

***Analysis of the Application of the Principle of Justice in Sentencing in Corruption Cases Based on Law Number 31 of 1999 concerning the Eradication of Corruption***

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***Abstract***

*This research aims to analyze the application of the principles of justice in administering sentences in cases of criminal acts of corruption based on Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. Based on a thematic analysis of court decisions, it was found that there were significant disparities in sentences in corruption cases, especially those involving public officials. Factors such as political influence, public pressure, and judges' interpretation of the severity of criminal acts are the main causes of this injustice. In addition, light sentences are often disproportionate to the loss to the state, giving rise to public dissatisfaction and weakening confidence in the justice system. To increase the application of the principles of justice, this research suggests several efforts, including the preparation of more detailed sentencing guidelines, strengthening the independence of judicial institutions, and increasing the transparency of the legal process. These findings show the importance of balancing justice, legal certainty and expediency in administering punishments for corruption cases. Thus, implementing the principles of justice can provide a more effective deterrent effect while restoring public trust in the Indonesian legal system.*

**Keywords:** *justice, criminal acts of corruption, disparities in punishment, law number 31 of 1999, justice system.*

**A. INTRODUCTION**

**1. Background**

Over the years, corruption has been one of the major problems that hinder the progress and progress of various sectors in Indonesia. Corruption crimes not only harm the state but also damage society, government, and public trust in state institutions. Indonesia adopted Law No. 31 of 1999 concerning the Eradication of Corruption, which was later amended into Law No. 20 of 2001 in an effort to eliminate the crime of corruption. The purpose of this law is to provide strict sanctions to those who commit corruption and to prevent similar crimes from happening again. Although there are clear regulations, there are still some problems

with implementing them in the field. In the process of sentencing perpetrators of corruption crimes, the principle of justice is very prominent. In many cases, court decisions regarding corrupt perpetrators are often controversial in society, especially related to the magnitude of the sentences imposed. Some cases show that perpetrators of corruption with smaller cases receive lighter sentences.<sup>1</sup>

Justice in the Indonesian criminal law system is very important to create public trust in the justice system and legal certainty. In criminal law, the concept of justice includes the application of the principle of equality before the law and the determination of punishments that are appropriate to the severity of the offense. Because corruption has a significant impact on the country's economy and people's welfare, the application of this principle of justice is very important in this case. As a result, further research needs to be done on how the principle of justice is applied in legal practice, especially in cases of corruption. The existence of a subjectivity factor in the judicial process, both in investigation, prosecution, and court, is one of the reasons why justice in corruption criminal law is often questioned. The legal process sometimes becomes difficult and is affected by many external factors because corrupt practices involve many parties and often involve state officials or big businessmen. In fact, there are times when court decisions against perpetrators of corruption crimes seem to be contrary to the principles of social justice that should be the basis of law.<sup>2</sup>

The existence of political influence on the judicial process of corruption cases is also an additional question. In recent years, society has witnessed more cases of corruption where public officials with high positions are given lighter sentences compared to perpetrators from ordinary society. This creates public distrust of the judicial process, as many people believe that the justice system favors people who have power or influence. On the contrary, corrupt perpetrators have been sentenced several times to very severe sentences, which are often considered excessive when compared to the existing facts and evidence. Questions about fairness in the application of the law also arise as a result of this disproportionate

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<sup>1</sup> Kartiko, N. D. (2024). Do government effectiveness and corruption control support political stability? *Anti-Corruption Journal*.

<sup>2</sup> Lamusu, R. (2021). Law Enforcement Model Against Village Fund Corruption. *IUS Journal of Law and Justice Studies*, 17.

punishment. In such a situation, justice should be judged not only by how severe the sentence was imposed, but also by how appropriate the defendant's actions were to the sentence imposed. Therefore, an evaluation of the application of the law can be carried out in the case of direct corruption to determine the extent to which the principle of justice is applied.<sup>3</sup>

In cases of corruption involving the authorities and the general public, there are increasingly prominent differences in the Indonesian justice system. In other words, the principle of justice in corruption criminal law should prioritize equality before the law, where no party is treated differently because of their social status, power, or political influence. Therefore, it is necessary to conduct an investigation into how the law is applied to corruption cases involving public officials. This will show the extent to which the principles of justice are protected and applied. One of the biggest problems in applying the principle of justice is ensuring that the law is not used only for the benefit of a few individuals or groups. The increasing number of corruption cases involving people in important positions, such as government officials or big businessmen, who have the power to influence the legal process, makes this even more important. In situations like these, the administration of justice must include efforts to prevent abuse of power and ensure that no party is immune from the law, regardless of their status or strength.<sup>4</sup>

Furthermore, social and economic changes must be considered when implementing the Corruption Eradication Law. To create a sense of justice for victims of corruption and society as a whole, it is very important to provide proportionate and balanced punishments. If the punishment is given in an unfair way or not in accordance with the actions taken by the perpetrator, this can cause society to lose trust in the legal system. As a result, the principle of justice must be the main foundation in every stage of the legal process, from investigation, prosecution, to court. As a result, it is important to conduct a more in-depth examination of how the principles of justice are applied in the Indonesian criminal justice system, especially in the case of corruption. The study not only examines how the Corruption Eradication Act is implemented, but also provides advice on how to improve the application

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<sup>3</sup> Manihuruk, T. N. (2021). Law Enforcement Problems of Corruption of Village Funds in Riau Province. *Journal of Judicial Insights*, 25.

<sup>4</sup> Mochtar, Z. A. (2024). *Fundamentals of law: understanding the rules, theories, principles, and philosophy of law*. Rajawali Press.

of the principles of justice in the legal system. In this regard, improvements in the quality of the judiciary, supervision of the legal process, and a better understanding of the application of fair and proportionate punishment are indispensable to improve the quality of the legal system.<sup>5</sup>

### 2. Problem Formulation

Therefore, based on the background of the above problems, we can formulate a problem formulation, namely How to apply the principle of justice in the provision of punishment in cases of corruption based on Law Number 31 of 1999 concerning the Eradication of Corruption Crimes?.

### 3. Research Methods

This study uses descriptive qualitative research because the focus of the research is to understand and analyze the application of the principle of justice in the provision of punishment in corruption cases. Moleong (2017) stated that the purpose of descriptive qualitative research is to provide an in-depth picture of complex phenomena by using data collected from various sources. Data collection methods such as literature studies and analysis of legal documents are used. Literature studies include literature on the application of the principle of justice in corruption criminal law, such as books, legal journals, and scientific articles. Literature studies allow researchers to gain a broad conceptual and theoretical understanding, according to Sugiyono (2018).<sup>6</sup>

The analysis of legal documents is carried out on court decisions related to corruption cases, especially those referring to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. By analyzing these findings, researchers can assess the consistency of the application of the principle of justice. According to Bowen (2009), document analysis can provide valid and rich data about legal phenomena. According to Braun and Clarke (2006), thematic analysis helps to find patterns or themes in qualitative data. Aspects such as proportionality of punishments, equality before the law, and how effective punishment is in preventing corruption crimes are the topics of this study.

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<sup>5</sup> Safitri, R. (2022). Analysis of the Misuse of Village Fund Allocation by Village Heads. *Journal of Petikum*, 11.

<sup>6</sup> Patton, M.Q. (2015). *Qualitative Research & Evaluation Methods*. Thousand Oaks: Sage Publications.

In this study, the validity of the data is guaranteed through source triangulation. According to Patton (2015), source triangulation, the process of comparing data from various sources—such as legal literature, court decisions, and reports of anti-corruption agencies—helps ensure the validity of the data in this study. The results of this study are expected to provide an objective and comprehensive picture of how the principle of justice is applied in law enforcement of corruption crimes.<sup>7</sup>

### **B. DISCUSSION**

#### **1. Theory of justice**

The theory of justice is used as a basis for looking at how punishment is applied to corruption crimes. In *A Theory of Justice*, John Rawls (1999) defines justice as social justice based on equality of rights and obligations and the regulation of inequality to provide the greatest benefit to the less fortunate. This principle is important to determine whether the punishment meted out to the corrupt has met the needs of the disadvantaged community. Justice in criminal law means providing punishment proportionate to the losses caused by corruption. Justice, certainty, and usefulness are the goals of the law, according to Gustav Radbruch (2006). When corruption occurs, these three goals often collide. Light penalties can undermine public justice and legal certainty, while severe penalties are considered useless if there is no deterrent effect. Therefore, to ensure the fair application of punishment, the balance between these three elements must be examined.<sup>8</sup>

To impose punishments, Indonesian criminal law often uses utilitarian and retributive theories. Utilitarian theory aims to prevent criminal acts through a deterrent effect, while retributive theory focuses on commensurate retribution for the crime committed. If punishment can really provide justice to society, according to Sudarto (2007), these two theories must be combined. In *The Morality of Law*, Lon L. Fuller (1964), emphasized the importance of a fair and transparent legal process to achieve justice. The principles of justice, such as the principles of legality and non-discrimination, must be used to punish corruption.

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<sup>7</sup> Satjipto Rahardjo. (2009). *Law and Society*. Bandung: Angkasa.

<sup>8</sup> Sugiyono. (2018). *Quantitative, Qualitative, and R&D Research Methods*. Bandung: Alfabeta.

This means that everyone who commits a criminal act of corruption must be served fairly by the law, regardless of their social or political status.<sup>9</sup>

Additionally, it is important to look at contemporary theories of punishment such as Restorative Theory. The restorative approach emphasizes the recovery of victim and community losses as well as the accountability of the perpetrators (Braithwaite, 2002). This can be achieved in corruption cases by punishing the state for their losses. The theory of the Rechtsstaat, or state of law, proposed by Immanuel Kant (2009) also shows how important it is to maintain the rule of law and protect human rights. In order not to damage public trust in law enforcement agencies, the punishment given to corruptors must be carried out fairly, openly, and impartially.

According to Hart (1961) in *The Concept of Law*, the legal system must balance positive rules and moral obligations. Therefore, the punishment given to corruptors must consider the moral and social consequences of the criminal act. As stated by Satjipto Rahardjo (2009), the law must consider sociological factors in addition to functioning as norms. In terms of corruption, the sociological approach means considering the impact of the social harm caused and the community's need for justice. Public dissatisfaction and distrust of the legal system often increase after corruptors are given light sentences. Therefore, these various theories show that in order to achieve substantive justice, the application of the principle of justice in the punishment of corruption must consider retribution, prevention, restoration, and legal certainty.<sup>10</sup>

Various legal and philosophical perspectives can be used to determine whether the sentencing is fair or not. Aristotle distinguishes justice into distributive justice and corrective justice. Distributive justice focuses on sentencing that is proportionate to the level of the crime committed. In contrast, corrective justice focuses on restoring injustices caused by unlawful acts. The concept of distributive justice in corruption criminal law means that punishment should be given in the same way according to the amount of losses suffered by the state. Various types of punishments, including imprisonment, fines, and restitution of

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<sup>9</sup> Aristoteles. (2007). *Nicomachean Ethics*. Cambridge: Cambridge University Press.

<sup>10</sup> Bowen, G.A. (2009). Document Analysis as a Qualitative Research Method. *Qualitative Research Journal*, 9(2), 27-40.

state losses, are regulated in Law Number 31 of 1999. However, the public is often dissatisfied because its implementation is often criticized.<sup>11</sup>

The concept of proportionality is also the basis of punishment. According to von Hirsch (1993), the punishment must be proportionate to the level of seriousness of the offense. State losses and social impact should be a major consideration when setting a fair punishment in corruption cases. In addition, Article 27 Paragraph (1) of the 1945 Constitution stipulates the concept of equality before the law, or equality before the law, that every citizen has an equal position before the law. Therefore, the punishment should be the same for ordinary people and high-ranking officials.

In the criminal law of corruption, the concept of deterrent effect is very important. Punishment that is severe enough for corruptors must provide a deterrent effect, because, according to Bentham (1996), an effective punishment is a punishment that can prevent the perpetrator and the wider community from committing similar crimes again. In reality, politics and economics are the two components that most often influence the concept of justice. According to Hadjon (2007), fair law enforcement requires an independent judicial institution. The concept of justice will be difficult to realize if the judiciary is influenced by political power.<sup>12</sup>

The concept of transparency is essential to provide a fair sentence. According to the World Convention on Corruption (UNCAC), transparency of the legal process increases public trust and prevents abuse of power. Therefore, these various concepts suggest that justice must consider the principles of proportionality, legal equality, deterrent, and transparency when sentencing corruption cases to meet the demands of substantive justice.

### **2. Application of the Principle of Justice in Sentencing in Corruption Cases**

In the provision of punishment for corruption crimes, the principle of justice refers to the relationship between the punishment given and the effects caused by corruption. The types of punishments that can be imposed, ranging from imprisonment, fines, to restitution of state losses, are regulated by Law Number 31 of 1999 concerning the Eradication of Corruption. Justice is usually measured by looking at how much the punishment is for the

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<sup>11</sup> Kant, I. (2009). *Metaphysics of Morals*. Cambridge: Cambridge University Press.

<sup>12</sup> Moleong, L.J. (2017). *Qualitative Research Methodology*. Bandung: PT Remaja Rosdakarya.

loss. Punishments that are too light can be considered as not showing a sense of justice in society, while punishments that are too severe can be considered a violation of humanism.

The existence of differences in the determination of punishment is one of the main challenges in the application of the principle of justice. In some cases, corruptors with large state losses receive lighter sentences than corruptors with smaller state losses. Although there are guidelines in the law, different interpretations of the law by judges are often the cause. In addition, when punishment does not have a deterrent effect on the perpetrator, the principle of justice is also questioned. As a result, corruption is still a systemic problem in Indonesia.

Public perception of the independence of the judiciary is related to the application of the principle of justice. Public trust in the legal system decreases when court decisions are considered unfair. Certain cases show that political or social pressures can influence the judge's decision, causing injustice in sentencing. In such a situation, the principle of justice requires legal firmness and transparency in the judicial process.

According to Gustav Radbruch, the goal of law, which consists of justice, legal certainty, and utility, shows the importance of the principle of justice. The three often contradict each other in corruption cases. For example, excessively light penalties can reduce public justice, while excessively severe penalties can reduce the legal benefits if there is no mechanism to repay state losses. Therefore, the balance of these three goals is the main point in implementing the principle of justice.

In practice, corruption cases involving many actors and institutions, justice is also tested in real life. Primary offenders often receive lighter sentences than lower-level offenders. This deviation suggests that the principle of justice is sometimes not fully applied, especially when there are public officials who have a significant political role.

The enforcement of the principle of justice must also pay attention to the rights of victims, in this case people who are harmed by corruption crimes. In some cases, court proceedings only focus on the perpetrators without paying adequate attention to the recovery of losses experienced by the community. This shows that the application of justice in corruption criminal law must be holistic, including retributive, rehabilitative, and restorative aspects.



Consistency in the application of the principle of justice also depends on the competence of judges and law enforcement officials. Ongoing training on legal interpretation and strengthening the integrity of the judiciary is essential to ensure that the principles of justice are applied equally in every corruption case. In addition, supervision by anti-corruption institutions such as the KPK also plays an important role in ensuring that every legal process runs according to the principles of justice.

Transparency in the judicial process must be the basis for the application of the principle of justice. The publication of court decisions, including judges' considerations, can help people understand how decisions are made, while reducing suspicion of certain parties' intervention. As a result, the application of the principle of justice in the provision of punishment will make it more credible and accepted by the public.

Justice requires transparency and strict supervision of the implementation of punishment. Not always, corruptors sentenced to prison receive preferential treatment in correctional institutions. Therefore, correctional system reform is an important component in ensuring fair enforcement of corruption criminal laws.

In terms of sentencing for corruption crimes, the principle of justice must be applied through a comprehensive approach, involving various parties, and considering the interests of society as a whole. To ensure that these principles are applied effectively, consistency, transparency, and oversight are key.

### **3. Factors Affecting Sentencing Disparities in Corruption Cases**

Various factors, such as political influence, the independence of judges, and social and media pressures, often affect the capacity of punishment in corruption cases. Political officials and politicians typically receive lighter sentences than other perpetrators with the same level of crime. This gives the impression that the punishment is carried out in a discriminatory manner, which is contrary to the principle of equality before the law.

Public and media pressure also has an impact on the difference in sentences. Cases that receive less public attention often end up with lighter sentences, even though they have the same or greater impact of harm. However, cases that receive significant public attention usually receive harsher sentences in response to public demands.

One of the main factors that led to the difference in sentences was the different interpretations of the law carried out by judges. Although the statute provides standards, the judge's interpretation often determines how a particular article is applied. This subjective factor creates public dissatisfaction with the justice system and leads to inconsistencies in sentencing.

The level of professionalism and integrity of law enforcement also affects the difference in punishment. In some cases, corrupt practices in the justice system, such as bribery or collusion, can influence the outcome of decisions that are not in accordance with the principles of justice. This further worsens the public's perception of the legal system.

In addition, the absence of clear rules on punishment also increases the likelihood of discrepancies. While certain judges may emphasize the rehabilitative aspect more, other judges may emphasize the deterrent effect more. These differences in methods lead to different results even if similar violations are committed.

#### **4. Efforts to Improve the Application of the Principle of Justice**

Comprehensive reform in the corruption criminal justice system is needed to improve the application of the principles of justice. The development of a more detailed and structured sentencing standard is a major effort. These recommendations can help reduce differences in interpretation between judges and ensure that sentences handed down are more consistent. In addition, increasing the professionalism and integrity of law enforcement officials is very important. Ongoing training programs, strict oversight, and strict sanctions against ethical violations can improve the quality of law enforcement and ensure that justice is applied equitably.

In addition, the legal process must be clearer. All publications of court decisions, including judges' considerations, can help the public understand the basis of any legal decision. It can also reduce the likelihood that certain parties will be involved in legal proceedings. Strengthening the function of anti-corruption institutions such as the KPK in supervising the judicial process is another effort. The organization has the ability to act as an independent watchdog to ensure that every legal process is conducted in a fair manner and that no punishment is given discriminatorily.

To ensure that sentences are carried out in accordance with the applicable rules, reform of the correctional system is also needed. In order to maintain justice and avoid public dissatisfaction, corrupt inmates in prisons should not be treated in a privileged way .

To understand how the principle of justice is applied in the determination of punishment for corruption, we can use John Rawls's theory of distributive justice. This theory states that justice can only be achieved if everyone receives equal legal treatment regardless of their social status or political power. In this context, Rawls' theory emphasizes the concept of equal freedom, or equal freedom, to ensure that punishment is imposed proportionately to the offense of corruption and the impact it has on society.

In the discussion of the application of the principle of justice (subchapter 1), Rawls's theory of justice is relevant when discussing the importance of equality before the law. When disparities in punishment occur due to political influence or social pressure, Rawls' principle of justice is violated. For example, public officials with large losses who receive lenient sentences exhibit imbalances that are contrary to the principle of distributive justice. In this case, Rawls' theory underscores the importance of transparency and consistency in sentencing in order for justice to be achieved.

Talcott Parsons' social systems theory can also be applied to subchapter 2 on the things that affect punishment disparities. According to this theory, differences in punishment occur due to inconsistencies between the legal subsystem and societal norms. Parsons emphasized that the legal system should function as a means of regulation that follows the principles embraced by society as a whole. However, the goal of justice cannot be achieved when political forces or external factors change the legal system. In the case of corruption, societal norms that demand severe punishment for perpetrators often conflict with judicial decisions, creating a justice gap.

The theory of *deterrence* in criminal law is also relevant to understanding how disparity in punishment affects the effectiveness of the justice system. This theory states that fair and firm punishment serves as a deterrent for potential criminals. However, when disparities in punishment occur, this deterrence function becomes weak because it creates the perception that the law can be manipulated. This also has an impact on public trust in the legal system.

The theory of procedural justice by Tom R. Tyler is of great importance when we talk about efforts to improve the application of the principle of justice (subchapter 3). This theory asserts that people are more likely to accept legal decisions if they believe that the judicial process is conducted in a fair manner. Therefore, accountability and transparency in the legal process are essential to improve the application of the principle of justice. For example, the publication of court decisions that include judges' considerations based on the principles of procedural fairness can help increase public trust in the legal system.

Rational choice theory is also relevant in explaining how legal system reform can affect the application of justice. According to this theory, corrupt actors act based on an analysis of the advantages and disadvantages of their actions. If the legal system does not provide severe or consistent punishment, potential offenders may consider that the risk of punishment is not proportional to the benefits gained. Therefore, the consistent application of the principle of justice can serve as a tool to change corrupt behavior.

Lewis A. Coser's structural theory of conflict can also be attributed to the problem of the application of the principle of justice and differential punishment. According to this theory, the injustice of the legal system leads to structural conflicts between society and the judiciary. People lose faith in the legal system when they think it's unfair. In the case of corruption, the public may consider public officials to be given preferential treatment in the legal process, which can exacerbate conflicts.

Efforts to improve the application of the principle of justice require restorative justice theory, also known as restorative justice. This theory emphasizes how important law enforcement is to recover losses suffered by the community, or victims. This can be done in cases of corruption by restoring state losses and imposing sanctions that not only punish the perpetrator but also restore the social and economic damage caused by his actions. Robert K. Merton's latent function theory helps explain how differences in punishment can have negative effects. Thus, unjust punishment serves to undermine the legitimacy of the legal system. When people see that the law is not applied equally, they tend to look for other ways to solve problems, which can ultimately lead to the formal justice system becoming less effective.

In the overall discussion, these theories provide a systematic framework for understanding how the principles of justice can be applied, the problems faced, and the

efforts required to improve their application. Using these theories, the analysis becomes more comprehensive and provides a solid basis for recommending reforms in the criminal justice system for corruption in Indonesia.

### **C. CONCLUSION**

The inconsistency between societal norms and weak legal decisions and enforcement is an additional factor. This undermines public trust in the legal system and weakens the expected deterrent effect of corruption punishments. To improve the application of the principles of justice, transparency, accountability, and recovery of losses are essential, according to the theories of procedural justice and restorative justice.

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