

# Formulation of Correctional System Model in Corruption Enforcement in Indonesia

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**Abstract:** Corruption in Indonesia requires the right formulation. The rule of law and punishment system in Indonesia is still weak against criminals. This paper tries to find the right formula in punishing corruptors because the existing punishment system is still breakable and is deemed ineffective in preventing it. This paper belongs to a type of normative approach with a descriptive-analytical. This paper reveals that there are weaknesses in the rule of law in corruption compromise, resulting in increasing corruption every year. Data from ICW in 2018 shows that corruption is still considered a common crime, and the current punishment system does not reflect the firmness in determining the maximum punishment. It is exacerbated by the sale and purchase of facilities in prisons, which results in public distrust of the law. In other countries, Indonesia must be more severe in punishing bribery and corruption, including extraordinary crimes against the people. The conclusion in this paper is to formulate a religious and moral approach in punishing corruptors such as social sanctions, public humiliation, being a cleaning worker, life imprisonment, being exiled, taking political rights, even being humiliated in public so that it becomes a new formula in corrupt penalty system.

**Keyword:** Penitentiary, Sentencing Systems, Social Sanctions.

## 1. INTRODUCTION

In Indonesia itself, the practice of corruption has been so severe and acute. There have been many depictions of corruption practices that have been exposed to the surface. Corruption develops from the central government to the degree of local government (Rahman, 2011). In this country itself, corruption is already like cancer that spreads to the cells of public organs, infecting state institutions such as the legislature, executive, and judiciary to state-owned enterprises. The rise of corruption at the local level is in line with similar conditions at the national level (Zainul, Muhammad, 2019).

The eradication of corruption is a top priority to improve the welfare of the people and strengthen the Unitary State of the Republic of Indonesia (NKRI) and achieve national goals (Bambang Waluyo, 2014). Today, as a religious and cultured country following the constitution, the Indonesian nation should be ashamed of the culture of corruption that plagues the country. Corruption is part of a particular criminal law. When described, corruption crimes have individual specifications that differ from the general criminal law (Lilik Mulyadi, 2007). Almost all corruption suspects arrested today can be said to have no shame culture and can still smile even very confidently when set to become a suspect. To show that there is still low

religious awareness and legal culture and the system of protection in the nation, and it can also be said that the culture of shame and religious values has shifted towards modernization and is no longer by the ideals of the nation.

The strategy to eradicate corruption must be built and preceded by the existence of a collectivist faith, namely a kind of willingness and willingness of all parties to do not tolerate corruption jointly (Badjuri, 2011). In eradicating corruption in Indonesia, a particular formulation is needed that is effective with a value and norm approach. Nowadays, poor community institutions are a unique society for convicted of corruption. One of the penitentiaries that exist and is used explicitly for convicts of corruption cases is *suka miskin*.

Corruption and the regulatory environment of a society are important determinants for the level nascent (Chowdhury & Audretsch, 2020). Administrative accountability in this context is the improvement of the legal order that accommodates the operation of participatory development mechanisms, and it is not merely formalities (Faidati & Khozin, 2020). Therefore, there needs to be a unique formulation in preventing corruption in Indonesia. The nation's leaders, who are responsible for his nation's welfare, do not abuse power and enrich themselves. The people's disillusionment with the leader who commits treason to his nation by committing corruption should be punished decisively because his actions will kill all Indonesian people's welfare.

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## 2. RESEARCH METHODS

This research uses a qualitative approach to collect and utilize all information related to the subject matter. Descriptive research is a type of research that provides an overview or description of a situation as transparent as possible without any treatment of the object being studied. The nature of this research is descriptive analysts who aim to describe and analyze how the role and synergy of related Correctional institutions supporting the development of law enforcement in Indonesia.

Data in this research are literature, articles, journals, scientific research, and internet pages related to the research. Data analysis techniques used in this research are interactive models, including data reduction activities, data presentation, and conclusion drawing. (Sugiyono, 2012). Data reduction and data feed are structured when researchers get the data needed in the study. After the data collection ended, the researchers tried to draw conclusions based on the secondary data verification.

## 3. DISCUSSIONS

### 3.1. Corruption Problem in Indonesia

Most popular and media discussion of corruption in Indonesia does not, however, centre on institutional reform and the structural underpinnings of corruption (Sherlock, Defence, & Academy, 2015). Corruption crimes that were seen initially as ordinary crimes of the international community today agreed to put corruption crimes as extraordinary crimes (Extra Ordinary Crime). The extraordinary circumstances have resulted in extraordinary actions and treatment. However, exceptional handling does not mean being able to get out of the rule of law's corridors. Legal principles that have been an integral part of a fair criminalization system must still be enforced (Hutabarat Agust, 2009).

In the perspective of post-reform national law, Law No. 31 of 1999, on Corruption Crimes formulation of corruption crimes is more comprehensive. The crime of corruption is seen as any person who unlawfully enriches himself or others, or a corporation, which could harm the state's finances or the country's economy. Substantially, the article contains a person's actions, whether government officials or not, but acts that violate the authority, both in whole and in part, can result in the state's loss.

Along with that, the form of corruption is divided into two traits. (1) general with an example: rampant

everywhere, relatively open (easy to know), concerning the public (many people), with a relatively small amount of money and generally involving low-level employees/officials and driven by primary needs both private and institutional. (2) Specific/limited: only on occasions/concerns of some instances (exclusive), relatively closed with sophisticated mode (difficult to prove), involving certain people (businesses) and higher authorized officials with relatively large amounts of money, and usually more driven by agreement than primary.

Romli Atmasasmita, as an expert in international criminal law, emphasized that Indonesia's corruption eradication strategy must use four (4) approaches: traditional approach, moralistic and faith approach, educational approach, and socio-cultural approach. So complex is the cause of corruption crimes, the eradication of corruption with conventional approaches is considered irrelevant. The mode of operation of corruption in our criminal justice system should be made an extraordinary crime (Extra Ordinary Crimes). Therefore, efforts to prioritize the interests of the nation and state to combat corruption crimes are a form of the obligation of the state to meet the demands of the community's socioeconomic human rights, as stated by article 29 of the United Nations Declaration (Atmasasmita, 2004).

From an international perspective, they were recommended by the UN, through the Centre for International Crime Prevention, in more detail that crimes are strongly related to the ten acts of procurement of goods and services. These include bribery, embezzlement, fraud, extortion, abuse of discretion, conflict of interest/internal trading, love or cut down (favoritism), receiving commissions, nepotism, illegal contributions, or contributions. Factually, acts of corruption that can cause state losses are found in the field of almost 90% of corruption crimes committed by public officials.

In the Encyclopedia of Indonesia called "corruption" (from Latin: corruption = bribery: corruptore = destructive) symptoms in which officials, state agencies abuse authority with the occurrence of bribery, forgery, and other irregularities (Hartanti, 2005).

Under the law that corruption is defined as:

1. Anyone who unlawfully commits an act of enriching himself or another person or an entity that directly harms the finances of the State and

or the economy of the State or is known to be suspected by him that the act is detrimental to the finances of the State (Article 2);

2. Anyone to benefit himself or another person or an agency abuses the authority, opportunity, or means therein because his or her position or position can directly harm the State or the economy of the State (Article 3).
3. anyone who does a violation following article 209, 210, 387, 388, 415, 416, 417, 418, 419, 420, 425, 435 Criminal Code.

Data from Indonesian Corruption Watch (ICW) states that in 2016, law enforcement cracked down on 210 corruption cases by assigning 500 suspects. Meanwhile, in 2017, law enforcement cracked down on 266 cases with 587 suspects. State losses arising from corruption cases in 2018 amounted to 164 cases amounting to Rp1.09 trillion and a bribe value of Rp42.1 billion. Some of the names that stumbled on corruption cases in 2018 include the former Speaker of the House, Setyo Novanto, with several corruption cases, one of which is e-ID. Besides Novanto, another

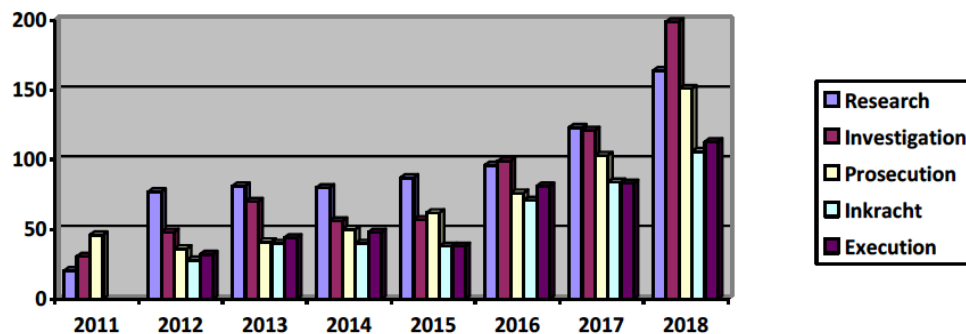
political figure who eventually entered penitentiaries because of corruption is the Governor of Jambi, Zumi Zola. He was sentenced to six years in prison, a fine of 500 million, and his political rights were revoked for five years. Besides, many officials are still caught and still running investigations both by the Corruption Eradication Commission and by the Corruption Crimes court.

The number of officials caught, especially in 2018, shows that this nation's leaders who served both the Governor, Regent, Dpr, and other officials are still not afraid and ignore the current sentencing policy. The legislation explicitly regulating corruption crimes has been changed 4 (four) times until Law No. 20 of 2001 on amendments to the Law on eradicating corruption Crimes No. 31 of 1999.

There are many preventive efforts to prevent corruption in Indonesia, ranging from socialization, education, policy, and planting of religious and cultural values, but such efforts cannot be a definite standard in eradicating corruption without strict, repressive efforts. Based on the provisions of Law no. 31 of 1999 jo law

**Table 1: Corruption statistics in Indonesia until 2018**

OPPRESSION	2011	2012	2013	2014	2015	2016	2017	2018	JUMLAH
Rerearch	78	77	81	80	87	96	123	164	1.135
Investigation	39	48	70	56	57	99	121	199	887
Prosecution	40	36	41	50	62	76	103	151	719
Inkracht	34	28	40	40	38	71	84	106	578
Execution	34	32	44	48	38	81	83	113	610



(Indonesian Corruption Watch antikorupsi.org 15 January 2019).

number 20 of 2001, the types of criminal prosecutions that judges against defendants of corruption crimes can carry out are as follows:

Life imprisonment or imprisonment of at least 4 (four) years and a maximum of 20 (twenty) years, and a fine of at least Rp. 200,000,000.00 (two hundred million rupiahs) and a total of Rp. 1,000,000,000.00 (one billion rupiahs) for any person who unlawfully commits acts of enriching himself or others or a corporation that may harm the State's finances or the national economy. (Article 2 paragraph 1). This formulation's provisions are still considered to have no apparent certainty between the particular minimum and the unique maximum; the range of punishment gives the judge the freedom to decide relatively lightly. However, the corrupt community should still be severely punished. Then it can be sentenced to death because to any person who unlawfully commits acts of enriching himself or others or a corporation that could harm the finances of the State or the economy of the State as specified in Article 2 paragraph (2) of Law No. 31 of 1999 jo Law number 20 of 2001 concerning the eradication of corruption crimes, committed under certain circumstances.

It can be said that the current formulation has the death penalty, but in reality, it is not clear what kind of corruption can be punishable by death, and in fact, there has never been a decision of the judge who decided the death penalty to the accused corruption until now. Besides, there are Additional Criminal Penalties such as; Seizure of moving and immobile goods and tangible or intangibles; Payment of replacement money; Closing of all or part of the company for a period of not later than 1 (one) year; and Revocation of all or part of specific rights for convicted of corruption (Hutabarat Agust, 2009).

### 3.2. Law Problem and Penitentiary In Indonesia

The penitentiary following Law No. 12 of 1995 is an institution tasked with fostering criminals who commit crimes in Indonesia. Previously, this institution was referred to as a prison synonymous with something sinister and as a form of retaliation (Retributif) that is entirely inhumane. However, the correctional concept is present to foster convicts to become better human beings and be accepted back in society. Penitentiary must publicize the convicted or resuscitate the convict from his mistakes during this time.

Today the special Penitentiary in charge of fostering the corrupters is penitentiary Suka Miskin in Bandung,

West Java. In his coaching, Penitentiary Suka Miskin has a pattern of coaching that is almost the same as other Penitentiary that fosters piety towards religion, attitude, behavior, and intellectual to improve skills re-publicizing the corrupt in order to realize all his mistakes. Nevertheless, this particular Penitentiary has been proven to provide luxury facilities to convicted corrupters and seem to spoil the corrupters. This indicates there is a moral degradation of law enforcement.

The result of corruption crimes is ubiquitous and entrenched is a decrease in trust in the government; the government's authority in society; Shrinking State revenues; The fragile security and resilience of the State; Personal mental destruction; The Law is no longer respected. This is detrimental to the Indonesian nation and afflicts all Indonesian people. Nowadays, the punishment for corruption should be increased, especially in community institutions.

Penitentiary Special Korupsi Suka Miskin has a facilities room containing air conditioning, flat-screen TV, refrigerator, sink, bathroom equipped with shower and water heater, and toilet seat. It does not reflect coaching and seems to spoil corruptors. This is contrary to society's purpose, which should provide a deterrent effect to the convicted. Penitentiary Suka is seen as a last resort in fostering and eradicating the corrupt but instead indulges the corrupters who show such treatment as not to foster evil.

Corrupters who become common enemies should be given the same punishment as other evils, even more severe. Suppose the Penitentiary is seen explicitly as more indulgent and no longer useful in criminalizing corruptors. In that case, it is better than the special Penitentiary is eliminated and return the corrupters to the general Penitentiary be fostered with the same treatment as other crimes. Moreover, the Ministry of Justice and Human Rights is currently establishing a Penitentiary High Risk or Super Maximum Security Karang Anyar on Nusakambangan Island intended for Terrorists, Drugs, and other extraordinary crimes, but penitentiary Nusakambangan is not intended for corrupt inmates as if corruption is just an ordinary crime that does not harm the nation too much (Ridwan Zachrie Wijayanto, 2009).

Another factor that solves the problem in the particular social institution Corruption is the penalty factor. The punishment given to corruptors is still considered weak in eradicating the culture of corruption

in Indonesia. When viewed from the number of corruptors who have been punished to date, but the corruption is still increasing, and the punishment is not feared, showing prison is not an effective way to punish corruptors or the current punishment is still viewed softly by corruptors. With the existence of memorable minimum prison sentences and the addition of remission and addition by revoking political rights that are only temporary, it can be said that the country is still not serious about eradicating corruption in Indonesia (Hutabarat Agust, 2009).

### **3.3. Formulation of Punishment in Corruption Crime in Indonesia**

The complexity of the concept of legitimacy makes it very difficult to operationalize and measure it in empirical research (Rothstein, 2008). Regulations significantly reduce entrepreneurship, while corruption seems to function as 'efficient grease', significantly alleviating this impact (Dreher & Gassebner, 2013). In a public sector audit – particularly an anti-corruption internal audit – a solid grounding in the social sciences (economics, politics, and sociology as well as management) provides the basis for the audit (Personal & Archive, 2013). In reviewing the importance of coaching against corruptors, the State should take action in addressing this issue. When the prison sentence is no longer able to foster corruption, another more effective punishment is needed to eradicate corruption on this earth.

The formulation is still considered unable to eradicate corruption. However, the Criminal Code Bill that drafts Article 687 on corruption is no longer appropriate because the minimum corruptor can be sentenced to 2 years in prison as if more indulgent than the Corruptors in Indonesia. This means that the formulation is still not able to criminalize corruption, both in punishment, law enforcement, and legal formulation (Andi Hamzah, 2005).

While Indonesia still applies prison sentences, various countries give harsh punishments to corruptors such as the death penalty and beheading in China, Vietnam, Malaysia, Saudi Arabia, and Singapore. Also, the United States imposes punishments by being expelled from the country, and Jeman imposes a life sentence, and Japan has a culture of shame by punishing itself. South Korea has a culture of shame like Japan's but punishes corruptors by alienating and excommunicating corruptors from family to society. North Korea has firmness in eradicating corruption

examples of Uncle Kim Jong-un, who was convicted of corruption, shoot off, and his body given to a dog and displayed to the public.

Although in terms of Indonesian Law has its institutions to deal with corruption cases, but the fact that the eradication of corruption is far from expected. Because the Law seems weak and can not make a deterrent, some cases are given a sentence of only two years especially coupled with all remissions; convicted of corruption can get out faster than prison, stretch freely, appear on the screen, and even run for office again.

Indonesia should exemplify the punishment for corruptors in various countries. The nation's life and the State of Indonesia have the death penalty and life for corruption, but there is no death penalty for corruptors in Indonesia. Indonesia is still said to have not been severe and firm in punishing the corrupt, so there is no fear and shame in committing brutal acts that have betrayed all Indonesian people, namely corruption (Hartanti, 2005).

A religious and cultural approach is needed in regulation and implementation to eradicate corruption in Indonesia. With a godly religion, officials who lead the nation realize that they can provide welfare to their people as an extension of God. With the approach of culture should be as the Indonesian nation, they are ashamed of actions that do not follow the Indonesian nation's ideals and purpose.

Formulation of the model of the correctional system in the enforcement of Corruption in Indonesia as follows:

#### a. The first step

They were sentenced in cell 1/3 of the criminal period of Corruption. During this time, the convict is given time to reflect on the mistakes he has committed without diminishing the right to obtain legal counsel, spiritual guidance, and family support.

#### b. The Second step

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After 1/3 of the criminal period, the convicted carry out social work in the area where the convicted

commits corruption. One of the social work is to be a janitor. During this stage, the family is prohibited from meeting the convict.

c. The third step

Revocation of rights and redress after serving a sentence revoking rights as employees are still carried out, and the obligation to recover state losses remains not lost. In this stage, the convicted of providing information about corruption-related crimes in the case of the convicted can be relieved.

#### 4. CONCLUSION

It can be concluded in this paper that corruption is still seen as an ordinary crime and does not see this crime as an extraordinary crime that can destroy the country and the entire people of Indonesia. The legislation still can not be appropriate in punishing the corrupt; the legislation in the legislation is still unclear the application of minimum and maximum, mostly besides remission that seems to spoil the corruptor. Poor institutions that become the last drug in eradicating corruption are still seen as unable to bring the corrupt. Corruptors should be imprisoned like other inmates, even more, severe than other crimes.

The Government of Indonesia does not seem serious in applying punishment to corruptors both from the Rule of Law and the implementation of punishment in society's institution. Until corruption continues to rise and is not feared by officials, it can be drawn an idea that not only in terms of punishment but the absence of social sanctions that make corruptors ashamed of their actions. Social sanctions are required in additional punishment for corruptors such as in other countries, namely the corruptors should be humiliated in front of the people who have been betrayed, given the punishment of order such as mandatory to be servants or janitors in this country, besides it can be impoverished forever and exiled from the country.

Indonesia should have strict punishments in the form of social sanctions for leaders who have betrayed

and afflicted their people not only with the death penalty and jailed for life but also required social sanctions in additional punishment for corruptors such as in other countries, namely the corruptors should be humiliated in front of a society that has been betrayed, given a penalty of an order such as mandatory service or janitor in this country.

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