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Research

Reformulating the Sentencing System in Corruption Cases Based on Effectiveness

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Abstract
Without the courage to prioritise effectiveness, the law will merely remain a rhetorical platform that fails to penetrate the rationality of those who commit corruption and is incapable of delivering a genuine deterrent effect for the sake of moral sustainability and public integrity. This study aims to analyse and reformulate the sentencing system for corruption cases in Indonesia using an effectiveness-based approach. This study employs a socio-legal approach within a mixed-methods, explanatory research design. The findings confirm that the failure to eradicate corruption in Indonesia is not primarily due to lenient penalties, but rather to flaws in the penal system's design, which remains trapped in the illusion of retribution and disregards the logic of structural effectiveness. Consequently, the required reformulation is not merely to impose harsher sanctions, but to overhaul the architecture of criminal law into a systemic engineering instrument capable of severing the incentives for corruption, closing unaccountable discretionary loopholes, and prioritising the recovery of state losses. The effectiveness of criminal sanctions must be measured by their systemic impact, not their symbolism, which, in practice, demands the application of strict sentencing standards, aggressive economic sanctions, and cross-institutional accountability, whilst, theoretically, challenging the dominance of the classical paradigm through a multidisciplinary approach based on governance.

Keywords: *Reformulation, Penal System, Corruption Cases, Preventive, Rehabilitative*

INTRODUCTION

In theory, Indonesia has a relatively comprehensive legal framework for combating corruption, as reflected in various laws and regulations, including provisions regarding the types and severity of penalties for perpetrators of corruption offences (Ali et al., 2023). However, in practice, the effectiveness of this penal system is often called into question. Court rulings imposing lenient sentences on corruption offenders, inconsistencies in the application of sanctions, and the lack of recovery of state losses are indicators that the existing penal system has not yet fully achieved the objectives of criminal punishment. Furthermore, the disparity in sentencing between similar cases highlights the weakness of sentencing standards, which ultimately impacts public perception of the injustice of the criminal justice system.

From the perspective of criminal law theory, criminal punishment has several primary objectives: retribution, deterrence, offender rehabilitation, and protection of society (Arandjelović, 2023). However, in the context of corruption offences, which have far-reaching consequences and significantly harm the public interest, conventional approaches to criminal punishment are often inadequate. Corruption not only causes financial loss to the state but also undermines the social and moral fabric of society (Singh, 2022). Therefore, a more adaptive and effectiveness-based approach to sentencing is required—that is, to what extent the imposed punishment is capable of deterring offenders, preventing the recurrence of crime, and restoring the losses incurred.

Several previous studies have examined various aspects of the Indonesian sentencing system in corruption cases. These studies generally highlight weaknesses in the law's implementation, including inconsistent rulings, political interference, and the lack of integrity among law enforcement officials. Other research also emphasises the importance of strengthening institutions within the judicial system, including enhancing judges' and prosecutors' capacity to handle corruption cases. Furthermore, studies propose imposing harsher penalties, including additional sanctions such as asset forfeiture and the revocation of political rights, to increase deterrence against perpetrators. However, the majority of these studies still focus on normative or descriptive aspects, rather than providing a comprehensive analysis of the penal system's overall effectiveness.

Many studies merely assess the severity of penalties as an indicator of effectiveness, without considering other factors such as legal certainty, consistency of rulings, and the long-term impact on offenders' behaviour and society. Furthermore, research that integrates empirical perspectives with theoretical approaches in assessing the effectiveness of the penal system remains relatively limited. This indicates a need to develop a more holistic analytical framework for evaluating and reformulating the penal system in corruption cases.

There is also a tendency for previous studies to have not optimally linked sentencing objectives with the realities of implementation on the ground. For example, whilst, in theory, severe penalties are expected to act as a deterrent, in practice this is not always the case, particularly if they are not accompanied by legal certainty and the

integrity of law enforcement officials. In other words, the effectiveness of the penal system is determined not only by the severity of sanctions but also by the quality of the judicial system as a whole. Therefore, an approach that focuses solely on increasing penalties' severity without addressing other structural aspects is unlikely to yield significant results.

Based on the above, a significant research gap exists in studies of the penal system in corruption cases in Indonesia. Firstly, there is a lack of research that comprehensively measures the effectiveness of the penal system using multidimensional indicators. Secondly, there is a discrepancy between sentencing theory and sentencing practice, which has not been critically analysed in the context of corruption. Thirdly, there remains a limited number of studies offering models for reformulating the penal system based on empirical evidence and capable of addressing implementation challenges in the field. Fourthly, there is a lack of integration between normative legal approaches and public policy analysis in formulating an effective and sustainable penal system.

In this context, this research proposes an approach to reformulating the sentencing system that focuses not only on normative aspects but also on effectiveness from an empirical and contextual perspective. This study aims to formulate an integrative sentencing model by combining modern sentencing principles, analysis of judicial practices, and an evaluation of the impact of sentencing on offenders' behaviour and society. Furthermore, this study will critically examine the relationship between various factors influencing the effectiveness of the penal system, including the consistency of rulings, the transparency of judicial processes, and oversight mechanisms for law enforcement officials.

The objective of this study is to analyse and reformulate the penal system in corruption cases in Indonesia using an effectiveness-based approach. Specifically, this study aims to identify the factors influencing the effectiveness of the penal system, evaluate the alignment between theory and practice in sentencing, and formulate a penal system model that enhances deterrence and justice in the handling of corruption cases. The significance of this study lies in its contribution to filling existing research gaps, particularly regarding the analysis of the effectiveness of the penal system in corruption cases.

METHODS

This study employs a socio-legal approach, using an explanatory mixed-methods research design, to comprehensively examine the reformulation of the penal system in corruption cases from an effectiveness perspective, based on the premise that corruption is not merely a normative construct but also a social practice that requires integrating doctrinal and empirical analysis. The study focuses on the effectiveness of the penal system operationalised through indicators of deterrence effect, consistency of rulings, proportionality of sanctions, and recovery of state losses, with supporting variables comprising the quality of law enforcement and the institutional integrity of the judiciary.

The research population comprises corruption case rulings within a specific timeframe and law enforcement actors, with sampling determined using purposive sampling based on criteria of case relevance and complexity, whilst the research instruments include document analysis guidelines, semi-structured interview guidelines, and a data categorisation matrix developed through literature review and validated via expert judgement as well as triangulation of sources and methods to ensure data credibility and reliability. Data collection was conducted in stages through literature review, court ruling searches, and in-depth interviews, whilst data analysis was conducted using interactive qualitative analysis techniques combined with descriptive quantitative analysis to identify patterns and trends, which were subsequently critically interpreted using a theoretical framework of criminalisation and legal effectiveness to produce a model for reformulating the penal system that is well-reasoned, contextual, and practical in accordance with the research objectives.

RESULTS AND DISCUSSION

The Effectiveness versus Retribution Paradigm in the Punishment of Corruption in Indonesia

The paradigm of punishment in corruption cases in Indonesia has so far been dominated by a retributive approach that views punishment as a means of retribution for the perpetrator's actions (Suparno et al., 2024). This orientation is normatively rooted in the classical conception of criminal law, which regards crime as a moral transgression that must be atoned for through commensurate suffering. Within this framework, custodial sentences with severe penalties have become the primary instrument assumed to be capable of creating a deterrent effect, both for the perpetrator and the wider public, thereby hopefully significantly reducing corruption rates. However, empirical reality shows that this approach has not fully achieved the intended objectives, as despite the harshening of criminal penalties and the continued emphasis on the symbolism of severe punishment in public discourse, corrupt practices persist on a massive scale and even exhibit increasingly complex and adaptive patterns.

This phenomenon indicates a fundamental tension between the retributive paradigm, which emphasises retribution, and the effectiveness paradigm, which focuses on the concrete outcomes of criminal punishment, particularly in terms of crime prevention and the recovery of state losses. From a theoretical perspective, the retributive approach assumes that justice is achieved when the offender receives a punishment commensurate with the offence committed, with the primary focus on the proportionality between the act and the sanction. However, in the context of corruption, which is utilitarian and economically motivated, this approach faces serious limitations, as corrupt actors tend to make rational calculations about the risks and benefits of their actions.

The dominance of the retributive paradigm in the prosecution of corruption is also reflected in policy orientations that place greater emphasis on punishing individuals rather than on recovering state losses and systemic reform. One of the key characteristics of corruption is its far-reaching impact on state finances and public

welfare; consequently, the success of corruption cases should be measured not only by the number of perpetrators sentenced, but also by the extent to which the losses incurred can be recovered. In practice, asset recovery mechanisms often do not operate optimally, whether due to regulatory limitations, challenges in asset tracing, or a lack of coordination among institutions. Consequently, even though perpetrators have been sentenced to prison, state losses have not been fully recovered, indicating that the objective of criminal prosecution in protecting the public interest has not been fully achieved.

The effectiveness paradigm offers an alternative perspective, positioning criminal sanctions as an instrument for achieving measurable outcomes and tangible impacts in reducing corruption levels and recovering state losses (Mardin & Kharismawan, 2025). Within this framework, the success of the penal system is not assessed solely by the severity of the sanctions imposed, but by the extent to which such penalties are capable of altering the behaviour of offenders, preventing the occurrence of similar crimes, and rectifying the conditions affected by the crime. This approach demands the integration of various objectives of criminal punishment, including prevention, rehabilitation, and restitution, so that the penal system becomes more adaptable to the complex nature of corruption offences.

The shift from a retributive paradigm to an effectiveness paradigm is not straightforward, as it involves a fundamental change in the perspective on criminal law and the function of punishment. One of the main challenges is how to formulate indicators of effectiveness that can be objectively measured and used as a basis for policy evaluation (Spyromitros & Panagiotidis, 2022). These indicators should not only cover reductions in corruption rates but also encompass other aspects, such as increased public trust in the judicial system, consistency in rulings, and the success rate of asset recovery. Furthermore, changes are required in law enforcement practices, including enhancing law enforcement agencies' capacity, strengthening oversight mechanisms, and applying the principles of transparency and accountability within the judicial process.

The discrepancy between the objectives of criminal punishment and the results achieved, as seen in the Indonesian context, indicates that the approach used to date has not fully addressed the existing challenges. Severe penalties, lacking certainty in law enforcement and effectiveness in recovering state losses, tend to create an illusion of justice, where the symbolism of punishment outweighs its substantive impact. Under such conditions, the penal system risks losing legitimacy in the public's eyes, as it fails to meet societal expectations for justice and effectiveness. Therefore, efforts are needed to reconstruct the penal paradigm by prioritising a more rational and evidence-based approach.

Integrating retributive and effectiveness-based approaches is crucial to ensure that the penal system continues to uphold the principles of justice whilst achieving its practical objectives. This can be achieved by developing sentencing models that combine custodial sentences with supplementary penalties intended to recover state losses, such as asset forfeiture, restitution payments, and restrictions on certain rights.

Furthermore, the application of alternative mechanisms, such as deferred prosecution agreements or restorative justice, in specific contexts may be considered part of a strategy to enhance the effectiveness of corruption case handling, provided that the principles of accountability and transparency are upheld.

Inequalities in Law Enforcement and the Problem of Discretion in Corruption Cases

From a legal theory perspective, discretion is an integral element of law enforcement practice, as it affords officials the scope to adapt the application of legal norms to the specific circumstances encountered (Schnurr, 2023). However, discretion that is not balanced by adequate oversight mechanisms can lead to deviations, such as bias, external interference, or inconsistencies in legal interpretation. In handling corruption cases, the problem of discretion becomes increasingly complex, as it involves multiple institutions with varying powers, from investigation and prosecution to court proceedings. Differences in interpreting the elements of a criminal offence, assessing evidence, and considering sentencing often result in inconsistent rulings, even though they are based on the same legal framework.

This disparity in law enforcement is increasingly evident in sentencing disparities, where cases involving significant state losses do not always correlate with the severity of the sentences imposed. In some cases, corrupt officials responsible for substantial state losses receive relatively lenient sentences, whilst cases involving smaller losses may result in harsher penalties (Rahmadi et al., 2024). This situation indicates a discrepancy between the principle of proportionality in sentencing and actual practice on the ground. Theoretically, proportionality is a principle demanding that the punishment imposed be commensurate with the degree of fault and the impact caused by the perpetrator's actions. However, when this principle is inconsistently applied, legal uncertainty arises, eroding public confidence in the judicial system.

From the perspectives of criminology, law, and economics, sentencing disparities also undermine the effectiveness of the criminal justice system as a crime prevention tool. When potential offenders perceive that the legal system does not provide a consistent response to corruption offences, their perception of legal risk becomes blurred. Under such conditions, the deterrent effect of sentencing is suboptimal, as offenders lack certainty about the consequences they will face. This aligns with deterrence theory, which emphasises the importance of certainty and consistency in law enforcement as key factors in preventing crime.

The problem of discretion in handling corruption cases is also closely linked to non-legal factors that influence law enforcement officials' decision-making. These factors may include political pressure, economic interests, or power dynamics that affect officials' independence and objectivity. In situations where institutional integrity has not yet been fully safeguarded, discretion can become a loophole for non-transparent and non-accountable practices. This is further exacerbated by the weakness of internal and external oversight mechanisms that should function as checks on the exercise of discretion. Consequently, the scope of discretion used to achieve substantive justice is at risk of being abused for specific interests.

Within the framework of legal and public policy analysis, these disparities in law enforcement and the issue of discretion highlight an urgent need for systemic reform that focuses not only on improving legal norms but also on strengthening institutions and implementation mechanisms. One approach worth considering is developing more detailed and binding sentencing guidelines to reduce disparities in penalty imposition. Such guidelines could include clear parameters for the factors to be considered when imposing sentences, such as the extent of state losses, the perpetrator's role, the degree of intent, and the act's social impact. With more structured standards in place, it is hoped that court rulings will become more consistent and predictable.

Strengthening oversight mechanisms for law enforcement officials is also key to addressing discretion. Transparency in case-handling processes, including the public publication of rulings and legal considerations, can enhance accountability and prevent misconduct. On the other hand, enhancing officials' capacity and integrity through continuous education and training is vital to ensure that discretion is exercised professionally and in accordance with legal principles (Karimullah, 2024). These reforms must be supported by a strong political commitment and by public participation in monitoring law enforcement agency performance.

Inequities in law enforcement and issues of discretion in corruption cases in Indonesia constitute a multidimensional problem that requires a comprehensive, integrated approach. The disparity in sentencing not only reflects weaknesses in the law's implementation but also indicates deeper structural problems with the integrity and accountability of the judicial system. Therefore, efforts to address this issue cannot be undertaken piecemeal but must involve comprehensive reform at the normative, institutional, and cultural levels. Only in this way can the legal system function optimally in upholding justice and providing legal certainty, whilst restoring public confidence in law enforcement agencies in the handling of corruption cases.

Reformulating Effectiveness-Based Sentencing as a Systemic Prevention Tool

Reformulating effectiveness-based sentencing as a systemic prevention tool in the fight against corruption in Indonesia requires a paradigm shift from a purely individualistic understanding to one that views corruption as a structural phenomenon embedded in the economic-political configuration and institutional governance. Within this framework, corruption is no longer viewed as a personal behavioural deviation that can be resolved through individual punishment alone, but rather as a manifestation of systemic failure involving complex interactions among economic incentives, oversight weaknesses, and asymmetrical power relations. Consequently, a punitive approach that focuses solely on individual perpetrators without addressing the structural roots enabling corruption tends to yield limited and unsustainable results. This explains why, despite intensive law enforcement efforts, corruption persists.

From the perspectives of institutional theory and political economy, corrupt behaviour is often influenced by the incentive structures within the system, in which rational actors tend to exploit available opportunities to maximise personal gain. If the system fails to provide effective oversight mechanisms or even creates opportunities for

corrupt practices, then punishing individual perpetrators will not be sufficient to alter overall behavioural patterns. This indicates that the effectiveness of the penal system must be measured not only by its ability to punish perpetrators, but also by its capacity to alter incentive structures and rectify the conditions that enable corruption.

The debate between the classical penal approach and the systemic prevention approach reflects a fundamental difference in how the function of criminal law is understood in the context of corruption. Proponents of the classical penal approach argue that firm, consistent law enforcement, accompanied by severe penalties, is sufficient to deter crime and reduce corruption (Harefa, 2025). This argument assumes that individuals will avoid corrupt behaviour if the risk of punishment outweighs the benefits. However, this approach often overlooks the reality that, in many cases, corrupt actors operate within an environment that enables or even encourages corruption; consequently, the decision to engage in corruption is not based solely on a calculation of legal risk, but also on broader structural dynamics.

Conversely, the reformist camp emphasises that without changes to institutional incentive structures and oversight mechanisms, criminal penalties will not be effective in the long term. This approach underscores the importance of systemic reforms encompassing transparency in public financial management, strengthening institutional accountability, and implementing control mechanisms to prevent the abuse of power. In this context, punishment is no longer viewed as an end in itself, but rather as one instrument within a broader strategic framework to prevent corruption.

Comparisons across countries show that success in combating corruption is determined not only by the severity of penalties but also by the quality of institutions and the consistency of law enforcement (Croci, 2025). Countries such as Singapore and Hong Kong, for example, are known for having relatively low levels of corruption, not merely because of the threat of severe penalties, but also because of strong oversight systems, high levels of transparency, and the integrity of law enforcement officials. In Singapore, the approach combines firm law enforcement with comprehensive institutional reform, including improving civil servants' welfare to reduce the incentives for corruption. Meanwhile, in Hong Kong, the establishment of an independent body with broad powers to prevent and combat corruption has been key to creating a relatively clean system.

Conversely, the experience of countries with high levels of corruption suggests that an approach overly focused on punishment without accompanying systemic reform tends to be ineffective. In some cases, severe penalties have not been accompanied by greater transparency and accountability, leaving corruption to persist in various forms. This indicates that the effectiveness of the penal system depends heavily on the institutional context in which the law is applied. Therefore, the reformulation of penalties based on effectiveness must take into account Indonesia's specific conditions, including challenges related to institutional capacity, legal culture, and the political dynamics shaping law enforcement.

Debates regarding the application of additional penalties, such as the revocation of political rights, economic blocklisting, and corporate liability, also reflect efforts to

broaden the scope of criminalisation to better address corruption as a crime involving networks and collective entities. The revocation of political rights, for instance, is viewed as a measure to prevent corrupt individuals from regaining strategic positions that could facilitate the abuse of power. Similarly, economic blocklisting aims to restrict perpetrators' access to economic resources, thereby reducing the incentive to commit corruption. Meanwhile, the application of corporate criminal liability reflects the recognition that corruption often involves business entities that facilitate or benefit from such practices.

The application of these additional penalties has also sparked debate regarding potential violations of human rights and principles of justice. Some parties are concerned that the deprivation of political rights may disregard the principles of rehabilitation and social reintegration, whilst economic blocklisting risks having a disproportionate impact on individuals who have already served their sentences. In the context of corporate liability, the main challenge is ensuring that the sanctions imposed do not merely symbolically punish the entity, but also drive tangible behavioural change within the organisation. Therefore, the application of additional penalties must be carefully designed to remain consistent with fundamental legal principles, including proportionality, due process, and the protection of human rights.

Within the framework of reformulating sanctions based on effectiveness, integrating penal approaches with systemic prevention is key to creating a system capable of addressing the complexity of corruption as a structural phenomenon. This demands policy design that focuses not only on punishment but also on reforming the underlying systems that enable corruption. Consequently, punishment must be positioned within a broader strategy encompassing institutional reform, enhanced transparency, and strengthened oversight mechanisms. This approach aims not only to reduce corruption rates but also to create a fairer, more accountable, and sustainable system.

CONCLUSION

The reformulation of the sentencing system for corruption cases in Indonesia calls for a paradigm shift away from the dominance of a retributive approach towards an effectiveness-based sentencing model that is integrative, adaptive and oriented towards systemic prevention, as findings indicate that the severity of punishment does not automatically correlate with a reduction in corruption levels or the recovery of state losses, particularly in the context of disparities in law enforcement and issues of discretion that undermine legal consistency and certainty. Therefore, the development of a conceptual framework that synthesises penal, institutional, and political-economic dimensions to assess the effectiveness of sentencing as an instrument of structural transformation offers a novel approach by shifting the focus from punishment as retribution to punishment as a mechanism for systemic engineering.

The practical implications call for the strengthening of sentencing guidelines, the optimisation of asset recovery, and the integration of proportional and accountable additional sanctions, whilst theoretically enriching the discourse on criminal law with

a multidimensional approach to effectiveness, and in terms of policy, promoting evidence-based reform that balances certainty, justice, and utility. However, this study has limitations regarding the scope of the empirical data and the complexity of the institutional variables, which have not yet been fully measured longitudinally. Consequently, further research is recommended to develop a cross-jurisdictional quantitative-comparative evaluation model and to test policy implementation more contextually, whilst in practice, strong political commitment and institutional integrity are required to ensure that this reform does not remain merely at the normative level, but is truly capable of breaking the chain of corruption systemically and sustainably.

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