

Research Article

Depenalization of the Threat of Death Penalty Sanctions for Perpetrators of Corrupt Criminal Acts Based on the Values of Justice

Bambang Tri Bawono* and Jamaludin Malik

Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia

ORCID

Bambang Tri Bawono: <https://orcid.org/0000-0002-6936-9581>

Abstract.

Corruption is considered an extraordinary crime that has a negative impact on the economy, state stability, and public trust, damaging governance, public services, development, and social inequality. Based on Law Number 46 of 2009 concerning the Corruption Court, corruption cases must be tried in the Special Corruption Court within its jurisdiction. The focus of the study is to explain how the death penalty for corruption is constructed in the concept of legal certainty and how the depenalization of the threat of the death penalty for perpetrators of corruption are based on the value of justice. The purpose of this study is to determine and analyze the construction of the death penalty and the form of de-escalation of the threat of the death penalty for perpetrators of corruption. The research used a normative method (normative law research) and a normative case study in the form of legal behavior products and data obtained through literature studies. Emphasis was placed on secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Related to the context of legal certainty, the structure of the death penalty for corruption shows a significant discrepancy between the written legal standards and the applied judicial practices. According to Article 2 Paragraph 2 of Law Number 20 of 2001 concerning the Eradication of Corruption, perpetrators of corruption can be sentenced to death in several cases. However, the word “can” used in the provision indicates that the application of the death penalty is optional and not mandatory. Based on the value of justice, the depenalization policy is not always effective in protecting perpetrators of corruption from the threat of the death penalty. Because the death penalty is often considered inhumane and does not guarantee a reduction in the level of corruption, this policy is considered to better reflect human rights and substantive justice. Depenalization allows for a more constructive and reformist approach by emphasizing the recovery of state assets, prevention, and proportional punishment.

Keywords: corruption crimes, depenalization, death penalty sanctions

Corresponding Author: Bambang
Tri Bawono; email:
bambang@unissula.ac.id

Published: 3 November 2025

Publishing services provided by
Knowledge E

© Bawono, Malik. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the 8th Legal International Conference and Studies Conference Committee.



1. Introduction

Indonesia is one of the countries in the Southeast Asian region that faces major challenges in eradicating corruption, with a relatively high Corruption Perception Index (CPI) value compared to neighboring countries in Southeast Asia. Although many countries in the region have shown a significant downward trend in corrupt behavior thanks to increased transparency efforts and institutional reforms, Indonesia has faced the opposite trend, namely an increase in corruption cases in recent years (JR Riwakore et al., 2020).

Corruption is an act of abuse of power or position for personal or group interests that can harm other parties, especially the state and society. In the context of governance aspects, corruption can be in the form of bribery, extortion, embezzlement, or misuse of state funds, and so on involving state officials, businessmen, even law enforcement agencies, exacerbating social and economic inequality and creating distrust of the government. Where this is done with the aim of obtaining material or non-material benefits illegally. Seeing this, corruption has become a major problem that is eating away at the Indonesian state. Like a disease, corruption must be addressed immediately so that it does not further damage the state system. If it has spread to parts that are difficult to cure, then firm steps such as amputation are needed to prevent it from spreading further and endangering the entire structure of the state. Likewise with criminal acts of corruption, which must be prevented with appropriate actions so that the impact does not spread (Yones Kumombong, 2022).

One of the issues that complicates the prevention of corruption eradication in Indonesia is depenalization in the formation of regulations and the implementation of laws. In the Indonesian context, depenalization of regulations related to the death penalty in corruption cases can be seen from how this policy is often influenced by political interests and government strategies to gain public support. Sometimes, corruption eradication policies, including the implementation of the death penalty, can be used as a political tool to improve the image of the government or a particular party in the eyes of the people. For example, when the government faces criticism or public dissatisfaction regarding its performance, the announcement of the imposition of the death penalty on perpetrators of corruption can be a step used to strengthen political positions and gain greater public support. This is also often used to demonstrate the government's commitment to tackling corruption problems firmly and without discrimination. However, this depenalization has the potential to create uncertainty in law enforcement, where

regulations can be made or implemented not solely based on the principle of justice, but rather for the purpose of certain political interests. As a result, siding with one party or a particular political force can damage the principles of objectivity and independence in the justice system.

In an effort to combat corruption, Indonesia has adopted a number of legal regulations that provide severe penalties for perpetrators of corruption. One of them is the threat of the death penalty regulated in Law No. 31 of 1999 concerning the Eradication of Corruption, which was later updated by Law No. 20 of 2001 which states that the imposition of the death penalty can in principle be imposed if the corruption crime causes a very large loss to the state and the perpetrators are involved in major cases that have a broad impact on people's lives. However, the application of the death penalty in corruption cases in Indonesia is not free from controversy. Those who agree with the death penalty put forward various reasons, including the view that the death penalty is much more effective and efficient than other forms of punishment. In addition, the death penalty also provides a deterrent effect for perpetrators of corruption, and anyone who intends to commit the crime will definitely change their mind. However, those who oppose the death penalty still mention the reasons that the death penalty will cause injustice, contradict the right to life, and other reasons related to the sociological and psychological aspects of a person (Vavirotus Sholichah and Satria Unggul Wicaksana Prakasa, 2022). In addition, they argue that the death penalty has not proven effective in reducing corruption rates, because the root causes of corruption cannot be solved by severe punishment alone. Many believe that fairer and more transparent law enforcement, as well as a more comprehensive system overhaul, would be more effective in eradicating corruption.

The crime of corruption has never been applied in fact in legal practice in Indonesia. This is due to the failure to fulfill certain conditions that have been regulated in the law. In Article 2 paragraph (2), it is stated that the death penalty can be imposed only if there are conditions of "extraordinary circumstances," which are specifically defined as a situation where the country is in a state of emergency, such as when the country faces a very large threat to its existence. These extraordinary circumstances include several specific conditions, for example when the country is in a state of war, a very large natural disaster, or an economic and monetary crisis that threatens the stability of the country (Elsa RM Toule, 2013).

The extraordinary situation was experienced by Indonesia and even the whole world when the Covid-19 outbreak hit. The condition of the country when facing the Covid-19

outbreak was very threatening to the stability of the country, the entire economy of the community was very sluggish and even made worse by the fact that workers or employees were laid off. The Covid-19 outbreak disaster that was greatly felt by the community was responded to well by the government by providing social assistance. One example of the provision of social assistance in the form of providing basic necessities to the community from the Ministry of Social Affairs with a contract value of 5.9 trillion. However, in its implementation by the Ministry of Social Affairs, there was corruption in the form of bribes received by the Minister of Social Affairs amounting to 17 billion. The sanctions decided for this case were that the Minister of Social Affairs who was in office at that time was sentenced to 12 years in prison and a fine of Rp. 500,000,000 (five hundred million rupiah) (Sahara, 2021).

Although corruption in Indonesia has reached a level that is very detrimental to the state and society, the application of the death penalty to corruptors cannot be carried out carelessly. This article stipulates that in order to impose the death penalty, extraordinary conditions must first be proven to exist, and this is not a condition that occurs all the time. This condition creates its own challenges, because in practice, the assessment of whether a country is in a state of danger or crisis that meets the criteria for the application of the death penalty is very subjective and can cause long debates among politicians, legal experts, and the public.

Based on the background that has been described, a problem formulation is drawn, namely how is the construction of the death penalty sanction for corruption crimes in the concept of legal certainty? and how is the depenalization of the threat of the death penalty sanction for perpetrators of corruption crimes based on the value of justice?

2. Methods

Methodology is an absolute element that must be present in scientific research and development (Karina., 2023). The research method used is Normative law research uses normative case studies in the form of legal behavior products, for example studying the Law. The main subject of the study is the law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior. The data sources used in normative legal research are secondary data, namely document or literature studies by collecting and examining or tracing documents and literature that can provide information or statements needed by researchers. The data obtained in this study were analyzed using qualitative methods, namely data analysis methods by

grouping and selecting data obtained from field research according to quality and truth, then arranged systematically, which are then studied using deductive thinking methods connected to theories from literature studies (secondary data), then conclusions are made that are useful for answering the formulation of the problem in this study.

3. Results and Discussion

3.1. Construction of the Death Penalty for Corruption Crimes in the Concept of Legal Certainty

Indonesia is a big country with many diverse tribes, religions, cultures, and others. Everyone here has unique characteristics from the life of society, nation, and state depending on the law. The perspective of the rule of law consists of assessing whether human behavior is contrary to the law. Law is a standard system that can regulate human behavior and conduct (Faramis, 2014). To create order, justice, and protection for all citizens, law is a system of rules that regulates the life of society. In society, various interests of individuals and groups can collide, so that guidelines are needed that regulate the rights and obligations of each person. Laws are made to guarantee legal certainty, uphold justice, and provide protection for human rights.

In society, actions that are against the law are often considered crimes. Crime itself is a very complex problem and can be analyzed from various perspectives, depending on how each person sees the crimes that occur every day. Violence, abuse, theft, and even murder are types of crimes that often occur in the social environment and cause anxiety in society. To overcome and prevent the increasing crime rate, the government and society must work together. Criminal acts, criminal acts, or crimes are some terms that have different definitions depending on the context and method used. Van Hamel defines offenses (*strafbaarfeit*) as human actions that violate the laws regulated in the Constitution. Actions that are considered criminal by Van Hamel are actions that are prohibited (or required) by law and are punishable by law, as well as actions carried out by someone who is responsible (Ilyas, 2012).

The state has law enforcement officers to follow up on unlawful acts, such as corruption, in accordance with applicable procedures. Corruption is a type of crime that endangers state finances and public health. As a result, people who commit acts of corruption can face criminal sanctions regulated by the Corruption Crime Law, including imprisonment, fines, confiscation of assets, and even the death penalty in some cases.

Law enforcement against such acts shows the state's efforts to create justice, legal stability, and protection of public interests. In addition, strict action against corruption is intended to deter people, strengthen the integrity of government institutions, and restore public trust in state institutions.

Corruption is considered an extraordinary crime that has a negative impact on the economy, state stability, and public trust, corruption damages governance, public services, development, and social inequality. Therefore, the death penalty is intended to deter corruptors, especially in situations such as national disasters or threats to people's lives. In deciding the punishment for corruption, the position or title of the perpetrator and the amount of state losses incurred are considered. Because they have abused the authority and trust of the state, public officials who commit corruption usually receive heavier sanctions. In addition, the threat of punishment that can be imposed is greater if the corruption or state losses caused are greater. The court also considers whether the crime was carried out systematically, involved other people, and how it impacted society. This is in accordance with the principle of justice, which states that officials who make significant mistakes but instead harm the state must receive appropriate punishment to deter them and maintain public trust in the government system.

Based on Law Number 46 of 2009 concerning the Corruption Court, corruption cases must be tried in the Special Corruption Court in its jurisdiction. Thus, it is clear that corruption cases handled by both the Prosecutor's Office and the KPK must be tried in the Corruption Court. In addition, according to Article 2 paragraph 2 of Law Number 20 of 2001 concerning the Eradication of Corruption, if the crime of corruption is committed under certain circumstances, such as a national disaster or emergency situation that is detrimental to the state at large, the perpetrator can be sentenced to death. However, the article uses the term "can" to indicate that the application of the death penalty is not a must; it is an option given to the judge. This creates legal uncertainty because there are no clear limitations or criteria on what conditions are considered severe enough to be sentenced to death. As a result, law enforcement can be inconsistent and allow for different interpretations. Because of this uncertainty, one may wonder about fairness and how serious the state is in combating serious corruption that has a wide impact (Hariyanto, 2021).

Law enforcement must be carried out in an integrated manner through preventive and repressive approaches to prevent an increase in criminal acts of corruption. Improving anti-corruption education, increasing integrity from an early age, building a transparent and accountable government system, and improving the governance

of public institutions prevent corruption. Meanwhile, repressive measures are applied to those who commit corruption by conducting firm investigations, prosecutions, and criminalization without discrimination. To create good social control, law enforcement officers, supervisory institutions, the media, and the community must work together. The synergy between prevention and prosecution is expected to significantly reduce corruption and restore public trust in state institutions.

Although Law Number 20 of 2001 stipulates the death penalty for perpetrators of corruption, to date not a single perpetrator of corruption has been sentenced to death. This discrepancy between the regulations and their implementation has disrupted the law enforcement system and created public uncertainty about the law. The existence of the death penalty is considered to be contrary to the basic principles of human rights, especially the right to life guaranteed by the 1945 Law, so that the National Human Rights Commission (Komnas HAM) has even issued criticism. In addition, there are doubts about the effectiveness of the death penalty as a means of eradicating corruption because to date there has been no evidence that the death penalty has actually reduced the level of corruption significantly. So, although it seems clear that the discrepancy between the regulations and their implementation has disrupted the law enforcement system and created public uncertainty about the law. The existence of the death penalty is considered contrary to the basic principles of human rights, especially the right to life guaranteed by the 1945 Law, so that the National Human Rights Commission (Komnas HAM) has even issued criticism.

The ideal Standard Operating Procedures for Handling Law Enforcement of Corruption Crimes include several important stages that are carried out professionally, transparently and accountably, namely as follows:

1. Receipt and Verification of Reports

The first stage in handling corruption crimes is receiving and verifying reports. The purpose of this stage is to ensure that the reports received have a strong and relevant basis. This news can come from the public, government agencies, the media, or findings of law enforcement agencies such as the prosecutor's office or the Corruption Eradication Committee. After the report is received, an initial verification takes place to assess the completeness of the data, the credibility of the information, and indications of violations of the law. This process is important so that not all reports are immediately processed to the next stage, so that only reports that have sufficient initial evidence that results in allegations of corruption will be processed further.

2. Investigation

After verification of the report, investigation is the next stage in handling corruption crimes where law enforcers such as KPK investigators, police, or prosecutors begin to collect initial information and evidence to determine whether corruption has occurred. The investigation is carried out in secret and does not determine suspects. The main goal is to find sufficient legal grounds to raise the status of the case to the investigation stage. The process will begin by determining suspects and official investigations if strong indications of a crime are found.

3. Investigation

The process of enforcing the law on corruption crimes, investigation is the next stage. At this point, investigators can determine suspects, conduct examinations, seize evidence, and, if necessary, make arrests. The purpose of the investigation is to collect sufficient evidence to uncover the crime that occurred and determine who the perpetrator is. This stage is very important because it helps the public prosecutor make an indictment in the trial process.

4. Prosecution

After receiving the case files from the investigator, the public prosecutor brings the case to court for trial. At this stage, they make an indictment based on the findings of the investigation and the available evidence, and then bring the case to court for trial. The prosecution is carried out to prove that the defendant is wrong in front of the judge and to demand a punishment that is in accordance with the criminal offense. This process is an important part of law enforcement efforts to ensure justice and legal certainty.

5. Trial

A trial is a part of the criminal law process in which a case is brought to court by a public prosecutor. At this stage, the judge listens to the testimony of the defendant, witnesses, and evidence from the prosecutor and the defendant's attorney. In addition to making a decision in accordance with the law, the purpose of the trial is to determine whether the defendant is guilty. A fair and open trial upholds the rights of the defendant.

6. Court ruling

A court decision is a final decision made by a judge after conducting a trial and examining all evidence and testimony in a criminal case. This decision can be an acquittal, a guilty verdict with a certain punishment, or other decisions in accordance with applicable law. The court decision aims to uphold justice in accordance with laws

and regulations. If the defendant or prosecutor is not satisfied with the decision, they can appeal.

7. Execution

Court decisions are carried out at the final stage of the criminal justice process, known as execution. Execution can take the form of imposing a sentence, such as detention, a fine, or the death penalty, depending on the type of corruption offense and the position committed. The purpose of the execution process is to ensure that the sentence decided by the court is actually implemented and that the perpetrator receives the consequences in accordance with the decision that has been made. Execution must be carried out by law enforcement in accordance with applicable procedures and with the aim of creating justice and legal certainty.

8. Asset Recovery

Asset recovery is the process of finding, seizing, and returning property or wealth obtained through criminal acts to the state or victims. In the case of corruption, asset recovery includes the confiscation of illegally obtained assets, such as money, property, or other types of wealth. One of the important steps in law enforcement is asset recovery. This is done to ensure that the perpetrator is not only punished but also returns the losses that have been caused by his crime.

9. Prevention and Education

Prevention and education are proactive measures to reduce the occurrence of criminal acts, especially corruption, by increasing public awareness of the negative impacts of such acts. Prevention is carried out through policies, regulations, and strict supervision of practices that have the potential to lead to corruption, while education aims to educate the public about the importance of integrity, accountability, and transparency in personal life. This method is expected to encourage a cleaner culture and support strong law enforcement.

10. Evaluation and Supervision

An important process in law enforcement is evaluation and supervision, which aims to ensure that the legal system and policies implemented are running according to the desired objectives. Evaluation is carried out to assess how effectively a program or policy addresses a particular problem, such as corruption, and to identify deficiencies that need to be corrected. Supervision, on the other hand, aims to monitor the implementation of the policy and ensure that there are no loopholes. Both of these methods are essential

to improving accountability, transparency, and performance of organizations involved in preventing and combating corruption.

In the context of legal certainty, the structure of the death penalty for corruption shows a significant discrepancy between the written legal standards and the applied judicial practices. According to Article 2 Paragraph 2 of Law Number 20 of 2001 concerning the Eradication of Corruption, perpetrators of corruption can be sentenced to death in several cases. However, the word “can” used in the provision indicates that the application of the death penalty is optional and not mandatory. This creates uncertainty in law enforcement because there is no guarantee that perpetrators of corruption, even though they meet the requirements according to the provisions, will be sentenced to death.

This mismatch between custom and practice creates legal uncertainty that can undermine public confidence in the justice system. Although the law provides for the possibility of the death penalty for those found guilty of corruption, no corruption case has resulted in the death penalty. This uncertainty in the application of the penalty has led the public to question the state’s commitment to combating corruption. In addition, the application of the death penalty to perpetrators of corruption often violates human rights. According to many community groups and organizations such as the National Human Rights Commission (Komnas HAM), the death penalty violates the fundamental human right to life, which is guaranteed by the Indonesian constitution. The basic principle of this argument is that everyone has the right to a chance to live and to have the opportunity to right the wrongs they have committed. Therefore, the application of the death penalty in corruption cases can lead to violations of human rights and the basic principles of the legal system more broadly.

The effectiveness of the death penalty in eradicating corruption is also highly questionable. Although the death penalty is theoretically intended to provide a significant deterrent effect, there is not enough empirical evidence to support the claim that the death penalty can significantly reduce the level of corruption. Judicial practice shows that, despite the threat of the death penalty, corruption still occurs on a significant scale in various sectors, indicating that the death penalty will not be effective in eradicating

In the context of corruption, reconstructing the death penalty policy is an important step. This policy can be changed to be more reasonable, fair, and effective in eradicating corruption by revising provisions that are too ambiguous and inconsistent with judicial practice. A better solution to realize justice and legal certainty might include prioritizing

more humane but strict punishments, such as life imprisonment, return of state assets, or heavy fines. In the future, eradicating corruption will not only rely on extreme punishments, but also on deeper system reforms to ensure effective supervision and ongoing prevention.

3.2. Depenalization of the Threat of the Death Penalty for Corruption Offenders Based on the Value of Justice

Depenalization is a policy in the criminal law system that aims to reduce or eliminate criminal sanctions for certain acts that were previously included in the category of criminal acts. These acts are no longer processed in criminal courts, but can be resolved through administrative sanctions, civil sanctions, or alternative mechanisms such as restorative justice. Depenalization is intended to reduce the burden on the criminal justice system, avoid excessive criminalization of minor violations, and provide a more humane and proportional approach to law enforcement.

Categories and Indications of depenalization policies in corruption crimes can be seen from the shift in the approach to criminal law, which now focuses on effective law enforcement by considering the principles of justice, humanity, and proportionality rather than the death penalty as the main solution. Here, depenalization does not mean eliminating criminal liability. Instead, it means shifting criminal sanctions from extreme punishments such as the death penalty to more humane punishments that still provide a deterrent effect, such as maximum imprisonment, confiscation of assets, or revocation of political rights. There are several indications of depenalization policies in corruption cases, including criticism from human rights institutions, the lack of application of the death penalty even though it has been regulated in the law, and the push for legal reform that focuses more on restorative justice and rehabilitative justice.

The types of perpetrators that can be considered here, depenalization does not mean eliminating criminal responsibility. Instead, it means shifting criminal sanctions from extreme punishments such as the death penalty to more humane punishments that still provide a deterrent effect, such as maximum imprisonment, confiscation of assets, or revocation of political rights. There are several indications of depenalization policies in corruption cases, including criticism from human rights institutions, the lack of implementation of the death penalty even though it has been regulated in the law, and the push for legal reform that focuses more on restorative and rehabilitative justice. The types and reasons for depenalization policies in corruption crimes can be seen from the

shift in the approach to criminal law, which now focuses on effective law enforcement by considering the principles of justice, humanity, and proportionality rather than the death penalty as the main solution.

Throughout the history of law in Indonesia, there have never been any prisoners sentenced to death for corruption, however there have been prisoners who have been sentenced to death, namely: Jusuf Muda Governor of Bank Indonesia in 1963 who embezzled 2.5 billion, but was never executed because he died before the execution (Tempo.com, 2024). The death penalty was also threatened against Heru Hidayat who was caught in the case ASABRI corruption President Commissioner of PT Trada Alam Minera which caused state losses of Rp22.788 trillion and Benny Tjokrosaputro committed corruption in the management of PT. Asabri (Persero) funds and money laundering which resulted in state losses of Rp22.788 trillion, however Heru Hidayat and Benny Tjokrosaputro were sentenced to nil, because the defendant had been sentenced to life imprisonment in the PT Asuransi Jiwasraya case.

The threat of the death penalty was also given to the Minister of Social Affairs Juliari Batubara who was involved in the Covid-19 Social Assistance (Bansos) procurement case. Juliari was proven to have received a bribe of Rp 32.482 billion. The threat of the death penalty was because it was carried out when the country was experiencing a disaster and in a state of emergency due to the Covid-19 Pandemic. Based on the court verdict, Juliari Batubara was sentenced to 12 years in prison and a fine of Rp 500 million. Based on the opinion of Kurnia Ramadhan, a researcher at Indonesia Corruption Watch (ICW), Juliari deserves to be sentenced to life in prison. Kurnia put forward four arguments: it was done while holding a position as a public official, it was done in the midst of a pandemic, Juliari did not admit his actions, and it was a deterrent for other officials.

Based on the value of justice, the depenalization policy is not always effective in protecting perpetrators of corruption from the threat of the death penalty. Because the death penalty is often considered inhumane and does not guarantee a decrease in the level of corruption, this policy is considered to better reflect human rights and substantive justice. Depenalization allows a more constructive and reformist approach by emphasizing the recovery of state assets, prevention, and proportional punishment. However, there are concerns that the elimination of the threat of the death penalty can weaken the deterrent effect and give the impression that the state is lenient towards perpetrators of serious crimes such as corruption. Therefore, the success of this policy is highly dependent on the consistency and integrity of the legal system, as well as

the success of the implementation of fair and firm alternative sanctions. If carried out by method, because the death penalty is often considered inhumane and does not guarantee a decrease in the level of corruption, this policy is considered to better reflect human rights and substantive justice. Depenalization allows a more constructive and reformist approach by emphasizing the recovery of state assets, prevention, and proportional punishment.

It is essential to carry out a comprehensive reform because Indonesian criminal law still uses colonial traditions. The importance of criminal law reform is increasing, especially in efforts to build a more just, democratic, and human rights-compliant legal system. In this situation, the depenalization policy protects perpetrators of corruption from the threat of the death penalty. This policy supports the principle of decolonization, eliminating punishments that are considered repressive and contrary to the principles of contemporary law enforcement. In addition, by prioritizing restorative justice, asset recovery, and more proportional sanctions, this policy encourages the democratization of law. In addition, this effort is part of an effort to ensure that the law is in accordance with universal principles and to implement the criminal system (Dhandy Parindo, 2024). The importance of criminal law reform is increasing, especially in efforts to build a more just, democratic, and human rights-compliant legal system. In this situation, the depenalization policy protects perpetrators of corruption from the threat of the death penalty. This policy supports the principle of decolonization, eliminating punishments that are considered repressive and contrary to the principles of contemporary law enforcement. In addition, by prioritizing restorative justice, asset recovery, and more proportional sanctions, this policy encourages the democratization of law.

The value of justice aims to protect justice in a broader sense, namely substantive justice that includes human rights, the interests of society, and justice for the state as a victim of losses. Thus, justice does not only focus on retaliation against perpetrators of corruption, but also considers the right to life as a fundamental right guaranteed by the constitution as a human right. In addition, methods that emphasize transparency, education, and strengthening the governance system protect the community as indirect victims of corruption. The return of assets caused by corruption also benefits the state. In addition, methods that emphasize transparency, education, and strengthening the governance system protect the community as indirect victims of corruption. The value of justice aims to protect justice in a broader sense, namely substantive justice that includes human rights, the interests of society, and justice for the state as a victim of losses. Thus, justice does not only focus on retaliation against perpetrators of corruption,

but also considers the right to life as a fundamental right guaranteed by the constitution as a human right. In addition, methods that emphasize transparency, education, and strengthening the governance system protect the community as indirect victims of corruption.

4. Conclusion

Corruption is considered an extraordinary crime that has a negative impact on the economy, state stability, and public trust, corruption damages governance, public services, development, and social inequality. Based on Law Number 46 of 2009 concerning the Corruption Court, corruption cases must be tried in the Special Corruption Court in its jurisdiction. In the context of legal certainty, the structure of the death penalty for corruption shows a significant discrepancy between the written legal standards and the applied judicial practices. According to Article 2 Paragraph 2 of Law Number 20 of 2001 concerning the Eradication of Corruption, perpetrators of corruption can be sentenced to death in several cases. However, the word “can” used in the provision indicates that the application of the death penalty is optional and not mandatory. This creates uncertainty in law enforcement because there is no guarantee that perpetrators of corruption, even though they meet the requirements according to the provisions, will be sentenced to death. Some indications of the depenalization policy in corruption cases include criticism from human rights institutions, the lack of implementation of the death penalty even though it has been regulated in the law, and the push for legal reform that focuses more on restorative and rehabilitative justice. The type and reasons for the depenalization policy in corruption crimes can be seen from the shift in the approach to criminal law, which now focuses on effective law enforcement by considering the principles of justice, humanity, and proportionality rather than the death penalty as the main solution. Based on the value of justice, the depenalization policy is not always effective in protecting perpetrators of corruption from the threat of the death penalty. Because the death penalty is often considered inhumane and does not guarantee a decrease in the level of corruption, this policy is considered to better reflect human rights and substantive justice. Depenalization allows for a more constructive and reformist approach by emphasizing the recovery of state assets, prevention, and proportional punishment.

References

- [1] Arbaí YA. I Reject the Death Penalty: A Study of the Implementation of the Death Penalty. Bogor: Grafika Mardi Yuana; 2012.
- [2] Dewi RC, Hariyanto DR. Death penalty policy for perpetrators of corruption in the perspective of the Corruption Eradication Law. *Kertha Wicara: Journal of Legal Science*. 2021;19(2):174–84.
- [3] Elsa RM. The existence of the threat of the death penalty in the Corruption Crime Law. *PRIORIS Law Journal*. 2013; 3:103.
- [4] 4. Kumombong, Y., Sambali, S., & Tawas, F. “Legal study of criminal acts of corruption of Covid-19 social assistance funds committed by regional officials”. *Lex Privatum: Electronic Journal of the Civil Law Section, Faculty of Law, Unsrat*, 2022; 10(3).
- [5] Parindo D, et al. Implementation of the basic concept of human rights and the renewal of the three main pillars of criminal law in the new Criminal Code Law No. 01 of 2023. *Indonesian Law Journal*. 2024;3(3):131.
- [6] Riwukore JR, et al. Strategy for preventing and eradicating corruption in the Kupang City Government, East Nusa Tenggara Province. *J Soc Probl*. 2020;11(2): <https://doi.org/10.22212/aspirasi.v11i2.1556>.
- [7] Sahara W. The Beginning of the Covid-19 Social Assistance Corruption Case that Ensnared Juliari and Sentenced Him to 12 Years in Prison, (online), *kompas.com*; 2021. (<https://nasional.kompas.com/read/2021/08/23/18010551/awal-mula-kasus-korupsi-bansos-covid-19-yang-menjerat-juliari-hingga-divonis?page=all>
- [8] Sholichah V, Prakasa SU. Analysis of specific circumstances regarding the application of the death penalty: A case study of Covid-19 social assistance corruption [JKH]. *Journal of Legal Communication*. 2022;8(2):173–98.
- [9] Tempo.co. These 5 Corruptors Almost Got the Death Penalty, Who Besides Former Social Minister Juliari Batubara (online). Uploaded March 12; 2024. (<https://www.tempo.co/hukum/5-koruptor-ini-nyaris-vonis-hukuman-mati-siapa-selain-eks-mensos-juliari-batubara-78519>,
- [10] Zainuddin M, Karina AD. The use of normative legal methods in proving the truth in legal research. *Smart Law Journal*, 2012; 2(2).
- [11] Zainuddin, Muhammad and Aisah Dinda Karina, 2022. *Pancasila Education for Higher Education: The Perspective of Anti-Corruption Education*. Semarang: Karya Husada University; 2023.
- [12] Topo Santoso, *Membumikan Hukum Pidana Islam*, Jakarta: Gema Insani Press; 2003.

- [13] Soerjono Soekanto, Faktor-faktor yang Mempengaruhi Terhadap Penegakan Hukum, ctk Keempat, Jakarta : PT Raja Grafindo Persada; 2002.
- [14] Shidarta, Mochtar Kusuma Atmadja dan Teori Hukum Pembangunan, Jakarta: Epistema Institute; 2012
- [15] Rully Indrawan, R. Poppy Yaniawati, Metode Penelitian, Kuantitatif, Kualitatif, dan Campuran untuk managemen, Pembangunan, dan Pendidikan, Bandung: Refika Aditya; 2017.
- [16] Mahrus Ali, Dasar-Dasar Hukum Pidana, Jakarta: Sinar Grafika; 2012.
- [17] Masri Singarimbun, Metode Penelitian Survei, Jakarta: LP3ES; 1989.
- [18] Woro Winandi, Indra Rukmana Lukito, “Penjatuhan Pidana Mati Dalam Tindak Pidana Narkotika”, Jurnal Hukum, 2010; Vol. XIX, No. 19.
- [19] Inge Dwisvimiar, “Keadilan Dalam Perspektif Ilmu Hukum”, Jurnal Dinamika Hukum, Fakultas Hukum Universitas Soedirman Purwokerto, 2011; Vol. 11 No. 3.
- [20] Henry Campbell Black, M.A.. Black’s Law Dictionary (fifth edition), (Minn West Publishing, St. Paul; 1979.