

## INTISARI

*Pidana mati merupakan suatu kebijakan yang telah eksis sejak awal berdirinya negara Indonesia dan bertahan hingga sekarang. Indonesia sebagai negara hukum menjalankan cita hukum yang salah satunya Keadilan (gerechtigtheid). Keadilan dalam cita hukum pidana terkandung dalam prinsip keadilan retributif (retributivisme). Retributivisme merupakan sebuah prinsip pemberian ganjaran setimpal kepada subjek hukum yang melakukan tindak kriminal. Pidana mati memerlukan suatu prinsip retributivisme guna mencapai kesetimpalan yang ideal. Retributivisme terus berkembang untuk mencapai prinsip keadilan yang ideal guna mencegah adanya miscarriage of justice “kegagalan keadilan”.*

*Objek material dalam penelitian ini merujuk pada kebijakan pidana mati di Indonesia yang terkandung dalam undang-undang terkait tindak kriminal baik yang terdapat dalam kodifikasi Kitab Undang-Undang Hukum Pidana (KUHP) maupun undang-undang khusus. Objek material ini kemudian dianalisis menggunakan pendekatan prinsip retributivisme modern yang merupakan evolusi dari retributivisme klasik. Penelitian ini menggunakan metode hermeneutika dengan unsur-unsur metodis yang kesinambungan historis, analisis filosofis, interpretasi mendalam, refleksi kritis dan deskriptif.*

*Hasil dari penelitian ini menunjukkan diantaranya bahwa pertama retributivisme modern menekankan proporsionalitas ganjaran yang lebih terukur dan menciptakan nilai serta fundamen baru yang dijadikan landasan praktek hukum pidana modern. Kedua kebijakan pidana mati di Indonesia memiliki problem dengan adanya dualisme hukum terkait dengan ratifikasi kovenan internasional seperti ICCPR (International Covenant On Civil And Political Rights) dan afirmasi UDHR (Universal Declaration Of Human Rights) yang secara substantif memiliki kecenderungan abolisionis (menolak bentuk hukuman mati). Ketiga praktek kebijakan pidana mati di Indonesia sebagai ultimum remedium menerapkan prinsip-prinsip retributivisme modern meski tidak sepenuhnya diimplementasikan, pidana mati tetap dijalankan berdasarkan protokol-protokol pidana modern dan menekankan hak asasi manusia dalam prakteknya.*

**Kata kunci :** pidana mati. Abolitionist, Retributivisme modern.

## ABSTRACT

The death penalty has been a policy in place since the founding of Indonesia and continues to this day. As a nation governed by the rule of law, Indonesia upholds legal ideals, one of which is justice (*gerechtigtheid*). Justice in criminal law ideals is embodied in the principle of retributive justice (retributivism). Retributivism is a principle that prescribes appropriate punishment for legal subjects who commit criminal acts. The death penalty requires a principle of retributivism to achieve ideal proportionality. Retributivism continues to evolve to reach the ideal principle of justice to prevent a "miscarriage of justice."

The material object in this research refers to the death penalty policy in Indonesia, as contained in laws related to criminal acts, both within the codified Criminal Code (KUHP) and special laws. This material object is then analyzed using the approach of modern retributivism, which is an evolution of classical retributivism. This research employs the hermeneutic method with methodological elements that are historically continuous, philosophical analytic, and Radical Interpretation, Critical reflection and descriptive.

The results of this research indicate, First that modern retributivism emphasizes a more measured proportionality of punishment and creates new values and foundations that serve as the basis for modern criminal law practice. Second is the death penalty policy in Indonesia faces challenges due to the dualism of laws related to the ratification of international covenants such as the ICCPR (International Covenant On Civil And Political Rights) and the affirmation of the UDHR (Universal Declaration Of Human Rights), which substantively tend towards abolitionism (rejecting the death penalty). Third as practice of the death penalty policy in Indonesia as an "ultimum remedium" applies the principles of modern retributivism, it is not fully implemented. The death penalty is still carried out based on modern criminal protocols, emphasizing human rights in its practice.

**Keywords:** *death penalty, abolitionist, modern retributivism.*