Criminal Law Policy On Corruption Criminal Acts: Considering The Death Penalty In The Framework Of Restorative Cension

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Abstract

Corruption offenses in Indonesia are positioned as extraordina crimes that generate systemic impacts on state finances, the nation economy, and public trust, thereby necessitating firm and effecti criminal law policies. One of the punitive instruments normative regulated is the death penalty, as specified in Article 2 paragraph (of Law Number 31 of 1999 in conjunction with Law Number 20 2001, particularly when corruption is committed under certa circumstances. Nevertheless, in law enforcement practice, th provision has almost never been applied, giving rise to issu concerning its relevance, rationality, and consistency with t objectives of punishment, especially from the perspective restorative sentencing and human rights protection. This stu employs a normative legal research method using statutor conceptual, and case approaches. The findings indicate that t death penalty in corruption offenses functions more as a symbol normative threat than as an applicable sentencing instrument and less aligned with the orientation toward restoring state financi losses. Therefore, this research emphasizes the need to refor corruption-related criminal law policies by balancing strict la enforcement with the strengthening of restorative sentencing, order to achieve substantive justice, effective corruption eradicatio and the sustainability of the national legal system

INTRODUCTION

In context implementation of a state based on the rule of law[3] justice , certainty , and usefulness , existence law criminal own role strategic as instrument control social

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[3]A state based on law (*rechtsstaat/rule of law*) is a state system that places law as the primary basis for every action of state administrators and citizens. In a state based on law, power is exercised based on laws that guarantee justice, protect human rights, and prevent arbitrary actions, with the principle that the law is sovereign, not individual power. This concept also requires a division of power and an independent and impartial judiciary. In Indonesia, the principle of a state based on law is

and protection interest public . Criminal law No only functioning give sanctions to violations law , but also maintain orderly social , upholding state authority , as well as ensure fulfillment rights society . Therefore that , policy criminalization to crime certain — especially those that impact extensive , systemic , and threatening interest public — to be an integral part of policy law criminal national . Within the framework of here it is , act criminal corruption positioned as crime outside ordinary (*extraordinary crime*) which requires handling special and extraordinary normal .

Action criminal corruption is crime outside ordinary (*extraordinary crime*) which has an impact systemic to joints life nation and state . According to Stuart Ford [4], *extraordinary crimes* or crime outside normal is actions taken with objective eliminate or rob right basic humans , so that is at in jurisdiction justice criminal international and can sentenced the most severe sanctions , including criminal dead . Meanwhile that , Sukardi[5] interpret *extraordinary crime* as type crimes that cause impact broad and multidimensional, encompassing aspect social , cultural , ecological , economic , and political . Character outside normal the can identified from the consequences caused by something actions , as analyzed and studied by various institutions , both government and non-governmental , at the level national and international .

In context said , corruption No only cause loss to state [6]finance and economy national , but also has an impact serious about non- economic aspects , such as damage trust public , weakening legitimacy government , as well as obstruction fulfillment rights base society . Therefore that , the state places eradication corruption as a priority agenda through arrangement law criminal acts of a criminal nature repressive , including with threat serious crimes , as form response on character / nature and impact outside usually caused by actions criminal corruption .

Choice policy the in harmony with character base law criminal repressive [7]in essence is approach enforcement law of a legal nature reactive , namely implemented

constitutionally affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which means that all governance and citizen behavior must be subject to just laws and guarantee equality before the law. See Willa Wahyuni, *Principles of a State Based on Law Applied in Indonesia* , https://www.hukumonline.com/berita/a/contoh-negara-hukum-yang-diterapkan-di-indonesia-lt63449d84e25e4/ , accessed January 20, 2024.

[4]Mohammad Al Faridzi and Gunawan Nachrawi, *Qualification of Extraordinary Crimes Against Corruption Crimes (Supreme Court Decision Number 301K/Pid.Sus/2021)* , Citizenship Journal, Vol. 6, No. 2 September 2022, pp. 3014-3019.

[5] *Ibid* .

[6]Loss is basically defined as a condition of loss, reduction, or diminishing of a value. This definition was then adopted in the concept of state finance as formulated in Article 1 and Article 2 of Law Number 17 of 2003 concerning State Finance, so that "state financial loss" can be understood as a reduction or loss of state rights and obligations that are real and definite and can be valued in money due to unlawful acts committed intentionally. See Hernold Ferry Makawimbang, *Understanding and Avoiding Acts that Harm State Finances in Criminal Acts of Corruption and Money Laundering* , (Yogyakarta: Thafa Media, 2015), pp. 43-44.

[7]According to the Big Indonesian Dictionary (KBBI), repressive measures are understood as actions of enforcement, restriction, restraint, or detention, which also have the goal of restoration. Simply put, repressive measures are aimed at restoring a previously disturbed state of equilibrium. See Online Legal Team, *Differences Between Preventive and Repressive Measures as well as For example* ,

after occurrence violation criminal approach This directed For take action perpetrator through giving sanctions , such as criminal prison or fines , in order to cause effect deterrent , restore order general , and uphold authority law through mechanism investigation , arrest , prosecution , up to criminalization by the authorities enforcer law . With Thus , the emphasis on sanctions heavy in action criminal corruption can understood as embodiment from orientation repressive law criminal offenses that place enforcement rules and coercion compliance as instrument main control crime .

In perspective theoretical , Nonet and Selznick[8] put law repressive as a legal model characterized by the dominance of role coercion , tightness connection between law and power politics , as well as limited room discretion and purpose justice substantive in taking decision law . Anatomy law repressive reflected in characteristic features like orientation main on order , legitimacy law that originates from from state power , strict regulations to public However soft to ruler , until demands compliance without conditions that are accompanied threat sanctions for every form deviation .

From the constellation connection said , can understood that law repressive functioning as instrument power For maintain order and state interests , often with put sanctions criminal as tool main control social . In the context of eradication corruption , pattern repressive This reflected in the determination threat serious criminal offenses , which are designed For suppress , control , and prevent actions corrupt in order to maintain stability and protection interest public . Orientation repressive the Then institutionalized in a way normative in law positive Indonesia through arrangement sanctions criminal acts of a criminal nature outside usually one of them namely criminal dead . In the context of law positive Indonesia, Law Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 concerning Eradication Action Criminal Corruption Still maintain criminal dead as one of the form sanctions criminal law , in particular in condition certain as arranged in Article 2 paragraph (2). Criminal dead the intended as instrument *ultimate remedy*[9] For give effect deterrent *effect* against perpetrator corruption committed in condition certain , such as moment disaster natural or crisis economy national . However thus , in practice enforcement criminal law dead to perpetrator action criminal corruption Not yet Once applied , so that bring up debate about effectiveness , relevance , and consistency policy criminalization the .

On the other hand , development paradigm modern criminalization shows existence shift from approach retributive going to approach more criminal penalties humanistic and recovery - oriented , namely criminalization restorative *justice* approach This emphasize recovery state losses , restitution asset results crime , as well as recovery trust public as objective main criminalization , not solely revenge through serious crime . In the context of action criminal corruption , criminalization restorative

https://www.hukumonline.com/berita/a/upaya-preventif-lt63e0813b74769/ , accessed January 29 , 2024.

[8] S. Brodjo Soedjono, *Repressive Law and the System Undemocratic Legal Production* , Journal *of* Law, Vol. 7, No. 13, 2000, pp . 157-169.

[9] *Ultimate remedy* interpreted as means the last one only can taken if all over alternative settlement other No Again available or No effective . See Mas Putra Zenno Januarsyah, *Implementation Principle Ultimate Remedium in Action Criminal Corruption : Judgment Review Number 2149 K/PID.SUS/2011* , Journal Judicial , Vol. 10, No. 3, 2017, pp . 257-276.

become relevant remember state losses incurred nature real and measurable , so that effort return state losses become crucial aspects .

The link between the threat of the death penalty and the concept of restorative punishment in criminal law policy creates a normative and conceptual dilemma. On the one hand, the death penalty represents a highly retributive [10]and repressive approach to punishment, while on the other hand, restorative punishment emphasizes aspects of restoration and substantive justice. This tension raises fundamental questions regarding the direction of Indonesian criminal law policy in addressing corruption, particularly whether the death penalty is still relevant to maintain within a criminal justice framework that is beginning to accommodate the values of restorative justice. Based on these conditions, a comprehensive and critical legal review of criminal law policy in addressing corruption is needed, particularly considering the existence of the death penalty within a restorative punishment framework. This study is important to provide a conceptual and normative foundation in formulating a direction for reforming criminal law policy that is more consistent, proportional, and oriented towards substantive justice.

FORMULATION OF THE PROBLEM

Based on this background, the problems formulated in this research are as follows:

1. How does Indonesia's criminal law policy regulate the punishment of corruption crimes, particularly regarding the existence of the death penalty?
2. What is the relevance and rationality of the death penalty in dealing with criminal acts of corruption when viewed from the perspective of the goals and principles of restorative punishment?
3. What is the direction of updating criminal law policy on corruption crimes to align the need for firm law enforcement with the application of the concept of restorative punishment?

RESEARCH METHODS

This research uses a normative legal research method [11], which focuses on the study of positive legal norms that regulate criminal law policies in dealing with corruption crimes, particularly regarding the regulation of the death penalty and its relevance within the framework of restorative punishment. Normative legal research

[10] System criminalization retributive is view traditional in law criminal law based on the principle that every action crime must responded to with giving appropriate sanctions . In theory retributive , perpetrator action criminal become focus main , while the state acts take over the interests of the victim to do revenge on actions oppose law through mechanism justice formal criminal law . Criminal law dropped as form reply on violations of legal norms committed perpetrator , with objective main cause effect deterrent , good individually and collectively in society . See Sitti Munawwarah, et al ., *Comparison Approach Criminal Restorative and Retributive in Settlement of Crime Cases in Indonesia Legally and Socially* , Khatulistiwa : Journal of Education and Social Humanities , Vol. 5, No. 4, 2025, pp . 325-241.

[11]Juridical research normative is type of research that is oriented towards assessment to implementation rules or applicable legal norms in system law positive . See Johny Ibrahim, *Theory and Methodology of Normative Legal Research* , (Surabaya: Bayumedia Publishing, 2007), p . 295.

was chosen because the objects of this research study are laws and regulations, legal principles, and legal doctrines related to the punishment of corruption as a normative system.

The approach used covering approach statute *approach* and legal approach conceptual *approach* legislation used For analyze provision criminal dead in Constitution Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 concerning Eradication Action Criminal Corruption as well as its relevance with policy criminalization in system law criminal national approach conceptual used For study theories and doctrines criminalization , in particular theory criminalization retributive and restorative , in order to assess suitability criminal dead with objective justice - oriented and restorative criminalization . The legal materials used consists of on material collected primary and secondary laws through studies library , then analyzed in a way qualitative with pattern think deductive For interesting systematic and argumentative conclusions .

DISCUSSION

A. Arrangement Death Penalty in Criminal Law Policy to Action Criminal Corruption in Indonesia

Policy law Indonesian criminal law places action criminal corruption as crime outside ordinary (*extraordinary crime*) which requires instrument strict and progressive criminalization . This reflected in Article 2 paragraph (1) of the Law Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 concerning Eradication Action Criminal Corruption, which regulates that every person who oppose law do actions enrich self Alone or other people who cause harm state finances are subject to criminal penalties with criminal imprisonment and fines heavy . More continue , former Constitution give emphasis special to condition certain through Article 2 paragraph (2) of the Corruption Law , which opens possibility fall criminal dead if action criminal corruption done in condition certain , such as when the country is in condition danger , happening disaster natural national crisis economic and monetary , or in matter perpetrator is recidivist .

In a way normative , existence criminal dead in Article 2 paragraph (2) of the Corruption Eradication Law intended as form policy the most repressive punishment For protect interest law in the form of state finance and economy national . Provisions This must read in a way systematic with Article 3 of the Corruption Law , which regulates abuse authority , opportunity , or means Because position that results in loss state finances . With thus , criminal dead positioned as sanctions outside ordinary which only can implemented if actions corruption No only fulfil element oppose law and detrimental state finances , but also carried out in context aggravating situational impact social and economic in a way national .

Although in a way normative criminal dead has arranged in a way firm , deep practice enforcement law provision the Not yet Once applied by the court . Until moment this , no there is decision court action criminal corruption that brings down criminal dead based on Article 2 paragraph (2) of the Corruption Eradication Law , even though a number of case in a way factual assessed happen in potential situations qualified as a “ state of affairs certain ". In practice , the apparatus enforcer law tend apply criminal prison maximum as arranged in Article 2 paragraph (1) or Article 3 of the Corruption Law , which reflects caution in apply sanctions the most severe crime the .

Condition the seen clear in handling case corruption that occurred during the COVID-19 pandemic , which law has set as disaster non- natural national based on regulation legislation . Although in a way contextual pandemic can interpreted as a “ state of affairs certain " as intended in Article 2 paragraph (2) of the Corruption Law , the demands and verdict court still drop criminal prison lifetime life or criminal prison in term time certain . This is show that element of " state" certain " in chapter the interpreted in a very restrictive manner , so that criminal dead more functioning as threat normative than instrument applicable criminalization . One of the most prominent example is case corruption of aid funds social assistance (bansos) COVID-19 involving former Minister of Social Affairs Juliari Peter Batubara.

In the case of This is Juliari proven accept bribe dozens billion rupiah from providers package social assistance For poor families during the pandemic . Although corruption the happen when Indonesia declared the COVID-19 pandemic as disaster non- natural national — conditions that are theoretical can fulfil condition " condition certain " as intended in Article 2 paragraph (2) of the Law Number 31 of 1999 in conjunction with Number 20 of 2001 concerning Eradication Action Criminal Corruption — court drop 12- year sentence prison to Juliari , a fine of Rp. 500 million , and obligation pay compensation to the country around Rp. 14.5 billion .[12] Decision This more heavy from demands beginning prosecutor , however No up to criminal dead or prison lifetime life discussed in chapter condition certain . This is show that the terms of " conditions certain " rare " used in a way wide in practice enforcement law , so that criminal dead more functioning as threat normative than instrument applicable criminalization in case corruption in Indonesia.

Other relevant cases However with character similar is case corruption related procurement of PPE (Personal Protective Equipment) during the pandemic , where several defendant sentenced punishment between 3 and 14 years imprisonment by the court Jakarta Corruption Crimes because abuse COVID-19 budget for profit personal and corporate they .[13] Decisions the strengthen pattern that although action criminal corruption happen in context emergency national , court still tend choose criminal prison heavy as sanctions end , not criminal dead .

In perspective jurisprudence , tendency is also reflected in matters corruption large involving state officials . One of them example is case ex- Chairman Constitutional Court , Akil Mochtar , who was sentenced criminal prison lifetime life based on provisions of Article 12 letter c of the Corruption Law in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code, without implementation criminal dead . Verdict This show that although actions corruption carried out by officials high state and impact wide to trust public , permanent judge choose criminal prison maximum as form the most severe punishment considered proportional . With Thus , the practice enforcement law in Indonesia is increasingly describe that element of " state" certain " in the Corruption Law interpreted in a very restrictive manner , so that criminal dead more functioning as threat normative than instrument applicable criminalization in handle corruption , including that which occurred during the COVID-19 [14]pandemic .

On the other hand , the settings criminal dead in Article 2 paragraph (2) of the Corruption Law also gives rise to debate from perspective right basic humans , especially If associated with Article 28A of the 1945 Constitution of the Republic

[12] Dezy Rosalia Piri, *Indonesian Ex-Minister Gets 12-Year Jail for Covid Social Aid Graft* , https://go.kompas.com/read/2021/08/24/154455274/indonesian-ex-minister-gets-12-year-jail-for-covid-social-aid-graft?utm_source=chatgpt.com ., accessed January 20 , 2024.

[13] Machradin Wahyudi Ritonga, *Covid-19 PPE Corruption Case, Three Defendants Sentenced to 3-11 Years in Prison* , https://www.kompas.id/article/en-kas-kokerja-apd-covid-19-tiga-terangkat-divonis-3-11-tahun-penjara?utm_source=chatgpt.com , accessed January 29 , 2024.

[14] Wildan Tantowi, *Problems Juridical Imposition of Sanctions Death Penalty Against Corruptors during the Covid-19 Pandemic* , Journal UNS Postgraduate Program , Vol. VIII, No. 2, 2020, pp . 178-187.

of Indonesia which guarantees right For life . Criticism of criminal death is also reinforced by the tendency update law criminal national as reflected in the new Criminal Code (KUHP) , which places criminal dead as criminal special nature alternative and exceptional . This show existence shift paradigm criminalization from approach retributive absolute going to a more approach humanistic and goal - oriented criminalization .

In a way historical , criminal dead in context action criminal corruption is not draft new in system Indonesian law . In the early days independence , regulation criminal dead to perpetrator corruption Once known in various regulations emergency , although its application is very limited . However , in Corruption Eradication Law regime moment this , criminal dead still maintained in a way normative through Article 2 paragraph (2) of the Corruption Law , even though its implementation face challenge Serious Good from aspect proof , policy criminalization , as well as development values constitutional and human rights.

Based on description said , can concluded that policy law Indonesian criminal law in general normative Still open room implementation criminal dead to action criminal corruption , however in a way empirical its implementation almost No Once happened . Tension between provisions of Article 2 paragraph (2) of the Corruption Eradication Law with practice more justice put forward criminal prison maximum show the need evaluation policy criminalization corruption , in particular in framework criminalization restorative which focuses on recovery loss state finance and justice substantive . On the other hand , the arrangement criminal death also brings up debate constitutional , in particular If associated with Article 28A of the 1945 Constitution of the Republic of Indonesia which guarantees right For life . [15]Criticism of criminal dead the more strengthen along with update law criminal national through the 2023 Criminal Code, which places criminal dead as criminal special nature alternative and conditional . [16]This is show existence shift paradigm criminalization going to a more approach humanistic .

Based on description comprehensive mentioned , it can be seen that policy law Indonesian criminal law regarding action criminal corruption — in particular related arrangement criminal dead — have character dualistic between firmness normative and prudential applicable . In one side , former Constitution in a way firm put criminal dead as the most severe sanctions in Article 2 paragraph (2) of the Corruption Eradication Law For confirm characteristic corruption as *extraordinary crime* . However, on the other hand , the practice enforcement law and jurisprudence show trend strong For interpret provision the in a way restrictive , with still prioritize criminal prison maximum as form the most proportional punishment .

For clarify relation between base normative , practice application , example concrete case , and implications constitutional and direction update law criminal , description the furthermore summarized in form table . Presentation table This intended so that the relationship between aspects — start from arrangement article ,

[15] The 1945 Constitution of the Republic of Indonesia , Article 28A.
[16] Constitution Number 1 of 2023 concerning the Criminal Code , Article 100.

purpose criminalization , reality enforcement law , until dynamics human rights and criminalization debate restorative — can understood in a way more systematic , structured , and easy analyzed . With Thus , the table following This functioning as synthesis bridging analytics discussion normative and empirical about policy criminal dead in countermeasures action criminal corruption in Indonesia.

Table 1.
Analysis Normative and Practical Implementation Death Penalty in Criminal Law Policy Corruption Crimes in Indonesia

Aspect Analysis	Description Substance
Character Criminal Act of Corruption	Corruption placed as *extraordinary crime* that has an impact broad and systemic to state finance , economy national , as well as trust public , so that need instrument strict and progressive criminalization .
Normative Basis Criminalization	Article 2 paragraph (1) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 stipulates imprisonment and heavy fines for anyone who unlawfully enriches themselves or another person to the detriment of state finances.
Death Penalty as a Special Policy	Article 2 paragraph (2) of the Corruption Eradication Law opens up the possibility of imposing the death penalty if corruption is carried out in "certain circumstances", such as a state of danger, national disaster, economic and monetary crisis, or is carried out by a recidivist.
Position Death Penalty in System Criminalization	In a way normative , criminal dead positioned as the most repressive sanctions (*ultimum remedium*) for protect interest law in the form of state finance and economy national , as well as must read in a way systematic with Article 3 of the Corruption Eradication Law about abuse authority .
Practice Law enforcement	Until moment this , no there is decision court action criminal corruption that brings down criminal dead based on Article 2 paragraph (2) of the Corruption Eradication Law . The apparatus enforcer law tend apply criminal prison maximum or lifetime life .
Interpretation of "Certain Circumstances"	The element of " state" certain " in Article 2 paragraph (2) is interpreted very restrictively by the authorities enforcer law and courts , so that seldom used as base fall criminal dead .
COVID-19 Pandemic Case (Social Assistance)	In the case corruption of COVID-19 social assistance funds by Juliari Peter Batubara, even though pandemic set as disaster national non- natural , court drop 12 years imprisonment imprisonment , fines , and compensation , not criminal dead .

Aspect Analysis	Description Substance
COVID-19 PPE Procurement Case	In a number of case corruption procurement of PPE, defendant sentenced criminal prison between 3–14 years , indicating consistency court choose criminal prison heavy compared to criminal dead although happen in situation emergency national .
Jurisprudence Grand Corruption	In the case of Akil Mochtar (former Chief Justice of the Constitutional Court), court drop criminal prison lifetime life without criminal dead , even though actions carried out by officials high state and impact wide to trust public .
Function Death Penalty in Practice	Criminal dead more functioning as threat normative (*symbolic threat*) rather than instrument applicable criminalization in practice justice action criminal corruption in Indonesia.
Human Rights and Constitutional Perspective	Criminal dead cause debate constitutional , in particular If associated with Article 28A of the 1945 Constitution of the Republic of Indonesia which guarantees right For live , and principle human rights protection .
Direction of Criminal Law Reform	The 2023 Criminal Code places criminal dead as criminal special nature alternative and conditional , indicating shift paradigm from retributive absolute going to a more approach humanistic and oriented objective criminalization .
Policy Conclusion	In a way normative criminal dead to corruption Still acknowledged , however in a way empirical almost No Once applied . Conditions This show the need evaluation policy criminalization corruption to be more in harmony with criminalization restorative , recovery state losses and justice substantive .

B. Death Penalty in Action Criminal Corruption : Analysis Relevance and Rationality in Perspective Criminalization Restorative

Within the framework policy law Indonesian criminal law , the existence of criminal dead to action criminal corruption cause debate Serious when confronted on the goals and principles criminalization restorative . In normative , criminal dead Still recognized as one of the form criminalization outside ordinary (*extraordinary punishment*) which can dropped in condition certain , as arranged in Article 2 paragraph (2) of the Law Number 31 of 1999 in conjunction with Law No. Number 20 of 2001, in particular if action criminal corruption done in condition certain like when the country is in condition crisis economy , disaster national , or condition emergency others . From the angle view retributive and preventive , criminal dead viewed rational as instrument deterrence maximum (*ultimate deterrence*) against

perpetrator corruption that causes loss systemic and massive to state finances and suffering broad social .

However thus , if analyzed from perspective criminalization restorative , relevance criminal dead become problematic . Criminalization restorative restoration - oriented losses caused by the act criminal , good towards victims, society , and order disrupted social life . The main principles of this approach emphasize the restoration of losses, substantive accountability of perpetrators, and social reintegration, not merely retribution. In the context of corruption, restorative goals require the restitution of state financial losses, the restoration of public trust in government institutions, and the improvement of governance systems damaged by corrupt practices. The death penalty, which is final and eliminates the possibility of further accountability, is considered less aligned with these goals because it does not directly guarantee the restitution of state losses or systemic improvements.

Furthermore, the rationality of the death penalty also needs to be tested in terms of its effectiveness in combating corruption sustainably. Empirically and theoretically, the severity of the penalty does not always correlate directly with a decrease in crime rates, particularly organized and systemic crimes such as corruption. Within a restorative criminal justice framework, corruption prevention is more effective when directed at a combination of strict criminal sanctions with restitution mechanisms, such as long-term imprisonment, confiscation of assets obtained from corruption, restitution payments, and social and administrative sanctions that reduce the opportunity for perpetrators to repeat their actions. This approach not only provides a deterrent effect but also contributes directly to the recovery of state finances and the prevention of future corruption.

Thus, the relevance of the death penalty in combating corruption is limited and conditional when viewed from the principle of restorative punishment. Although it is still normatively possible under Indonesian positive law, the application of the death penalty tends to reflect a retributive and symbolic approach rather than a restorative one. Therefore, within the framework of criminal law policy reform, a reorientation of corruption punishment is needed by prioritizing recovery of state losses, system improvement, and restoration of public trust as the primary objectives, so that the criminal sanctions applied are truly rational, proportional, and effective in eradicating corruption sustainably.

C. Direction of Criminal Law Policy Reform on Corruption Crimes in Balancing Firm Law Enforcement and Restorative Punishment Approaches

The direction of criminal law policy reform regarding corruption crimes must essentially be placed within a framework of balancing the need for firm law enforcement (*retributive-deterrent*) and the application of the concept of restorative punishment oriented towards recovering state losses and social justice. To date, criminal law policy on corruption in Indonesia still strongly emphasizes a repressive approach through heavy prison sentences and the threat of the death penalty as stipulated in the Corruption Eradication Law. This approach is important to affirm the state's stance against extraordinary crimes , but in practice it has not been fully effective in recovering state financial losses and preventing systemic corruption.

In the context of criminal law reform, firm law enforcement must be maintained as *the ultimum remedium instrument* to provide a deterrent effect, maintain the authority of the law, and protect the public interest. However, policy reform needs to be directed at strengthening restorative- *oriented sanctions* , particularly through optimizing additional penalties in the form of restitution payments, confiscation of assets obtained from corruption, and effective *asset recovery* [17]mechanisms. Thus, the orientation of criminal punishment should not only focus on punishing perpetrators, but also on recovering state losses and remediating the socio-economic impacts caused by corruption.

Furthermore, the concept of restorative punishment in corruption crimes cannot be equated absolutely with *restorative justice* in conventional crimes. Its application must be selective, proportional, and conditional, especially for perpetrators who cooperate, fully reimburse state losses, and exclude key perpetrators in systemic corruption crimes that harm the public interest at large. Within this framework, reform of criminal law policy requires the formulation of clear normative guidelines so that the restorative approach is not misused as a means of impunity, but instead becomes an instrument to increase the effectiveness of corruption eradication.

Furthermore, the direction of reforming criminal law policies on corruption must also be integrated with reforms to the criminal justice system and governance . Firm law enforcement must go hand in hand with structural prevention, strengthening the integrity of state officials, and ensuring transparency and accountability in state financial management. By synergizing repressive and restorative approaches, criminal law policies are expected to address the demands of substantive justice, not only by severely punishing perpetrators but also by recovering state losses, repairing damaged systems, and preventing future corruption.

Thus, reforms to criminal law policy regarding corruption must be directed toward a balanced and contextual punishment model, one that maintains the state's firmness in prosecuting serious crimes that harm the public interest, while simultaneously adapting to the need for state recovery and the development of a just, effective, and sustainable legal system. This framework serves as a conceptual basis for formulating the direction of reforms to corruption punishment policies that are not solely repressive but also oriented toward results and substantive justice.

Based on this framework, the following table is compiled to systematically illustrate the direction of criminal law policy reform regarding corruption crimes from the perspective of balancing firm law enforcement with the application of the concept of restorative punishment. The purpose of this table is to structuredly map

[17] *Asset recovery* is series efforts that include identification , tracing , security , confiscation , and return assets acquired in a way oppose law , abused , or No utilized as should be , for returned to the entitled party — generally the state or the victim— or For utilized back to maximize mark economical and minimize losses , especially in case corruption and crime finance . *Asset recovery* directed For end mastery and relatedness perpetrator to assets acquired from results action criminal through action robbery asset See Maggie Regina Imbar, The Role of *Prosecutors in Asset Recovery* in *Action Criminal Money Laundering* , Lex Crimen, Vol. IV, No. 1, 2015, pp . 87-96.

key aspects of reform, starting from the basic paradigm of punishment, an evaluation of the dominant repressive approach, to strengthening the restorative dimension oriented towards the recovery of state losses and substantive justice, thus providing a complete picture of the direction of corruption punishment policy oriented towards the public interest and the sustainability of the legal system.

Table 2.
Direction of Criminal Law Policy Reform on Corruption Crimes within the Framework of Balancing Firm Law Enforcement and Restorative Punishment

Aspect Updates	Description Substance	Policy Objectives
Basic Paradigm of Criminalization	Updates policy law criminal corruption must balance approach enforcement strict law (retributive - *deterrent*) with draft criminalization recovery - oriented restorative state losses and justice social .	Realize policy criminalization that is not only punish perpetrators , but also provide benefit real for the country and society .
Approach Repressive (Strict Law Enforcement)	Criminalization weight , including criminal prison and threats criminal dead in the Corruption Law , it remains maintained as form the state's attitude towards corruption as crime outside ordinary (*extraordinary crime*).	Give effect deterrent , guard authority law , and protect interest public from impact systemic corruption .
Weakness Conventional Approach	Approach dominant repressive in practice Not yet fully effective in restore loss state finances and prevent corruption in a way systemic .	Become base the need update policy more criminal penalties outcome - oriented .
Strengthening Aspect Restorative	Optimization criminal addition in the form of payment of compensation , confiscation asset results corruption , and mechanisms effective *asset* recovery .	Ensuring the recovery of state losses and restoring the socio-economic impacts of corruption.
Limitations of Application Criminalization Restorative	Criminalization restorative No equalized with *restorative justice* in crime criminal conventional ; its application must selective , proportional , and conditional .	Prevent abuse approach restorative as means impunity for perpetrator corruption .

Aspect Updates	Description Substance	Policy Objectives
Criteria Actors to Consider Restorative	The perpetrator is cooperative , returns state losses in general full , and not perpetrator main in corruption of a nature systemic .	Encourage cooperation between perpetrators in recovering state losses without reducing the effectiveness of corruption eradication.
Strengthening Framework Normative	Required guidelines clear laws about conditions , limits and mechanisms implementation approach restorative in case corruption .	Ensure legal certainty and consistency in the application of criminal policies.
Integration with Systemic Reform	Updates policy criminalization must integrated with system reform justice criminal , governance government , as well as strengthening integrity state apparatus .	Prevent corruption in a way structural and strengthening prevention term long .
Final Direction of Update Policy	A balanced , contextual , firm sentencing model to crime serious , but adaptive to need recovery and justice substantive .	Realize policy law criminal corruption that is fair , effective , sustainable and interest - oriented public .

Based on mapping in table said , can confirmed that direction update policy law criminal to action criminal corruption must placed in framework balanced and integrative policies between enforcement strict laws and implementation recovery - oriented criminalization . Approach repressive still required For confirm the state's attitude towards corruption as crime outside normal as well as give effect deterrence and certainty law . However , the effectiveness eradication corruption No Enough only measured from the weight the sentence imposed , but also from to what extent the policy criminalization capable restore state losses , repair impact socio-economic , and prevent recurrence crime similar . Therefore that , strengthening aspect applied restorative in a way selective , proportional , and based on clear legal norms become need urge in update policy law criminal corruption . With synergy between approach repressive and restorative supported by system reform justice and governance government , policy criminalization expected No only reflect formal justice , but also justice sustainable and interest - oriented substantive public .

CLOSING

Based on discussion said , can concluded that policy law Indonesian criminal law in general normative Still confess criminal dead as the most severe sanctions to action criminal corruption through Article 2 paragraph (2) of the Corruption Eradication Law , in particular in condition certain . However , in practice enforcement law and

jurisprudence , provisions the almost No Once applied and tends to interpreted in a way restrictive , so that criminal dead more functioning as threat normative than instrument applicable criminalization . Conditions This show existence tension between firmness normative and precautionary applicable , as well as strengthen urgency evaluation policy criminalization corruption to be more in harmony with objective recovery state losses , justice substantive , and development paradigm more criminal penalties humanistic as reflected in the 2023 Criminal Code.

In connection with findings mentioned , it is recommended that the update policy law criminal to action criminal corruption directed at strengthening a balanced and contextual punishment model , with still maintain state assertiveness through criminal prison heavy , but prioritize recovery state losses through optimization criminal additional , confiscation assets , and mechanisms effective *asset recovery* . In addition , it is necessary formulation guidelines clear normative regarding limits and conditions implementation criminalization restorative in case corruption so that it does not cause impunity , at the same time ensure consistency enforcement law , human rights protection , and effectiveness eradication corruption in a way sustainable .

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