



The Reconstruction of Criminal Law on Corruption Based on the Integrity of the Judicial System

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Article Info

Received: 30/12/2025

Revised: 30/01/2026

Accepted: 27/02/2026

Published: 03/03/2026



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Abstract

Without a fundamental transformation in institutional ethics, power relations, and the culture of integrity within the judiciary, criminal law will serve only as a symbolic mechanism that perpetuates injustice rather than addressing the root causes of corruption. This study aims to formulate a concept and model for the reconstruction of criminal law on corruption grounded in the institutional integrity of the judiciary, and to analyse their implications for law enforcement effectiveness and public trust. This study employs a socio-legal approach with a qualitative-explanatory research design. The results indicate that without the reconstruction of judicial institutional integrity, criminal law risks becoming a symbolic instrument that loses its transformative power. The articulation of a hybrid accountability model, one that not only punishes but compels institutions to reform through normative and structural pressure, paves the way for the transformation of criminal law from a mere repressive tool into a social engineering mechanism grounded in integrity. The implications demand political courage and radical reform in judicial governance. However, this approach still faces limitations in operationalisation and institutional resistance, requiring further empirical and experimental research, as well as a practical commitment to testing and implementing this concept as a strategic step towards a judicial system that not only punishes corruption but also systematically prevents it.

Keywords: *Corruption, Criminal Law, Judiciary, Professionalism, Reconstruction*

INTRODUCTION

The phenomenon of judicial officials' involvement in corrupt practices, whether in the form of bribery, gratuities or the abuse of authority, has undermined the principles of independence and impartiality that form the cornerstone of the modern judicial system.¹ This has a direct impact on the decline in public trust in the legal system and on the weakening of criminal law enforcement's effectiveness against corruption. Within this framework, the conventional criminal law approach, which emphasises repressive measures through the punishment of perpetrators, appears not yet fully capable of addressing the structural and cultural root causes of the problem. Therefore, a reconstruction of criminal law on corruption is required, one that is not merely focused on enforcement but also integrates the values of institutional integrity as the primary basis for preventing and combating corruption.

The concept of institutional integrity in the judiciary refers to the moral, ethical, and professional qualities inherent in the system and in the individuals who carry out judicial functions.² Integrity is not merely a personal attribute but also the result of an institutional design that fosters transparency, accountability, and effective control mechanisms. In this context, reconstructing criminal law on corruption based on institutional integrity demands a paradigm shift from merely reactive law enforcement to a more holistic, preventive approach, placing integrity as a key variable in the design of legal policy.

Several previous studies have examined various aspects of anti-corruption efforts from the perspectives of criminal law, public policy, and governance. These studies generally emphasise the importance of strengthening regulations, enhancing law enforcement agencies' capacity, and the public's role in promoting transparency.³ Several recent studies have also highlighted the importance of a systems-based approach to combating corruption, including through bureaucratic reform and the digitalisation of public services.⁴ On the other hand, studies highlight the role of individual ethics and integrity in preventing corruption, particularly within the civil service.⁵ However, these studies tend to remain partial and have not yet fully integrated the criminal law dimension into the concept of institutional integrity, particularly within the context of the judiciary.

Most research focuses more on the normative aspects of criminal law or on administrative prevention strategies, without examining in depth how institutional integrity can be internalised within the criminal justice system itself. Furthermore, there is a tendency for the approaches used to remain focused on individual actors, thereby paying insufficient attention to the structural factors influencing corrupt behaviour within the judiciary. Several studies also indicate that the legal reforms undertaken to date have not fully addressed aspects of legal

¹ Yudi Kristiana and Benny Hutahayan, "Judicial Corruption in the Post-Reform Era: Assessing the Effectiveness of Legal Reforms in Indonesia," *International Criminal Law Review* 25, no. 2–3 (2024): 420–41, <https://doi.org/10.1163/15718123-bja10208>.

² Suud Sarim Karimullah, "The Role of Law Enforcement Officials: The Dilemma Between Professionalism and Political Interests," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 365–92, <https://doi.org/10.25216/jhp.13.2.2024.365-392>.

³ Karimullah; Misnah Irvita and Asriani Asriani, "Transparency and Accountability in the Justice System: Building Public Trust and Justice: The Role of Public Trust in Fair Law Enforcement," *Priviet Social Sciences Journal* 5, no. 4 (2025): 26–40, <https://doi.org/10.55942/pssj.v5i4.367>; Imat Hibbatulloh et al., "The Secularisation of Islamic Criminal Law and Its Implications for the Protection of Human Rights in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 17–31, <https://journal.mahkotascience.org/index.php/insani/article/view/7>.

⁴ Rob Kim Marjerison and Andrea Gatto, "Public Sector Digitalization, Corruption, and Sustainability in the Developing World: A Scoping Review," *Sustainable Development* 32, no. 5 (2024): 5627–38, <https://doi.org/10.1002/sd.2900>; Fatahurrazak Fatahurrazak, Hadi Lidya Rikayana Hadi Lidya Rikayana, and Nurul Yusyawir, "The Analysis of the Internal Control System in the Government of Tanjungpinang City: A Case Study of the 2024 Integrity Assessment Survey by the Indonesian Corruption Eradication Commission (KPK)," *Jurnal Ilmiah Akuntansi Dan Finansial Indonesia* 9, no. 1 (2025): 47–60, <https://doi.org/10.31629/xayka778>.

⁵ Kamsi Kamsi, Very Julianto, and Suud Sarim Karimullah, "Intentionally Changing Everything: Deliberate Constructing in Corruption Case," *Lex Scientia Law Review* 7, no. 2 (2023): 449–88, <https://doi.org/10.15294/lesrev.v7i2.59866>.

culture and the integrity values embedded within judicial institutions. This is reflected in the persistence of deviant practices despite various regulatory updates.

Based on the above, a significant research gap can be identified in the study of criminal law relating to corruption: the absence of a model for reconstructing criminal law that explicitly and systematically integrates the concept of judicial institutional integrity as its primary foundation. This gap encompasses several aspects, including the lack of a conceptual framework linking criminal law norms with internal institutional mechanisms for maintaining integrity, the scarcity of analysis on how institutional design can influence the effectiveness of criminal law enforcement against corruption, and the limited empirical research examining the relationship between institutional integrity and corruption levels within the judicial system.

There is also a mismatch between the approaches used in anti-corruption policies and the complexity of the problems faced. An approach that places too much emphasis on enforcement without being balanced by systematic efforts to build institutional integrity tends to produce limited and unsustainable deterrent effects. This highlights the need for a new, more comprehensive and integrative approach, one that does not rely solely on criminal law instruments but also takes into account institutional aspects and the underlying values. In this context, this study makes a novel contribution by developing a model for reconstructing criminal law on corruption grounded in the institutional integrity of the judiciary. This model seeks not only to strengthen the normative aspects of criminal law but also to integrate principles of integrity into institutional design, oversight mechanisms, and organisational culture within judicial institutions.

The primary objective of this study is to formulate a concept and model for the reconstruction of criminal law on corruption, grounded in the institutional integrity of the judiciary, and to analyse their implications for law enforcement effectiveness and public trust. Specifically, this research aims to identify weaknesses in the current criminal law system regarding corruption, examine the role of institutional integrity in shaping the behaviour of judicial officials, and formulate policy recommendations to strengthen the integration of legal norms and integrity values within the judicial system. The significance of this study lies in its contribution to enriching the body of knowledge in criminal law and judicial governance, as well as in providing a stronger foundation for policy reforms to combat corruption in Indonesia. By prioritising institutional integrity as the basis for reconstructing criminal law, this research is expected to foster the creation of a more transparent, accountable, and just judicial system and to restore public trust in legal institutions.

METHODS

This study employs a socio-legal approach with a qualitative-explanatory research design, chosen for its ability to integrate normative analysis of criminal law with the empirical realities of judicial institutional practice, thereby making it relevant for reconstructing criminal law on corruption based on institutional integrity. The focus of the study encompasses the variable of judicial institutional integrity, operationally defined as the degree of consistency between norms, ethical values, and institutional practices reflected in transparency, accountability, independence, and internal oversight mechanisms, as well as the variable of the effectiveness of corruption criminal law enforcement, measured through the quality of judgments, consistency in the application of the law, and levels of public trust.

The research population comprises law enforcement officials within the judiciary, legal academics, and anti-corruption practitioners, using a purposive sampling technique that accounts for competence, experience, and direct involvement in corruption issues. The research instruments consist of in-depth interview guidelines, document analysis (court rulings,

legislation, and codes of ethics), and observation sheets developed through theoretical review and validated using source, method, and theory triangulation, as well as credibility checks via member checking and peer debriefing. Data collection procedures were carried out in stages through a literature review, the collection of primary data via interviews and observation, and iterative data verification.⁶ Data analysis utilised the Miles and Huberman interactive analysis model, which involves continuous data reduction, data presentation, and drawing of conclusions, because this approach enables an in-depth exploration of the relationship between legal norms and institutional practices, thereby supporting the formulation of a comprehensive and contextual model for the reconstruction of criminal law on corruption based on integrity.

RESULTS AND DISCUSSION

Reconstructing the Paradigm of Corruption Punishment Based on Institutional Integrity

The dominance of a repressive approach in Indonesia's criminal law on corruption has so far failed to address the complexity of corruption's structural, systemic, and cultural roots. Punishment focused on the individual perpetrator does indeed possess normative legitimacy within the framework of classical criminal law, which emphasises the principle of personal responsibility.⁷ However, in practice, this approach often yields limited and unsustainable deterrent effects. This is because corrupt behaviour does not arise solely from individual intent but is also influenced by institutional designs that create opportunities for misconduct, weak oversight systems, and an organisational culture that is permissive of unethical practices. In this context, a punitive paradigm that focuses solely on individual perpetrators without addressing the institutional dimension risks creating the illusion of robust law enforcement whilst, in substance, failing to reduce corruption levels significantly.

The tension between a repressive approach and the need for institutional integrity becomes increasingly apparent when law enforcement agencies, including the judiciary, are themselves involved in the very corrupt practices they are supposed to eradicate. This phenomenon highlights a disconnect between the ideal norms of criminal law and the actual state of institutional integrity of the bodies implementing them. From the perspective of progressive legal theory, law cannot be separated from the social and institutional context in which it operates.⁸ Consequently, its effectiveness depends heavily on the quality of the actors and structures implementing it. Thus, even the harshest criminal sanctions will fail to achieve their preventive or repressive objectives if the law enforcement institutions themselves are vulnerable to conflicts of interest, collusion, and transactional practices.⁹ This situation indicates the need to reconstruct the sentencing paradigm that not only strengthens the normative aspects but also integrates institutional integrity as a primary foundation.

Within the framework of institutional theory, an institution is understood as a set of formal and informal rules that shape actors' behaviour within a system. Corruption within the judiciary can be seen as a manifestation of institutional failure to create appropriate incentives and effective control mechanisms.¹⁰ Therefore, the reconstruction of the paradigm of corruption punishment must be directed towards establishing a legal system that not only punishes

⁶ Robert C. Bogdan and Sari Knopp Biklen, *Qualitative Research For Education: An Introduction To Theory And Method* (Boston: Ally Bacon Inc., 1982).

⁷ James Foreman-Peck and Peng Zhou, "Crime and Punishment," in *Applied Economics in Globalised Economies: Problems and Policies* (Springer, 2025), 197–221, https://doi.org/10.1007/978-3-031-85621-1_7.

⁸ Suyahman Suyahman, Suud Sarim Karimullah, and Muh Akbar Fhad Syahril, "Intersectionality in Social Justice: Unpacking the Complexity of Oppression," *Jambura Law Review* 7, no. 1 (2025): 275–308, <https://doi.org/10.33756/jlr.v7i1.27828>.

⁹ Aziz Z Huq, Tom R Tyler, and Stephen J Schulhofer, "Why Does the Public Cooperate with Law Enforcement? The Influence of the Purposes and Targets of Policing," *Psychology, Public Policy, and Law* 17, no. 3 (2011): 419.

¹⁰ Nataliia A Lytvyn et al., "Administrative and Legal Mechanisms for Combating Corruption," *Journal of Financial Crime* 30, no. 1 (2023): 154–66, <https://doi.org/10.1108/JFC-11-2021-0241>.

perpetrators but also rectifies the incentive structures and institutional governance that form the context in which corruption occurs.¹¹ This approach aligns with the concept of expanded deterrence, in which the deterrent effect is generated not only through the threat of criminal punishment but also through the certainty of a transparent, accountable, and free-from-unlawful-interference system.

The integrity of the judicial system must be positioned as a central variable in the reconstruction of criminal law on corruption. Integrity relates not only to individual morality but also encompasses structural dimensions, including recruitment systems, promotion, oversight, and internal and external accountability mechanisms. In this regard, criminalisation is no longer viewed as an end in itself, but rather as part of a broader strategy to build an integrity-driven judicial system. The concept of punishment based on institutional integrity can also be linked to restorative and preventive justice approaches, which emphasise restoring the system and preventing further harm.¹² In the context of corruption, restoration does not merely mean the recovery of state losses, but also the reform of the systems that enable corruption. Therefore, the reconstruction of the criminalisation paradigm must incorporate instruments that promote institutional reform, such as mandatory integrity audits, oversight system evaluations, and the application of strict, measurable ethical standards. This approach requires synergy between criminal law and public administration policy, thereby producing a system that is more adaptive and responsive to the dynamics of corruption.

The main challenges in implementing this paradigm include resistance within institutions themselves and limitations within a legal framework that remains oriented towards traditional approaches. Consequently, the reconstruction of criminal law on corruption must be comprehensive, encompassing changes at the legislative, policy, and institutional practice levels.¹³ At the legislative level, regulations are required that explicitly recognise the importance of institutional integrity within the law enforcement system, including by strengthening oversight bodies and accountability mechanisms.

At the policy level, programmes need to be developed to foster a culture of integrity, including ethics training, whistleblower protection, and whistleblower reporting systems. Meanwhile, at the practical level, strong institutional leadership is required to uphold integrity standards consistently. The reconstruction of the criminal justice paradigm must also consider social legitimacy, with public trust in the judicial system serving as a key indicator of law enforcement's effectiveness.¹⁴ This trust is built not only through firm enforcement but also through transparent processes, consistent rulings, and the integrity of law enforcement officials. In this regard, institutional integrity serves as a bridge between legal norms and public perception, thereby strengthening the legitimacy of the legal system as a whole.

From an interdisciplinary perspective, this paradigm shift can also be enriched by approaches from behavioural science and organisational psychology, which emphasise the importance of environmental factors in shaping individual behaviour. Research indicates that individuals in environments lacking integrity are more likely to engage in corrupt practices,

¹¹ Mubyarto Mubyarto, "Sistem Dan Politik Ekonomi Berjiwa Kenyataan," *Economic Journal of Emerging Markets* 4, no. 2 (November 30, 1999): 121–25, <https://doi.org/10.20885/ejem.v4i2.6880>.

¹² Héctor Olasolo, Pablo Galain Palermo, and R J Blaise Maclean, "The Case for Considering Corruption as a Central Element of Governance: Institutional and Organizational Corruption and Complex Corruption Networks," *International Criminal Law Review* 25, no. 2–3 (2025): 217–46, <https://doi.org/10.1163/15718123-bja10230>.

¹³ Fatahurrazak, Rikayana, and Yusyawiru, "The Analysis of the Internal Control System in the Government of Tanjungpinang City: A Case Study of the 2024 Integrity Assessment Survey by the Indonesian Corruption Eradication Commission (KPK)."

¹⁴ Sumiyati Beddu et al., "From Doctrine to Action: Islamic Law's Journey towards Social Change," *Jurnal Wawasan Yuridika* 8, no. 1 (2024): 1–24, <https://doi.org/10.25072/jwy.v8i1.4177>.

regardless of their personal values.¹⁵ Therefore, anti-corruption efforts must focus on creating an institutional environment that supports ethical behaviour through system design that minimises opportunities for misconduct and increases the risk of detection.¹⁶ In this context, criminal sanctions function as one component within a broader system, which encompasses regulation, oversight, and organisational culture.

The reconstruction of the paradigm of corruption criminalisation based on institutional integrity ultimately demands a fundamental shift in perspective regarding the very function of criminal law itself. Criminal law is no longer positioned solely as a tool for punishment, but as an instrument for shaping and maintaining the institutional quality that is a prerequisite for the creation of justice.¹⁷ This approach places integrity as a core value that must be internalised in every aspect of the judicial system, from the formulation of norms to implementation on the ground. Thus, this reconstruction is not merely technical, but also normative and philosophical, reflecting a commitment to building a legal system that is fairer, more transparent, and sustainable.

Conflicts of Interest and Fragmentation of Authority within the Judicial System

Conflicts of interest and the fragmentation of authority within Indonesia's judicial system constitute structural issues with direct implications for the quality of law enforcement and overall institutional integrity, particularly in the handling of corruption cases, which demand high standards of accountability and consistency.¹⁸ The criminal justice system in Indonesia is built on a division of functions among various actors, ranging from investigators and detectives at the initial stage to public prosecutors during the prosecution process, to judges as adjudicators, which, in theory, reflects the principle of checks and balances to prevent the abuse of power.¹⁹ However, in practice, this fragmentation of authority often gives rise to coordination failures, inconsistencies in legal interpretation, and grey areas that create opportunities for conflicts of interest, whether individual or institutional. This situation demonstrates that a division of authority without the integration of uniform values and standards of integrity can weaken the judicial system's cohesion and reduce its effectiveness in achieving substantive justice.

From an institutional theory perspective, the fragmentation of authority can be understood as a consequence of functional differentiation within complex organisations, which, on the one hand, aims to enhance efficiency and specialisation, but on the other hand, has the potential to cause coordination problems and inconsistencies if not supported by robust integration mechanisms.²⁰ Within the context of the judicial system, such integration mechanisms should be realised through ethical standards, uniform operational procedures, and a supervisory system that comprehensively covers the entire judicial process chain. When institutional integrity is not standardised at every stage, any actor within the system may act on narrow interests that may not always align with law enforcement objectives. This opens the door to

¹⁵ Ellen Gutterman, "Banning Bribes Abroad: US Enforcement of the Foreign Corrupt Practices Act and Its Impact on the Global Governance of Corruption," *European Political Science* 18, no. 2 (2019): 205–16, <https://doi.org/10.1057/s41304-018-0153-z>.

¹⁶ Tonderai Kapesa, "Transparency, Accountability, and Anti-Corruption Measures for Sustainable Development," in *Sustainable Development in Southern Africa* (Routledge, 2025), 81–111, <https://doi.org/10.4324/9781003596011-4>.

¹⁷ Filippo Venturi, "Reconstructing Criminalisation. Regulatory Crimes and the Authoritarian Foundations of Modern Substantive Criminal Law," *Criminal Law and Philosophy*, 2025, 1–26, <https://doi.org/10.1007/s11572-025-09771-w>.

¹⁸ Fatahurrazak, Rikayana, and Yussyawiru, "The Analysis of the Internal Control System in the Government of Tanjungpinang City: A Case Study of the 2024 Integrity Assessment Survey by the Indonesian Corruption Eradication Commission (KPK)."

¹⁹ Lytvyn et al., "Administrative and Legal Mechanisms for Combating Corruption."

²⁰ Agnieszka Kubal, "Judicial Relational Legal Consciousness: Authoritarian Backsliding as a Catalyst of Change," *Journal of Law and Society* 51, no. Galleli, B., Amaral, L. (2026). Bridging institutional theory and social and environmental efforts in management: A review and research agenda. *Journal of Management*, 52(1), 42–93. <https://doi.org/10.1177/01492063251322429> (2024): 545–65, <https://doi.org/10.1111/jols.12497>.

practices such as forum shopping, the manipulation of evidence, or informal negotiations that undermine the principle of due process of law.

The issue of conflicts of interest within the Indonesian judicial system is not limited to the relationship between individuals and the cases they handle, but also encompasses broader relations between judicial actors and political and economic powers.²¹ In many cases, external intervention in judicial processes takes various forms, ranging from political pressure and economic lobbying to the use of informal networks to influence the independence of law enforcement officials.²² This phenomenon demonstrates that conflicts of interest cannot be understood merely as individual ethical breaches, but rather as a symptom of systemic weaknesses that allow external interests to penetrate the judicial process. Therefore, efforts to address conflicts of interest must be comprehensive, strengthening institutional resilience against such forms of intervention.

The fragmentation of authority also contributes to inconsistencies in the handling of corruption cases, reflected in disparities in rulings, differing interpretations of the law, and unequal standards of proof.²³ These disparities not only create legal uncertainty but also risk undermining public trust in the judicial system. From the perspective of justice theory, consistency is a key element in ensuring fair treatment for every individual.²⁴ Thus, differences in rulings that cannot be rationally justified may constitute a form of injustice. Furthermore, such inconsistencies are often exploited by certain parties to find loopholes in the system, thereby increasing the likelihood of legal manipulation. In this context, institutional integrity is not only about individual behaviour; it also depends on the quality of the system that governs interactions among actors within the judiciary.

A poorly integrated system tends to produce what the literature refers to as the 'institutional fragmentation trap', a condition in which each unit within the system operates relatively autonomously without effective coordination, making it difficult to achieve collective goals. In such situations, even actors of the highest integrity may become ensnared in suboptimal practices due to existing systemic pressures. Therefore, the reconstruction of the judicial system must be directed towards creating institutional integration capable of aligning objectives, values, and practices throughout the entire judicial chain.

The controversy surrounding the relationship between judicial independence and public accountability is a crucial issue in the discourse on judicial integrity.²⁵ On the one hand, judicial independence is a fundamental principle in a rule-of-law state, ensuring that decisions are made in accordance with the law and conscience without interference from any party.²⁶ On the other hand, demands for public accountability are growing stronger as public awareness of the

²¹ Ngurah Wisnu Murthi et al., "Indonesia's Inclusive Economic Diplomacy Based on the Pancasila Ideology," *Jurnal Pelita Raya* 1, no. 3 (2025): 152–65, <https://doi.org/10.65586/jpr.v1i3.30>; Cahaya Rembulan et al., "The Impact of the Digital Economy on Economic Empowerment Models for Muslim Youth in Indonesia," *Jurnal Lentera Insani* 1, no. 1 (2025): 48–63, <https://doi.org/10.65586/jli.v1i1.17>.

²² Adithiya Diar, Tri Imam Munandar, and Saidatul Nadia Abd Aziz, "A Comparative Analysis of the Transformation of Corruption Practices in Indonesia and Malaysia," *Indonesian Journal of Criminal Law Studies* 10, no. 2 (2025): 851–900, <https://doi.org/10.15294/ijcls.v10i2.30206>; Rizal Al Hamid et al., "Political Conflict between Islamic Law and National Law in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 48–62, <https://journal.mahkotascience.org/index.php/insani/article/view/4>; Maharatna Shifa Nurizka et al., "Criticism of the Neoclassical Approach in Islamic Economic Policy in Indonesia," *Jurnal Pelita Raya* 1, no. 1 (2025): 17–30, <https://journal.mahkotascience.org/index.php/jpr/article/view/9>.

²³ Mariana Mota Prado, "Redundancy as a Legal Strategy to Combat Corruption: Exploring the Potential of Institutional Multiplicity to Create Fail-Safe Systems," *Current Legal Problems* 77, no. 1 (2024): 335–76, <https://doi.org/10.1093/clp/cuae010>.

²⁴ Barbara Stańdo-Kawecka, "The Theory of Punishment and the Practice of Criminal Justice," *Gdańskie Studia Prawnicze*, no. 4 (69)/2025 (2025): 25–38, <https://doi.org/10.26881/gsp.2025.4.02>.

²⁵ Dewi Sulastri et al., "Institutional Integrity and Challenges in the Indonesian Constitutional Court Institution," *Jurnal Media Hukum* 32, no. 1 (2025): 40–58, <https://doi.org/10.18196/jmh.v32i1.24100>.

²⁶ Geoffrey Swenson, "Symbolic Rule of Law Promotion," *Law & Social Inquiry*, 2025, 1–32, <https://doi.org/10.1017/lsi.2025.10127>.

importance of transparency and integrity in the administration of justice increases. The tension between these two principles often gives rise to debates regarding the extent to which oversight of judges can be exercised without undermining their independence.

Within the framework of legal theory, independence and accountability should not be seen as conflicting concepts, but rather as complementary pillars for ensuring the quality of the judiciary.²⁷ Independence without accountability risks unchecked power, whilst accountability without independence may lead to interventions that undermine the integrity of rulings. Therefore, an institutional design is required to balance these two principles through oversight mechanisms that are proportionate, transparent, and grounded in clear standards. For instance, oversight could focus on aspects of conduct and compliance with codes of ethics, without interfering with the substance of rulings, which fall within the domain of judicial independence.

Conflicts of interest within the judicial system are also closely linked to issues of human resource management, including recruitment, promotion, and job rotation. A system that lacks transparency and accountability in human resource management can create incentives for opportunistic behaviour, such as patronage or nepotism, ultimately undermining institutional integrity. In this regard, a merit-based approach supported by an objective performance evaluation system is crucial to ensure that individuals holding strategic positions within the judiciary possess adequate competence and integrity.

The use of information technology within the judicial system can also serve as a tool to mitigate conflicts of interest and enhance the integration of authority.²⁸ The digitisation of judicial processes, such as e-court and e-litigation systems, can enhance transparency, accelerate the flow of information, and reduce direct interactions that could potentially create opportunities for transactional practices. However, the implementation of technology must be accompanied by the strengthening of institutional capacity and a supportive organisational culture, so that it does not merely become an administrative tool, but also forms part of a broader integrity strategy.

Reconstructing Criminal Liability Based on Systemic Failure

The reconstruction of criminal liability based on systemic failure stems from a fundamental critique of the dominance of the individual liability paradigm in corruption criminal law, which has hitherto placed the individual as the sole subject of liability, without adequately accommodating the role of institutional structures in shaping, facilitating, and even producing corrupt behaviour. In empirical reality, corruption rarely occurs as a fully autonomous act isolated from its institutional context.²⁹ Rather, it is often the result of complex interactions between actors, formal rules, informal norms, and incentives created within an organisation.³⁰

A permissive ecosystem, weak internal oversight, and an organisational culture tolerant of misconduct systematically encourage corruption; consequently, an approach that focuses solely on individual fault is reductionist and fails to address the problem comprehensively. Within this framework, the reconstruction of criminal liability demands a broadening of perspective

²⁷ Abdul Halim Talli et al., "Application of the Principle of Truth to Judiciary Institutions: Discourse of Judges at the Makassar Religious High Court, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 302–20, <https://doi.org/10.22373/sjhk.v7i1.14865>.

²⁸ Elisabeth Sundari and Anny Retnowati, "The Weakness of the Control System for Fighting Corruption in the Judicial Process: The Case of Indonesia," *International Journal of Social, Policy and Law* 2, no. 1 (2021): 93–102, <https://doi.org/10.8888/ijospl.v2i1.35>; Zoltán Fleck, "Changes of the Political and Legal Systems: Judicial Autonomy," *German Law Journal* 22, no. 7 (2021): 1298–1315, <https://doi.org/10.1017/glj.2021.64>.

²⁹ Georgios Pavlidis, "Global Sanctions against Corruption and Asset Recovery: A European Approach," *Journal of Money Laundering Control* 26, no. 1 (2023): 4–13, <https://doi.org/10.1108/JMLC-10-2021-0120>.

³⁰ Olasolo, Palermo, and Maclean, "The Case for Considering Corruption as a Central Element of Governance: Institutional and Organizational Corruption and Complex Corruption Networks."

from merely attributing personal fault towards acknowledging systemic failure as the basis for legal liability.

Theoretically, this shift can be justified through a socio-legal approach and institutional theory, which view institutions as entities capable of acting and influencing the behaviour of their members through structures of rules and incentives. In this context, systemic failure is understood not merely as an accumulation of individual errors, but as a failure of institutional design to create effective preventive mechanisms. For instance, inadequate internal control systems, weak transparency in decision-making, and ineffective accountability mechanisms can create space for corruption to flourish. Consequently, criminal liability based on systemic failure presupposes that institutions, as collective entities, can be held accountable for conditions that structurally enable the commission of crimes, even where the direct perpetrators are individuals. However, this approach faces significant conceptual challenges, particularly within the classical criminal law tradition rooted in the principles of personality and *mens rea*, which holds that only individuals with intent and awareness can be held criminally liable.

Those who uphold individual liability argue that extending liability to institutions risks blurring the line between individual fault and collective responsibility, and may create legal uncertainty. Furthermore, there are concerns that criminalising institutions could have negative consequences for innocent parties, such as uninvolved employees or the public who rely on the institution's services. This argument suggests that the reconstruction of criminal liability must be undertaken with care to avoid compromising the fundamental principles of criminal law. On the other hand, the camp advocating for institutional liability holds that corruption is often the product of governance failures that cannot be explained solely by individual fault.

In many cases, individuals involved in corruption act within a system that implicitly or explicitly encourages such behaviour, making the liability imposed solely on individuals disproportionate and ineffective.³¹ This approach emphasises the importance of identifying and addressing the structural factors that enable corruption, including through mechanisms of accountability for institutions that fail to fulfil their oversight and prevention functions. In this context, criminal liability serves not only as a repressive tool but also as an instrument to drive institutional reform and improve governance standards.

A comparison with practices in other countries shows that several jurisdictions have developed liability models that accommodate the institutional dimension, albeit through varying approaches. In Anglo-Saxon legal systems, such as those in the United Kingdom and the United States, the concept of corporate criminal liability has long been recognised, allowing legal entities, including corporations, to be held criminally liable for acts committed by their agents or employees within the scope of their employment. This approach is based on doctrines such as the identification theory and vicarious liability, which link individual actions to the collective entity.

In the context of combating corruption, some countries have also developed the concept of 'failure to prevent an offence', as in the UK Bribery Act, which allows sanctions to be imposed on companies that fail to prevent bribery, even where there is no proven direct involvement by senior management.³² This model is relevant to adaptation in the context of liability for systemic failure, as it emphasises an institution's duty to establish effective prevention systems. Meanwhile, within the continental legal tradition, several European countries, such as France and the Netherlands, have also recognised corporate criminal liability, albeit with a more

³¹ Lalu Saipudin et al., "The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (2025): 475–99, <https://doi.org/10.29303/ius.v13i2.1817>.

³² Anatolijs Krivins, Andrejs Vilks, and Aldona Kipane, "Corruption Perception Trends: European Union Countries," *Access to Science, Business, Innovation in Digital Economy*, 2023.

cautious approach to balancing individual and collective principles. In these countries, institutional liability is typically limited to situations where there is a clear link between an individual's actions and the institution's interests, as well as to failures in the institution's internal oversight system.³³ This approach demonstrates that recognising institutional liability need not eliminate individual liability but can be developed in complementary ways to create a more comprehensive accountability system.

In the Indonesian context, criminal law has recognised corporate liability in several specific statutes, including corruption offences. Its application remains limited and does not yet fully reflect a systemic-failure-based approach.³⁴ This indicates there is scope to develop a more progressive model of accountability, one that holds not only individuals and corporations as business entities to account, but also public institutions playing a strategic role in law enforcement. This reconstruction requires a redefinition of the concept of fault in criminal law, shifting from one originally based on individual intent towards recognition of institutional negligence in establishing adequate systems.

The controversy regarding the risk of over-criminalisation of institutions is a key issue in this discourse, as an unchecked expansion of liability can create legal uncertainty and undermine institutional stability. Therefore, clear boundaries are required regarding the conditions under which institutions can be held accountable, including serious failures in oversight systems, failure to apply reasonable standards of integrity, and a causal link between such failures and the occurrence of corruption. Furthermore, the sanctions imposed must also be tailored to the institution's characteristics, prioritising corrective and preventive measures, such as obligations for internal reform, improvements to oversight systems, or stricter external oversight.

From a criminal law policy perspective, the reconstruction of liability based on systemic failure can be viewed as part of efforts to modernise criminal law to make it more responsive to social dynamics and the complexity of contemporary crime.³⁵ This approach aligns with the concept of risk-based regulation, which emphasises the importance of risk management in preventing crime, whilst encouraging institutions to identify and address potential deviations proactively. This reconstruction also has implications for the development of a legal culture more oriented towards integrity and collective responsibility. By acknowledging the role of institutions in corruption, anti-corruption efforts are no longer limited to individual perpetrators but also encompass transforming the systems within which such actions occur. This is expected to create a broader deterrent effect, as institutions will be encouraged to strengthen their internal systems to avoid the risk of criminal liability.

CONCLUSION

The reconstruction of criminal law on corruption based on the institutional integrity of the judiciary is a paradigmatic necessity to address the limitations of the repressive-individual approach, which has so far failed to address the structural dimensions of corruption by integrating criminal sanctions, the management of conflicts of interest, and accountability based on systemic failure into a single coherent institutional framework., informulating a synthesis between individual liability and institutional liability through an integrative approach that

³³ Amadou Boly and Robert Gillanders, "Corruption, Institutional Trust and Legitimacy: A Vicious Circle," in *The Political Economy of Corruption* (Routledge, 2023), 15–30, <https://doi.org/10.4324/9781003142300-3>; Olasolo, Palermo, and Maclean, "The Case for Considering Corruption as a Central Element of Governance: Institutional and Organizational Corruption and Complex Corruption Networks."

³⁴ Sultan Zora Fernanda, "Dampak Revisi Undang-Undang KPK Terhadap Independensi Dan Efektivitas KPK Dalam Pemberantasan Korupsi," *PALAR (Pakuan Law Review)* 10, no. 2 (2024): 133–41, <https://doi.org/10.33751/palar.v10i2>.

³⁵ Oksana Lukashuk, "The Evolution of Corruption Theories as a Prerequisite for the Formation and Implementation of State Criminal Law Policy," *Public Policy and Accounting*, no. 2 (10) (2024): 43–52, [https://doi.org/10.26642/ppa-2024-2\(10\)-43-52](https://doi.org/10.26642/ppa-2024-2(10)-43-52).

positions integrity as both a normative and operational variable in the design of criminal law, thereby broadening the horizons of criminal law theory towards a model that is contextual, adaptive, and governance-based.

The practical implications demand comprehensive reform of ethical standards, oversight mechanisms, and the digitisation of judicial processes, whilst, at the policy level, they encourage legislation that recognises institutional liability in a proportionate and risk-based manner and, theoretically, enrich the socio-legal and institutional criminology discourse. However, this study is limited to a qualitative approach and conceptual constructs that have not yet been fully empirically tested across jurisdictions, thus opening the door for further studies combining quantitative, comparative, and experimental methods to test the effectiveness of the proposed model. Therefore, we recommend strengthening interdisciplinary research and implementing pilot projects for institutional reform as policy laboratories, so that this reconstruction does not remain merely a normative discourse but becomes a transformative instrument capable of strengthening judicial integrity and sustainably tackling corruption at its systemic roots.

ACKNOWLEDGEMENTS

The authors are grateful to the editor, reviewers, and institutional colleagues for their constructive and insightful feedback. Any remaining shortcomings are solely the responsibility of the authors.

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