row for approximately three years. He described economic pressure surrounding the offense, limited access to legal assistance, and frustration with the criminal justice process while continuing to participate in activities within the institution. Both accounts indicate that death row inmates experience the burden of imprisonment together with continuing psychological pressure associated with the prospect of execution.

The experience of Inmate X provides a particularly strong illustration of the consequences of an extended death-row period. Having remained under sentence of death for approximately 23 years and having pursued available legal remedies, including clemency, the inmate described prison life as a prolonged period of waiting for an execution whose timing was never certain. The psychological pressure did not arise only at the moment the sentence was imposed. It continued during incarceration because the inmate had to live with the expectation that the sentence could be carried out while, at the same time, no definite schedule or final resolution was communicated. The inmate stated that this prolonged uncertainty gradually produced stress, exhaustion, and despair, even though correctional activities continued to be provided.

Inmate Y presented a different temporal experience but a similar sense of psychological pressure. The inmate had been on death row for approximately three years and maintained that his role in the narcotics offense did not justify the death sentence imposed. According to the interview, the inmate accepted an instruction to collect a package because of economic pressure and later discovered that the package contained narcotics. He also stated that limited financial capacity affected his ability to obtain legal assistance during the criminal process. Regardless of the legal correctness of the final judgment, the empirical point emerging from the interview is that the inmate perceived the sentence as disproportionate and experienced frustration with the criminal justice process. That perception affected motivation and emotional stability while serving the sentence in the correctional institution.

The two interviews reveal a common pattern even though the length of detention and the inmates' accounts of their criminal cases differ. Both inmates described the death sentence as producing a continuing psychological burden in addition to the ordinary restrictions of imprisonment. The punishment is therefore experienced in two simultaneous dimensions: the deprivation of liberty that is already being endured inside the correctional institution and the persistent expectation of a future execution. The uncertainty surrounding the timing and legal status of that execution is an important empirical condition because it shapes how the inmates

respond to rehabilitation, institutional rules, and the possibility of sentence modification.

The Class I Tangerang Correctional Institution provides rehabilitation and personality-development activities to death row inmates on the same institutional basis as other inmates. These activities include regular exercise, opportunities to worship according to each inmate's religion, visits from religious leaders, and productive activities such as making paving blocks and handicrafts, producing *tempe*, and baking steamed buns. According to the Rehabilitation Division, these programs are intended to maintain constructive routines, support personality development, and reduce psychological distress during the waiting period.

Rehabilitation Practices and Daily Activities

The rehabilitation program observed in the institution is implemented through a combination of personality development, religious activities, physical exercise, and productive activities. Death row inmates are allowed to worship in accordance with their respective beliefs, supported by facilities and visits from religious leaders. They also participate in activities such as exercise, making paving blocks and handicrafts, producing *tempe*, and baking steamed buns. According to the Rehabilitation Division, these activities are not designed merely to occupy the inmates' time. They form part of the correctional effort to maintain social functioning, reduce psychological pressure, and observe whether inmates can demonstrate discipline and constructive behavior during incarceration.

The implementation of these activities is significant for death row inmates because their legal status does not remove them from the correctional system. While they remain subject to final sentences, they are still persons under the responsibility of the correctional institution and continue to receive guidance and rehabilitation. The field findings show that correctional officers do not treat the death sentence as a reason to discontinue personality development. Instead, the institution attempts to maintain a regular correctional routine and to ensure that death row inmates remain involved in programs that can be evaluated over time. This practice is especially relevant under the National Criminal Code because an inmate's conduct and personal development may become important considerations in the implementation of the statutory mechanisms governing the death penalty and its possible commutation.

Behavioral and Psychological Assessment Mechanism

The institution also conducts behavioral assessments and psychological monitoring. Psychologists visit death row inmates monthly to evaluate psychological stability and identify relevant risks, including potential self-harm, harm to others, and indicators associated with recidivism. The assessments are used to determine suitable rehabilitation interventions and to evaluate the consistency of positive attitudes and behavior. These indicators may be relevant to future consideration of sentence modification under the National Criminal Code, although detailed regulations governing the procedure and assessment criteria for commuting death sentences to life imprisonment have not yet been fully established.

Psychological monitoring is conducted on a recurring basis because death row inmates may face a different intensity of psychological pressure from other categories of prisoners. The monthly involvement of psychologists is used to identify the inmate's psychological condition, the risk of self-harm or violence, and changes that may occur during the rehabilitation process. The resulting information may also assist correctional officers in determining which activities and interventions are appropriate for each inmate. In the context of sentence modification, these evaluations provide a more measurable record of behavioral development rather than relying only on a general impression that an inmate has behaved well or poorly.

The field findings further indicate that assessment cannot be separated from institutional coordination. The correctional institution can observe the inmate continuously, but the eventual modification of a death sentence involves legal authority beyond the correctional institution itself. For that reason, the empirical practice points to the need for a structured assessment arrangement in which correctional officers provide behavioral and psychological records that can be considered together with the functions of other relevant legal institutions. The prison's role is therefore both rehabilitative and evidentiary: it provides treatment to the inmate while generating documented

information about the inmate's conduct and development during the waiting period.

Discussion

Death Penalty under the National Criminal Code and the Principle of *Lex Favor Reo*

Narcotics offenses are commonly characterized as serious and organized crimes because of their broad social consequences and transnational networks. Indonesia continues to impose the death penalty for serious narcotics offenses, and the policy remains contested between retentionist and abolitionist positions (Mahmud, 2021). The enactment of Law No. 1 of 2023 on the Criminal Code, however, reflects a significant shift in sentencing policy. The new framework places greater emphasis on prevention, rehabilitation, reintegration, and the protection of human dignity rather than relying exclusively on retributive punishment (Padang et al., 2024).

The retention of capital punishment for narcotics offenses must nevertheless be read together with the shift in the philosophy of punishment reflected in Law No. 1 of 2023. Under the former Criminal Code, the death penalty stood among the principal punishments, whereas the National Criminal Code places it in a more exceptional position. The change is not simply terminological. It indicates that the state continues to recognize the seriousness of offenses for which capital punishment may be imposed, but at the same time rejects the proposition that execution must always be the immediate and unavoidable consequence of a death sentence. The 10-year probationary construction in Article 100 demonstrates that, where a court imposes a death sentence with a probationary period, post-conviction conduct and the possibility of personal change are legally relevant to the subsequent fate of the sentence.

This orientation is consistent with the broader objectives of punishment in Articles 51 and 52 of the National Criminal Code. Prevention, social reintegration, conflict resolution, restoration of security, and the development of remorse show that punishment is expected to perform functions beyond retaliation. Padang et al. (2024) describe this development as a movement away from a purely retributive model toward prevention, rehabilitation, and the protection of human rights. The death penalty must therefore be interpreted within this new framework. If the legal system recognizes rehabilitation as a legitimate purpose of punishment, correctional evidence concerning an inmate's behavior, psychological condition, and participation in guidance programs cannot be treated as irrelevant to the implementation of Articles 98 and 100.

Article 51 of the National Criminal Code formulates the objectives of punishment as follows: 1) preventing the commission of criminal offenses by enforcing legal norms to protect and safeguard the community; 2) reintegrating convicts into society through rehabilitation and guidance so they may become good and productive members of society; 3) resolving conflicts arising from criminal offenses, restoring balance, and fostering a sense of security and peace within the community; 4) fostering remorse and alleviating feelings of guilt in convicts.

Article 52 further provides that punishment is not intended to degrade human dignity. Read together with Article 98, which positions the death penalty as an alternative punishment, and Article 100, which establishes a 10-year probationary period when a court imposes the death penalty with such a period, these provisions demonstrate a compromise between the continuing legal availability of capital punishment and a more rehabilitative sentencing philosophy. Where the statutory conditions are fulfilled, the new framework provides a mechanism through which a death sentence may be commuted to life imprisonment.

The relationship between Articles 98, 100, and 101 also shows that the new Criminal Code creates distinct legal mechanisms through which a death sentence may cease to result in execution. Article 100 establishes a 10-year probationary period where the court imposes a death sentence with such a period, while Article 101 addresses circumstances in which clemency has been rejected but the execution has not been carried out for 10 years. These provisions place time, conduct, and post-conviction developments within the legal structure of capital punishment. Consequently, the legal status of inmates who were sentenced under the previous Criminal Code cannot be understood solely by referring to the wording of the original judgment. Their situation must also be examined through the transitional rules governing the application of subsequent criminal legislation that is more favorable to the convicted person.

In this respect, Article 3 paragraph (7) of the National Criminal Code is particularly important. It provides that, when after a conviction has become final and binding the conduct in question is subject to a lighter penalty under new legislation, implementation of the judgment is

to be adjusted to the penal limits prescribed by the new legislation. The provision therefore embodies a statutory form of the principle of *lex favor reo*, which functions as a bridge between an earlier penal provision and a later, more favorable one. Flora et al. (2023) discuss this orientation through the principle of *lex favor reo*, while Daud (2026) likewise highlights the significance of this transitional principle for final criminal judgments. Applied to the present research, the principle prevents legal certainty from being reduced to the proposition that a final judgment can never be affected by a subsequent change in penal policy. Legal certainty must also include certainty about which transitional rule governs the execution of that judgment.

The principle of *lex favor reo* is therefore relevant not because it automatically erases every death sentence imposed before the National Criminal Code, but because it requires the state to determine whether the newer legal regime is materially more favorable to the convicted person and, if so, how that advantage is to be implemented. This distinction is important. Automatic commutation without a lawful procedure could create a new form of uncertainty, whereas refusing to consider the more favorable law would undermine the purpose of the transitional provision. The unresolved issue is thus procedural as much as substantive: the legal system must specify the competent decision-maker, the criteria of assessment, the evidentiary role of correctional records, and the legal instrument through which the sentence is ultimately modified. Accordingly, *lex favor reo* establishes a basis for adjusting the execution of a sentence where the statutory conditions of Article 3 paragraph (7) are met; it does not, by itself, create an automatic right to commutation or authorize a correctional institution to alter a final judicial sentence.

A central difficulty lies in the absence of sufficiently detailed implementing rules governing the commutation of death sentences to life imprisonment, including clear institutional responsibility and measurable assessment criteria. This regulatory gap creates uncertainty for inmates whose death sentences became final before the new Criminal Code took effect. The principle of *lex favor reo* is therefore important in the transitional period. As a transitory principle, *lex favor reo* connects the application of an earlier criminal-law rule with a later rule that is more favorable to the convicted person (Flora et al., 2023). Article 3 paragraph (7) of the National Criminal Code reinforces this approach by requiring adjustment when new legislation prescribes a lighter penalty after a conviction has become final and binding. This provision supports the interpretation that the new sentencing framework should be applied in a manner that reflects the reduced and alternative status of the death penalty (Daud, 2026). Accordingly, any commutation mechanism should be harmonized with Law No. 22 of 2022 on Corrections and supported by clear implementing regulations.

The absence of detailed implementation rules has direct consequences for the correctional institution. A prison can conduct rehabilitation, maintain behavioral records, and facilitate psychological assessment, but it cannot independently determine that a death sentence has become life imprisonment. The correctional institution is an executor of correctional functions, not a substitute for the court, the President, or another authority designated by legislation. This division of authority explains why the empirical activities found in the Class I Tangerang Correctional Institution should be regarded as preparatory and supportive. They preserve evidence of inmate development so that, once the applicable legal mechanism is operational, a decision can be based on documented conduct rather than a purely formal reading of the original sentence.

The normative gap is especially problematic for inmates who have already remained on death row for periods exceeding the 10-year period now emphasized in the National Criminal Code. The research does not establish that every such inmate must immediately receive life imprisonment; however, it does show why a uniform mechanism is required. Without a clear transitional procedure, similarly situated inmates may depend on differing institutional interpretations, administrative practices, or the timing of individual legal remedies. Such variation risks producing unequal treatment. A commutation framework should therefore clarify how previous periods of waiting are calculated, how rejected clemency applications are treated, what evidence of good conduct is required, and how correctional assessments are incorporated into the final legal decision.

Waiting Period and Dignified Justice in Correctional Institutions

The prolonged waiting period experienced by a person under sentence of death is widely discussed as the death row phenomenon. It involves suffering arising from an extended period before execution, prison conditions, and the continuing mental and physical pressure associated with uncertainty about death (Asfadila et al., 2024). Because the death penalty constitutes the deprivation of life by the state following a final and binding judgment, the legal certainty surrounding its execution or modification has direct implications for the dignity and psychological condition of the convicted person (Siregar, 2022). The empirical findings in this study illustrate that such uncertainty is not merely normative: it is experienced as continuing stress by inmates who have waited for substantially different periods of time.

The findings from Inmates X and Y support the relevance of the death row phenomenon in the Indonesian correctional context. Asfadila et al. (2024) describe this phenomenon as suffering associated with a very long period between the imposition of a death sentence and its execution, compounded by prison conditions and continuing mental and physical pressure. Siregar (2022) similarly identifies legal certainty concerning the waiting period as a central problem in capital punishment. The interviews in this study demonstrate that psychological suffering may arise both during a very long waiting period, as experienced by Inmate X, and during a shorter period when the inmate perceives the sentence and process as deeply uncertain, as described by Inmate Y.

The concept of a waiting-period problem is important because imprisonment under a death sentence is not equivalent to an ordinary fixed-term sentence. A prisoner serving a fixed term can generally identify the legal endpoint of the deprivation of liberty, subject to the applicable correctional rules. A death row inmate, by contrast, may be unable to determine whether the endpoint will be execution, commutation, or another legal resolution. The National Criminal Code partly responds to this problem by creating distinct statutory mechanisms for a probationary death sentence and for unexecuted death sentences following the rejection of clemency, but those mechanisms can reduce uncertainty only if their procedural consequences are clear. A statutory period that exists on paper without an operational assessment and decision-making process may simply replace one form of uncertainty with another.

The interviews also indicate that the psychological effect of death row cannot be assessed solely from the number of years already served. The inmate's understanding of the legal process, access to information, perception of fairness, expectations regarding execution, and ability to participate meaningfully in correctional activities can all influence the experience of incarceration. For this reason, the monthly psychological evaluation reported by the Class I Tangerang Correctional Institution is not merely a welfare measure. It is also relevant to institutional risk management and to the assessment of whether the inmate is able to demonstrate stable and constructive behavior during the period in which sentence modification may later be considered.

From the perspective of dignified justice, law must treat human beings in a manner consistent with human dignity and the values of *Pancasila*. Dignified justice integrates legal philosophy, legal theory, legal dogmatics, and legal practice while positioning *Pancasila* as the highest value framework for the Indonesian legal system (Kennedy, 2024). Within correctional institutions, this perspective requires the state not only to maintain security and execute judicial decisions but also to ensure humane treatment, rehabilitation, opportunities for worship and constructive activity, and psychological support. The rehabilitation programs documented in the Class I Tangerang Correctional Institution therefore represent a concrete institutional effort to humanize inmates while their final legal status remains unresolved.

Dignified justice provides a theoretical basis for connecting these correctional practices with the normative transformation of the death penalty. Prasetyo's theory, as discussed by Karo Karo (2025), places the human person at the center of legal treatment and links justice to the values of *Pancasila*. In this framework, recognizing human dignity does not require the state to ignore the seriousness of narcotics offenses or the interests of social protection. Rather, it requires punishment to remain legally accountable and to avoid reducing the convicted person to the offense alone. The possibility of remorse, behavioral change, and reintegration must remain visible within the legal process where the statute itself recognizes those considerations.

The correctional system is therefore a critical site for the practical realization of dignified justice. Law No. 22 of 2022 on Corrections positions correctional administration as part of the criminal justice subsystem responsible for the treatment of inmates. Budianto & Piliang (2022)

emphasize the rehabilitative orientation of corrections and the movement away from incarceration understood merely as confinement. The practices identified in this study (religious services, exercise, productive activities, counseling, psychological evaluation, and behavioral assessment) reflect that rehabilitative function. Their significance is heightened for death row inmates because the new Criminal Code makes individual development potentially relevant to the continuation or modification of the sentence.

Dignified justice also requires attention to proportionality between legal certainty and humanity. A system that indefinitely postpones execution without explaining the legal consequence of the delay may preserve the formal sentence while failing to provide substantive certainty. Conversely, a system that changes sentences without transparent criteria may undermine equality and predictability. The appropriate response is not to choose one value and abandon the other, but to design a procedure in which the more favorable penal policy is implemented through measurable criteria, reasoned decisions, and institutional accountability. In this respect, the correctional record becomes an important bridge between abstract statutory standards such as good conduct and concrete evidence of the inmate's development.

Behavioral and psychological assessments also have an important role in connecting correctional practice with the statutory mechanisms governing the death penalty under the National Criminal Code. Assessment should not function merely as an administrative formality; it should provide measurable evidence of behavioral development, psychological stability, risk, and participation in rehabilitation. To improve legal certainty, the assessment process should be supported by a coordinated mechanism involving the Correctional Institution, Supervising and Observing Judges, and the National Narcotics Agency, with the correctional institution acting as the primary coordinator. A Correctional Monitoring Team or equivalent mechanism should conduct comprehensive and documented reviews so that recommendations concerning the commutation of death sentences to life imprisonment are transparent, consistent, and capable of legal evaluation. These institutional roles and assessment indicators should be expressly accommodated in implementing regulations governing the commutation of death sentences.

Institutional Assessment and the Future Commutation Mechanism

Sumampoaw (2024) underline the importance of assessment instruments in considering changes in punishment for persons sentenced to death. The findings of this study reinforce the need for a structured assessment model. Good conduct should not be interpreted as the mere absence of disciplinary violations. A meaningful assessment should be capable of showing consistency of behavior, participation in rehabilitation, psychological stability, responsiveness to guidance, and relevant risk factors. Such information is already partly generated through routine correctional practice, but its legal significance must be expressly connected to the statutory mechanisms governing the death penalty and its possible commutation.

A Correctional Monitoring Team can play an important role in organizing this information, but the decision should not rest on a single institutional perspective. The original research identifies the relevance of coordination with Supervising and Observing Judges, the National Narcotics Agency, and the correctional institution. A multi-institutional arrangement can help distinguish the correctional assessment of personal development from broader legal considerations concerning the offense, the final judgment, and the requirements of the National Criminal Code. The correctional institution should remain the principal source of longitudinal information about conduct inside the facility because it is the institution that observes the inmate throughout the sentence.

In practical terms, the correctional institution should function as the principal producer of documented behavioral, rehabilitation, and psychological evidence rather than as the decision-maker on commutation. Where the applicable provision of the National Criminal Code requires a Presidential Decree for a particular commutation route, the final legal act must remain with the authority designated by statute. Implementing regulations should therefore specify which institution initiates the review, how correctional and judicial records are consolidated, which bodies provide recommendations, and how the competent authority reaches and documents the final decision. This allocation preserves institutional competence while preventing the 10-year

framework from becoming an administratively passive waiting period.

Clear coordination is also necessary to prevent a statutory 10-year period from becoming a passive waiting period. The 10-year framework should function as a period in which the inmate's development is observed and documented, not merely as an additional number of years before a decision is made. Regular assessment, psychological monitoring, and recorded participation in programs can make the period legally meaningful. At the end of the relevant period, the competent authority should be able to review an organized record and determine whether the statutory requirements for maintaining or commuting the sentence have been satisfied.

For inmates whose final judgments predate the National Criminal Code, transitional regulation should additionally explain how correctional records accumulated before the new Code took effect are treated. Ignoring years of documented conduct simply because they occurred under the previous penal regime would weaken the rehabilitative logic of the new system. At the same time, retrospective consideration must remain subject to a uniform legal standard so that inmates in different correctional institutions are assessed on comparable grounds. The development of such a standard is necessary to transform the promise of *lex favor reo* and dignified justice into an administratively workable and legally predictable sentence-adjustment and commutation process.

CONCLUSION

The findings show that the transition from the former Criminal Code to Law No. 1 of 2023 creates a distinct legal problem for narcotics death row inmates whose final judgments predate the National Criminal Code. The 10-year probationary and commutation mechanism under Article 100, together with the separate mechanism concerning unexecuted death sentences following the rejection of clemency under Article 101 and the transitional rule in Article 3 paragraph (7), provides a basis for examining how the new legal regime applies to existing death sentences, but these provisions should not be conflated or interpreted as creating automatic commutation in every case. Empirically, the two inmate interviews at the Class I Tangerang Correctional Institution demonstrate continuing psychological pressure associated with uncertain execution, while the institution's rehabilitation activities, legal outreach, behavioral records, and monthly psychological monitoring provide information relevant to a potential sentence review. The central problem is therefore the absence of sufficiently detailed procedures connecting these correctional assessments with the competent legal authority responsible for sentence adjustment or commutation.

Accordingly, implementing regulations should establish a clear interinstitutional commutation procedure that distinguishes evidence collection from legal decision-making. Correctional institutions should document rehabilitation, conduct, and psychological development through measurable and consistent assessments, while Supervising and Observing Judges and other legally relevant institutions may contribute information within their statutory functions. The authority designated by the National Criminal Code should retain responsibility for the final legal determination. For inmates whose final judgments predate Law No. 1 of 2023, the procedure should also clarify how prior periods of incarceration and pre-existing correctional records are considered, allowing *lex favor reo*, legal certainty, and dignified justice to operate through a transparent and reviewable sentence-adjustment and commutation process.

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AUTHOR CONTRIBUTION STATEMENT

Pietro Grassio Eko Yulio contributed to data collection, legal analysis, and manuscript preparation. Agus Budianto contributed to the methodology and interpretation of the findings. Teguh Prasetyo contributed to the theoretical framework and substantive refinement of the manuscript. All authors approved the final manuscript

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