

Capital Punishment as a Contradiction to International Law and Indonesian Constitution

Authors : Akbar

Abstract : Pros and cons of the capital punishment in Indonesia have been out of the date. The discourse of capital punishment has no relevance to the theory of punishment and theories of cultural relativism. In fact, the provisions of exceptions to the right to life by administering the death penalty against the perpetrators of serious crimes in Indonesia is a narrow perspective that does not pay attention to the development of the punishment of the crime. This thing is aggravated by an error to understand the natural right and legal right where the prohibition of those rights is result from a failure to distinguish the characteristic of the rights and to remember the *raison d'être* of law. To parse the irrational above, this paper will try to analyze normatively the error referring to the complementary theory between the sources of international law and the sources of municipal law of Indonesia. Both sources of the law above should be understood in the mutually reinforcing relationship enforceability because of false perceptions against those will create the disintegration between international law and municipal law of Indonesia. This disintegration is explicit not only contrary to the integrative theory of international law but also integrative theory of municipal law of Indonesia.

Keywords : capital punishment, municipal law, right to life, international law, the *raison d'être* of law, complementary theory, integrative theory

Conference Title : ICHR 2017 : International Conference on Human Rights

Conference Location : Paris, France

Conference Dates : June 25-26, 2017