

Criminal Sanctions for Perpetrators of Corruption under Law No. 1 of 2023 on the Criminal Code (KUHP) in Indonesia

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Corruption in Indonesia is classified as an extraordinary crime due to its systemic destructive impact. The enactment of Law No. 1 of 2023 on the Criminal Code (National Criminal Code) has brought about fundamental changes that raise the potential for regulatory overlap with Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes (Anti-Corruption Law). The introduction of this new codification has raised public concerns regarding a potential weakening of the deterrent effect due to a reduction in the minimum mandatory prison sentences. This study aims to conduct an in-depth analysis of criminal sanction policies for perpetrators of corruption offenses from the perspective of the National Criminal Code and to examine their relationship with the Anti-Corruption Law in order to achieve regulatory harmonization. The research method employed is normative legal research with a qualitative analytical approach through a literature review. The approaches applied include the statutory approach and the conceptual approach. The primary legal sources analyzed are based on the text of the National Criminal Code and the Corruption Eradication Act, while secondary legal sources were obtained from relevant legal literature and scholarly journals. The results of the study show that the enactment of the National Criminal Code has given rise to a new paradigm of criminal punishment, shifting from a retributive-punitive (retribution) approach toward an integrative-utilitarian one that emphasizes proportional justice and restoration. Viewed through the lens of the legal relationship between the principles of *lex posterior derogat legi priori* and *lex specialis derogat legi generali*, this regulatory dualism does not result in a conflict of norms (legal antinomy), but rather a harmonious interplay of complementary regulations. The National Criminal Code serves to unify substantive criminal law through the restructuring of prison sentences, reform of the fine classification system, expansion of the concept of asset forfeiture, and the repositioning of the death penalty with a probationary period. Meanwhile, the Anti-Corruption Law remains in effect as an instrument of special procedural law (formal criminal law). The reduction of specific minimum penalties in the National Criminal Code is viewed as a step toward legal rationalization aimed at minimizing disparities in judicial rulings and optimizing the recovery of state assets in a humane manner.

Keywords: Sanctions Policy; Corruption Offenses; National Criminal Code; Anti-Corruption Law.

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1. Introduction

Corruption is recognized as an extraordinary crime due to its systemic and far-reaching impact on national governance and society. Corrupt practices not only result in significant financial losses to the State but also undermine economic development, weaken public governance, erode public trust in the legal system, and impede the realization of the rule of law (Suraya & Afrijal, 2026). Consequently, the imposition of criminal sanctions against perpetrators of corruption serves as a crucial instrument for creating a deterrent effect while strengthening Indonesia's anti-corruption efforts.

The enactment of Law No. 1 of 2023 on the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana/KUHP), as the codification of Indonesia's national criminal law, has introduced a new dynamic into the country's sentencing system. At the same time, corruption offenses continue to be specifically regulated

under Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001, which prescribes more severe criminal penalties, including the death penalty under certain exceptional circumstances. This situation raises important legal questions regarding the relationship between the provisions of the new Criminal Code and the special criminal law regime governing corruption, particularly concerning the formulation and application of criminal sanctions against corruption offenders. Differences in the characteristics of these legal frameworks have the potential to create normative disharmony and divergent interpretations in law enforcement practice.

From a normative perspective, Indonesia has established a relatively comprehensive legal framework for combating corruption. Nevertheless, the effectiveness of criminal sanctions continues to face several challenges, including disparities in judicial decisions, inconsistencies in law enforcement, and the potential overlap between the provisions of the new Criminal Code and the Anti-Corruption Law (Situmorang et al., 2025). Furthermore, the sentencing philosophy adopted by the new Criminal Code, which emphasizes a balance between justice, legal certainty, and utility, requires further examination to ensure that it does not diminish the repressive nature of criminal sanctions that has traditionally characterized Indonesia's anti-corruption policy in addressing corruption as an extraordinary crime.

In light of these circumstances, a comprehensive analysis of the policy governing criminal sanctions for corruption offenders from the perspective of Law No. 1 of 2023 on the Criminal Code and its relationship with the Anti-Corruption Law is necessary. Such a study is important to ensure the harmonization of legal regulations, maintain the consistent application of the principle of *lex specialis derogat legi generali*, and guarantee that the reform of Indonesia's national criminal law does not weaken the effectiveness of corruption eradication efforts. The findings of this research are expected to contribute to the development of criminal law, particularly by providing recommendations for a more effective criminal sanction policy, enhancing legal certainty, and strengthening Indonesia's anti-corruption legal framework.

2. Research Method

This study employs a normative legal research approach, which focuses on the analysis of legal norms through legislation, legal doctrines, and relevant legal literature (Wiraguna, 2024). The research examines law as a normative system (law in books) to analyze the policy governing criminal sanctions for perpetrators of corruption under Law No. 1 of 2023 on the Indonesian Criminal Code (KUHP) and its relationship with Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001.

The study adopts both a statutory approach and a conceptual approach (Wiraguna, 2024). The statutory approach is used to examine legislative provisions governing criminal sanctions for corruption offenses, while the conceptual approach is applied to analyze legal theories, principles, and doctrines relating to criminal sentencing policy and corruption offenses.

The legal materials consist of primary, secondary, and tertiary legal materials. The primary legal materials include relevant legislation, particularly Law No. 1 of 2023 on the Criminal Code, Law No. 31 of 1999 on the Eradication of Corruption Crimes, and Law No. 20 of 2001 amending Law No. 31 of 1999. Secondary legal materials comprise scholarly books, academic journal articles, previous research findings, and the opinions of legal scholars. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting reference sources. All legal materials were selected purposively based on their relevance to the research objectives.

Legal materials were collected through library research, involving a comprehensive review of statutory regulations, scholarly literature, official documents, and previous studies related to the subject matter. The collected legal materials were subsequently analyzed using a qualitative legal analysis through the stages

of inventory, classification, interpretation, and legal reasoning to develop systematic legal arguments concerning the policy of criminal sanctions for corruption offenders within the framework of Indonesia's national criminal law reform.

3. Results and Discussion

The findings indicate that criminal sanctions for perpetrators of corruption have undergone fundamental changes following the enactment of Law No. 1 of 2023 on the Indonesian Criminal Code (KUHP). Through the recodification of Indonesia's national criminal law, several substantive provisions previously regulated under Law No. 31 of 1999, as amended by Law No. 20 of 2001 on the Eradication of Corruption Crimes, have been incorporated into the Criminal Code, particularly in Articles 603–606. This development reflects a significant reform of criminal law policy that not only transfers legal provisions into the new Code but also establishes a more integrated and systematic sentencing framework.

An analysis of previous studies demonstrates that the reform of criminal law through Law No. 1 of 2023 on the Indonesian Criminal Code (KUHP) has generated various developments in the policy of criminal sanctions for corruption offenders. Most scholars agree that the incorporation of corruption offenses into the Criminal Code represents a recodification of Indonesia's criminal law, resulting in changes to the formulation of criminal sanctions, sentencing philosophy, and the relationship between the Criminal Code and the Anti-Corruption Law (Ghozali et al., 2025).

Previous studies further reveal a tendency toward reducing the severity of criminal sanctions under the new Criminal Code compared with those prescribed by Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. This adjustment is considered to have the potential to affect the deterrent effect of anti-corruption sanctions. However, it is also regarded as part of a broader effort to rationalize the sentencing system by promoting a more proportional and integrated approach to criminal punishment (Putra & Yudiantara, 2023).

From the perspective of sentencing theory, the new Criminal Code reflects a shift from a predominantly retributive approach toward a more integrative model that accommodates the principles of justice, utility, and rehabilitation. This paradigm shift demonstrates the legislature's intention to balance the objectives of punishment with the protection of human rights while preserving the role of criminal sanctions as an essential instrument in combating corruption (Arafat, 2025).

The findings also indicate that the formulation of criminal sanctions under the 2023 Criminal Code has been substantially restructured compared with the previous Anti-Corruption Law regime. The mandatory minimum penalties for several corruption offenses have been reduced, while the system of monetary fines has been transformed from fixed nominal amounts into a categorized fine system that is more adaptive to economic developments. These changes are intended to provide greater flexibility in sentencing without undermining legal certainty while supporting the modernization of Indonesia's national sentencing system.

In addition to revising the formulation of criminal sanctions, the 2023 Criminal Code introduces sentencing guidelines as stipulated in Articles 53 and 54. These guidelines require judges to consider various factors, including the offender's degree of culpability, motives, personal circumstances, the impact of the offense, and the interests of victims and society. Consequently, sentencing is no longer solely retributive but also emphasizes proportionality and the broader objectives of criminal punishment.

The study further identifies a paradigm shift in sentencing policy from a retributive approach toward an integrative model. Whereas previous anti-corruption policies primarily emphasized retribution through severe criminal penalties, the 2023 Criminal Code seeks to balance deterrence, proportional justice (just deserts), the protection of society, and the recovery of state financial losses through asset recovery

mechanisms. This transformation reflects a more modern criminal law policy oriented toward effectiveness and sustainability.

An analysis of the relationship between the 2023 Criminal Code and the Anti-Corruption Law demonstrates that no normative conflict exists, contrary to earlier concerns. Through its transitional provisions, the legislature adopted a partial codification model, whereby the Criminal Code governs substantive criminal law, while procedural law, institutional arrangements, and law enforcement authority remain regulated under the Anti-Corruption Law. This arrangement demonstrates harmonization between general criminal law and special criminal law.

From the perspective of legal theory, this relationship reflects a balanced application of the principles of *lex posterior derogat legi priori* and *lex specialis derogat legi generali*. As the newer legislation, the Criminal Code supersedes earlier substantive provisions governing similar matters, while the Anti-Corruption Law retains its special character with respect to procedural rules and institutional mechanisms. Accordingly, these two legal principles operate complementarily rather than contradictorily in ensuring legal certainty.

The findings further indicate that the reduction of mandatory minimum penalties should not be interpreted as a weakening of Indonesia's anti-corruption policy. Instead, the adjustment represents part of the rationalization of the sentencing system aimed at reducing disparities in judicial decisions while providing judges with greater flexibility to impose punishments that are proportionate to the specific circumstances of each case. Ultimately, the effectiveness of criminal sanctions depends not only on the severity of punishment but also on the consistency of law enforcement and the state's ability to recover financial losses resulting from corruption offenses.

In terms of criminal liability, the 2023 Criminal Code also strengthens the regulation of corporations as subjects of criminal law. These provisions provide a more comprehensive normative framework than the previous legal regime, thereby clarifying the mechanism for corporate criminal liability in corruption cases. This reform enhances the effectiveness of law enforcement against corruption offenses committed by legal entities and business organizations.

Another significant reform concerns the death penalty policy. Whereas the Anti-Corruption Law classifies the death penalty as a principal punishment that may be imposed under certain circumstances, the 2023 Criminal Code repositions capital punishment as a special form of penalty imposed alternatively, subject to a ten-year probationary period. This policy reflects a shift in the orientation of Indonesia's criminal law toward greater protection of human rights while preserving the death penalty as an exceptional sanction applicable only under extraordinary circumstances.

Overall, the findings demonstrate that the reform of criminal sanction policy under the 2023 Criminal Code constitutes an integral part of Indonesia's national criminal law reform, aimed at establishing a sentencing system that is more rational, proportionate, and harmonious. The integration of substantive criminal law within the Criminal Code and the special provisions contained in the Anti-Corruption Law creates a complementary legal framework that preserves the classification of corruption as an extraordinary crime, while simultaneously advancing the objectives of legal reform, namely legal certainty, justice, utility, and the optimization of anti-corruption efforts in Indonesia.

4. Conclusion

This study concludes that the policy governing criminal sanctions for corruption offenders has undergone a significant paradigm shift following the enactment of Law No. 1 of 2023 on the Indonesian Criminal Code (KUHP). Whereas the previous regime under Law No. 31 of 1999, as amended by Law No. 20 of 2001,

primarily emphasized a retributive approach through severe criminal sanctions characterized by mandatory minimum penalties and rigid fixed monetary fines, the 2023 Criminal Code adopts a more integrative sentencing approach by adjusting criminal penalties, introducing a categorized fine system, establishing sentencing guidelines, and strengthening the orientation toward the recovery of state financial losses. These reforms demonstrate a rationalization of sentencing policy without diminishing the status of corruption as an extraordinary crime.

The findings further indicate that the relationship between the 2023 Criminal Code and the Anti-Corruption Law does not create normative conflicts but instead establishes a harmonious interaction between substantive criminal law and special criminal legislation. The Criminal Code serves as the codification of substantive criminal law, while the Anti-Corruption Law retains its special character in regulating procedural law, institutional arrangements, and law enforcement mechanisms. Accordingly, the future effectiveness of criminal sanctions against corruption offenders will depend on the consistent implementation of the legal framework, continued regulatory harmonization, and the optimization of asset recovery mechanisms. Such measures are essential to ensuring that the objectives of Indonesia's national criminal law reform remain aligned with the broader goals of combating corruption through the promotion of legal certainty, justice, and public benefit.

5. Referensi

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