SDG
JOURNAL OF LAW AND SUSTAINABLE DEVELOPMENT
ISSN: 2764-4170

THE CRIME OF CORRUPTION CODIFIED IN LAW NUMBER 1 OF 2023

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ABSTRACT

Objective: This research aims to analyze changes in criminal law, particularly in the context of corruption, within the new Criminal Code in Indonesia. It explores the reasons behind the rejection of certain provisions in the new Criminal Code, especially those related to the punishment for corruption offenses.

Theoretical Framework: The theoretical framework of this research is rooted in the field of criminal law and legal reform. It considers the evolution of criminal law in response to societal needs and expectations. The study also examines the principle of proportionality in criminal sentencing, particularly concerning corruption offenses.

Method: This research adopts a normative legal research approach, relying on an analysis of existing legal texts and previous studies related to criminal law in Indonesia. The primary data sources include statutory laws in Indonesia, while secondary data sources consist of scholarly works and legal analyses.

Result and Conclusion: The findings of this research reveal that the rejection of the new Criminal Code is primarily due to the removal of specific articles related to corruption. In the new Code, corruption offenses are no longer categorized as extraordinary crimes but are treated as ordinary offenses, akin to theft. This shift has implications for law enforcement authorities, such as the police, the prosecutor's office, and the Corruption Eradication Commission, as it blurs the lines of their jurisdiction and responsibilities in addressing corruption.

Originality/Value: This research contributes to the understanding of the legal changes brought about by the new Criminal Code in Indonesia, with a specific focus on corruption offenses. It highlights the concerns and implications of categorizing corruption as an ordinary offense, potentially impacting the effectiveness of anti-corruption efforts. The study's value lies in its ability to inform policymakers, legal practitioners, and scholars about the complexities surrounding criminal law reform and its consequences in the context of corruption.

Keywords: corruption crimes, criminal law, criminal code (KUHP).

Received: 07/08/2023
Accepted: 01/11/2023
DOI: https://doi.org/10.55908/sdgs.v11i11.1859

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O CRIME DE CORRUPÇÃO CODIFICADO NA LEI NÚMERO 1 DE 2023

RESUMO

Objetivo: Esta pesquisa tem como objetivo analisar as mudanças no direito penal, particularmente no contexto da corrupção, no âmbito do novo Código Penal na Indonésia. Explora as razões por trás da rejeição de certas disposições do novo Código Penal, especialmente aquelas relacionadas com a punição para crimes de corrupção.

Referencial Teórico: O enquadramento teórico desta investigação está enraizado no campo do direito penal e da reforma jurídica. Considera a evolução do direito penal em resposta às necessidades e expectativas da sociedade. O estudo também examina o princípio da proporcionalidade nas sentenças penais, particularmente no que diz respeito aos crimes de corrupção.

Método: Esta pesquisa adota uma abordagem de pesquisa jurídica normativa, contando com uma análise de textos jurídicos existentes e estudos anteriores relacionados ao direito penal na Indonésia. As fontes de dados primárias incluem leis estatutárias na Indonésia, enquanto as fontes de dados secundárias consistem em trabalhos académicos e análises jurídicas.

Resultado e Conclusão: Os resultados desta pesquisa revelam que a rejeição do novo Código Penal se deve principalmente à remoção de artigos específicos relacionados à corrupção. No novo Código, os crimes de corrupção já não são classificados como crimes extraordinários, mas são tratados como crimes comuns, semelhantes ao roubo. Esta mudança tem implicações para as autoridades responsáveis pela aplicação da lei, como a polícia, o Ministério Público e a Comissão de Erradicação da Corrupção, uma vez que confunde os limites da sua jurisdição e responsabilidades no combate à corrupção.

Originalidade/Valor: Esta investigação contribui para a compreensão das alterações legais trazidas pelo novo Código Penal na Indonésia, com foco específico nos crimes de corrupção. Destaca as preocupações e implicações de categorizar a corrupção como um crime comum, com potencial impacto na eficácia dos esforços anticorrupção. O valor do estudo reside na sua capacidade de informar os decisores políticos, profissionais do direito e académicos sobre as complexidades que rodeiam a reforma do direito penal e as suas consequências no contexto da corrupção.

Palavras-chave: crimes de corrupção, direito penal, código penal (KUHP).

1 INTRODUCTION

Several provisions in the Criminal Code are considered no longer relevant to be used as a basis for criminal law enforcement in Indonesia, such as the offense of adultery which has previously been discussed, and other offenses regarding morality which are also considered to be far contrary to the will of society regarding its legal needs (Saragih, 2023). Furthermore, several other provisions, such as the offense of theft, also basically describe the same conditions (Tongat, 2022). Several cases that have attracted public attention in addressing the current conditions of the Criminal Code include the case of wood theft by an Asyiani grandmother; the case of wood theft committed by an old man named Harso Taruno in Gunung Kidul Yogyakarta; the case of wood theft by Artija's

grandmother in Jember; the case of the theft of three cocoa pods committed by Minah's grandmother in Central Java; case of thong theft by Aal in Palu; and a series of other criminal law enforcement cases show that there is no justice in society (Saputra et al., 2023). These cases also prompted a significant reform of criminal law, aligning it more closely with the values and expectations of contemporary society. This reform aimed to address the shortcomings of the existing Criminal Code, which had its roots in the Dutch colonial legacy. The changes in criminal law sought to better reflect the evolving social norms, values, and aspirations of the post-independence era, fostering a legal framework that was more in tune with the needs of the nation and its citizens. This process of legal reform was a crucial step towards achieving a more just and equitable legal system in the post-colonial context (Ward et al., 2022).

It is not enough to deal with the offenses regulated in the current Criminal Code, other problems arise from the general principles adopted in the main book of criminal law inherited from the Dutch colonial era. The principles adhered to, such as the principle of legality, the principle of non-retroactivity, the territorial principle, the personal principle (active national principle), the principle of protection (passive national principle), and the principle of universality have been deemed to have to be immediately integrated following the needs of society (Lagioia & Sartor, 2020; Smirnov et al., 2023). Even though a legal principle is very important in a legal norm and law enforcement, legal principles should now no longer be sacred in their application. This is related to developments in law, criminal acts, society, and demands for a sense of justice in society which are the main focus in carrying out criminal law discussions that are in line with the wishes of society (Fajrin et al., 2023). Based on these conditions, the Draft Criminal Code has attempted to form ideas, ideas, basic concepts, and views based on the ideology of Pancasila which are finally formulated in legal principles as a step towards achieving progressive and responsive law (Gstrein & Beaulieu, 2022).

Efforts to overcome crime can be broadly divided into two parts, namely through "penal" means or criminal law (item "1") and "non-penal" means or outside criminal law (items "2" and "3"). In Muladi's view, as one part of the overall crime prevention policy, criminal law enforcement is not the only focus and hope for being able to resolve or overcome crime completely. This is because crime is essentially a "humanitarian problem" and a "social problem" that cannot be overcome solely by criminal law (Setiawan et al., 2021).

In formulating a law, of course, it must go through a criminalization process, namely determining whether an act that was not initially a criminal act is then made into a criminal act. Every act that is criminalized must of course consider many things because the criminalization process is a central problem in criminal policy, apart from the problem of determining the sanctions that should be imposed (Suartha et al., 2022; Teixeira & Rodrigues, 2021).

At first, the Criminal Code (WvS) was perceived as the foundational framework and a means of standardization. Nevertheless, as it evolved, the Criminal Code is regarded as lacking or incapable of addressing various issues and aspects related to the emergence of novel criminal activities, which naturally align with the evolving perspectives and desires of the population (Dullion, 2022). Moreover, the existing Criminal Code does not stem from the fundamental principles and the socio-philosophical, socio-political, and socio-cultural values ingrained within Indonesian society. Consequently, it raises a legitimate question: can the present Criminal Code still be considered an integral part of the Indonesian legal system, particularly in the realm of criminal law? This remnant of colonial rule, the Criminal Code, lacks a comprehensive criminal law framework as several articles and offenses have been nullified (Saefudin, 2021). As a result, fresh legislation has arisen beyond the purview of the Criminal Code to govern specific offenses and regulations. Nevertheless, these new laws, despite being domestically crafted, continue to operate within the overarching framework of the Criminal Code (WvS) as an initially colonial-conceived foundational system. In essence, the fundamental tenets of the colonial-era criminal law system persist within the structure and essence of Indonesia's legal landscape (Disemadi & Roisah, 2019).

The emphasis on positive criminal law, centered around the Criminal Code, gives rise to apprehensions, particularly concerning its doctrinal and substantial characteristics (Roman, Popescu & Achim, 2023). In imparting the Dutch legacy associated with the Criminal Code, whether explicitly or implicitly, it entails the propagation and internalization of the doctrines, ideas, and substantive standards enshrined within the Criminal Code. It is well-recognized that the Criminal Code is rooted in a liberal individualistic ideology and bears the marked influence of classical school thought, albeit with a trace of neoclassical school influence as well (Schmidt et al., 2021).

In its development, the Government officially promulgated the new Criminal Code (KUHP). This is after President Joko Widodo (Jokowi) signed the regulation on

Monday (2/1/2023). The new Criminal Code is now registered as Law Number 1 of 2023. Quoted from the official website of the Legal Documentation and Information Network, State Secretariat, the Criminal Code was officially promulgated as of Monday (2/1/2023) and ratified by Jokowi and promulgated by Minister of State Secretary Pratikno. The new Criminal Code consists of 37 chapters, 624 articles, and 345 pages which are divided into two parts, namely the article and explanatory parts (Butt, 2023).

Certain criminal acts have been special crimes whose regulations are outside the Criminal Code. However, after the enactment of Law Number 1 of 2023 concerning the Criminal Code, it was regulated in it to have a complete codification of criminal law, one of which is the Corruption Crime which is regulated in Articles 603 and 604 (Ivanova, 2023). This arrangement faced opposition, particularly in Article 603, which stipulates that individuals involved in corruption should face imprisonment for a minimum of two years and a maximum of 20 years. Additionally, corrupt individuals may also be liable for a fine ranging from at least category II or IDR 10 million to a maximum of IDR 2 billion. Upon comparing the sentences imposed on corrupt individuals, it becomes evident that the prison sentences outlined in the RKUHP are less severe or have been reduced in comparison to the prison sentence provisions set forth in Law Number 20/2001 concerning the Prevention of Corruption Crimes (Agustino et al., 2023). In Article 2 of the Law, it is explained that corruptors can receive a minimum prison sentence of four years and a maximum of 20 years and be fined at least IDR 200 million.

Based on the background description above, this research will then look at how criminal law has been changed in Law Number 1 of 2023 concerning the Criminal Code, as well as how the rejection of criminal acts of corruption will be codified in Law Number 1 of 2023 concerning the Criminal Code.

2 THEORETICAL FRAMEWORK

2.1 CORRUPTION CRIME

Corruption finds its roots in the Latin words Corruptus and Corruption, which signify wickedness, moral decay, deviation from purity, or the use of dishonest and slanderous language. According to the Black Law Dictionary, Corruption refers to actions taken to acquire personal benefits that conflict with official responsibilities and ethical standards. It involves a misuse of authority or a breach of trust by an individual, wherein

they violate the law and engage in improper actions to gain advantages for themselves or another party, contrary to their prescribed duties and ethical principles (Methven, 2020).

In the context of criminology or the science of crime, there are nine types of corruption, namely:

a. Political bribery extends to influence within the legislative branch, which serves as the governing body responsible for creating laws. In the realm of politics, this entity is susceptible to external influences due to the financial contributions often tied to specific businesses during general elections. Business figures aspire to see lawmakers in parliament enact regulations that favor their interests (Krome, 2022).

b. Political kickbacks involve activities associated with the contract-based working system between government officials responsible for implementation and entrepreneurs. These practices offer lucrative opportunities for the involved parties to generate substantial financial gains (abas Azmi & Zainudin, 2021).

c. Election fraud refers to corrupt practices directly connected to fraudulent activities during general elections (Gonzalez, 2021).

d. Corrupt campaign practice entails candidates who currently hold state power campaigning using state facilities or state funds (Bakken & Wang, 2021).

e. Discretionary corruption refers to corrupt activities that occur due to the latitude or freedom in policy determination (Gamayuni et al., 2023).

f. Illegal corruption involves corrupt practices executed by deliberately obfuscating legal language or misinterpreting legal provisions. This type of corruption is particularly susceptible to being perpetrated by law enforcement officials, including police officers, prosecutors, lawyers, or judges (Jancsics, 2021).

g. Ideological corruption encompasses a fusion of discretionary and illegal corruption committed with collective or group objectives in mind (Boakye et al., 2022).

h. Mercenary corruption involves the misuse of power solely for personal gain, without consideration for any broader objectives or principles (Stanislav & Alina, 2019).

In the context of criminal law, not all types of corruption that we know of qualify as criminal acts. Therefore, for any act that is declared as corruption, we must refer to the

Corruption Eradication Law. The elements of the Corruption Crime as referred to in Law Number 31 of 1999 are:

a. The perpetrator (subject), following Article 2 paragraph (1). This element can be linked to Article 20 paragraphs (1) to (7)

b. When a corporation is involved in a criminal act of corruption, criminal charges and penalties can be imposed on both the corporation itself and its management.

c. A corporation is deemed to have committed a criminal act of corruption when individuals, whether in an employment or other relationship, act within the corporate environment, either individually or collectively, to commit the criminal act.

d. In the event of criminal charges against a corporation, the corporation is legally represented by its management.

e. The representation of the corporation's management, as mentioned in paragraph (3), may also be carried out by a designated representative.

f. The judge has the authority to require the personal appearance of the corporation's management in court and can order their presence if necessary.

g. When criminal charges are filed against a corporation, the summons and related documents are served to the management at their place of residence or office.

h. The primary penalty that can be imposed on a corporation is a monetary fine, with the maximum penalty potentially increased by one-third.

i. Contrary to both formal and substantive legal principles.

j. To enrich oneself, others, or other corporations.

k. Has the potential to harm the country's financial or economic interests.

l. Under specific circumstances, if the criminal act of corruption described in paragraph (2) occurs, the death penalty may be applied (Kemp et al., 2021).

2.2 CRIMINAL LAW

Criminal law is regulations regarding crimes. The word "criminal" is the same as suffering or torture, which means something that is "penalized", that is, the authority that has power is delegated to an individual as something unpleasant for him or her and as

suffering, but there must be a certain reason for assigning this punishment (Aydin & Avincan, 2020). There are 2 (two) main elements of criminal law, namely:

a. The existence of a "norm", namely a prohibition or order;

b. There are "sanctions" for violating these norms in the form of threats of criminal law (Suartha et al., 2022).

Several experts have their own opinions regarding the definition of criminal law. The definition of criminal law according to several experts is as follows:

a. van Hamel: "All the basics and rules adopted by a State in implementing legal order, namely prohibiting what is contrary to the law and imposing misery on those who violate these prohibitions" (Colson, 2019).

b. Simons: "All the orders and prohibitions imposed by the State which are threatened with a penalty (criminal) for anyone who does not obey them, all the rules that determine the conditions for the consequences of the law and all the rules for implementing (imposing) and carry out the crime" (Davis, 2022).

c. Pompe: "All the legal rules that determine what actions should be punished and what kind of punishment that is" (Shuhufi et al., 2023)

Based on the provided definitions, it can be inferred that criminal law is a component of the overall legal framework within a country. Its purpose is to establish the foundational principles and regulations for:

a. Identifying actions that are prohibited, accompanied by potential threats or penalties in the form of specific punishments for individuals who breach these prohibitions (Mahendra, 2019);

b. Specifying the circumstances and conditions under which those who have violated these prohibitions may be subject to or face punishment, as outlined in the associated threats or penalties (Smith & Miller, 2022);

c. Establishing the procedures for imposing a criminal offense when there is suspicion that someone has breached the prohibition (Akande & Gillard, 2019).

The rules of criminal law can be stated to be public law, namely an orderly legal relationship and the emphasis is not on the interests of the individual who is directly harmed, but rather is up to the government (law enforcement apparatus) as the representative of the "public interest". Judging from its nature, criminal law is dogmatic, and expressed in legal words. To obtain clarity about what is meant by these words, legal

interpretation is needed. Furthermore, the object of criminal law is positive law (Adi, 2021).

Based on its scope, criminal law can be divided into 2 parts. These divisions include the following:

a. Jus poenali (material criminal law)

It is several regulations that contain the formulation of criminal incidents and their legal threats, known as substantive criminal law (material criminal law), namely legal rules regarding offenses that are threatened with criminal penalties, regarding matters of "what, who, and how a punishment can be imposed, contained in the Criminal Code and other criminal regulations outside the Criminal Code" (Ali & Setiawan, 2022).

b. Ius poenandi (formal criminal law)

It is a legal rule regarding the State's right to punish someone who commits a criminal incident, legal provisions concerning the manner or process of carrying out actions by the authorities to take action against citizens who are accused, and responsibility for an offense committed. This is a realization of substantive or material criminal law, namely criminal procedural law contained in the Criminal Procedure Code and other provisions of criminal procedural law, which are specifically found outside the Criminal Code (Aborisade, 2021).

In connection with implementing criminal law provisions, there are 2 (two) teachings, namely:

a. De Klassike School

According to classical teachings, the purpose of criminal law provisions is to protect individuals against state power. This is in line with the statement of Markies de Becaria, JJ. Rouseu and Montesque, that criminal law must be regulated in law, the examination of suspects or defendants must be humane, and the king's power must be limited so that the interests of individuals from state power can be protected by law (Kalpouzos, 2020).

b. De Modern Classic

According to modern teachings, the purpose of criminal law is to protect society against crime. Crime is a very dangerous disease of society, therefore criminal law aims to protect the interests of society (van den Brink, 2019).

3 METHOD

This research will use normative legal research methods to analyze criminal acts of corruption which have been codified in Law Number 1 of 2023. This research method will focus on analyzing the legal text contained in this law, to understand the concepts, definitions, elements, and sanctions related to criminal acts of corruption regulated in this new law. In addition, this method will involve literature research to examine previous developments in criminal law on corruption and how the provisions in Law Number 1 of 2023 are different or in line with existing legal approaches. This normative legal research method will help gain an in-depth understanding of how corruption criminal law is conceptualized within the new legislative framework. Analysis of the norms contained in this law will allow researchers to identify the weaknesses and strengths of this regulation, as well as its potential impact on efforts to eradicate corruption in society. Thus, this research will provide an important contribution to the understanding of criminal corruption law in Indonesia, especially in the context of new regulations stipulated through Law Number 1 of 2023 (Rahayu & Ke, 2020).

4 RESULT AND DISCUSSION

4.1 CHANGES TO CRIMINAL LAW IN LAW NUMBER 1 OF 2023 CONCERNING THE CRIMINAL CODE

It must be acknowledged that in the Era of Independence, many efforts have been made to adapt the Criminal Code inherited from the colonial era to the position of the Republic of Indonesia as an independent country and to other developments in social life, both national and international. In this case, in addition to various changes made through Law Number 1 of 1946 Jo. Law Number 73 of 1958, the Criminal Code has undergone several updates and/or changes.

The various reforms and/or changes that have occurred are ad hoc have an evolutionary nuance and cannot meet the demands of the 4 (four) fundamental change missions (decolonization, democratization, consolidation, and harmonization) so that the preparation of a new Criminal Code must be carried out.

The desire of the Indonesian people to have a National Criminal Code that is in line with the soul of the nation has been carried out for a long time through efforts to reform the Criminal Code. The codification of the Dutch East Indies Criminal Code into the National Criminal Code is one of the real efforts in developing law in Indonesia. The

R-National Criminal Code is the result of exploring the basic ideas of the state philosophy of Pancasila and the 1945 Constitution (Supardin & Syatar, 2021).

In connection with the reform of the Criminal Code, according to Muladi, there are five characteristics for the operation of Indonesia's material criminal law in the future, namely: a) The forthcoming national criminal law should not only be shaped for sociological, political, and pragmatic reasons but should also be consciously structured in alignment with the national ideology Pancasila; b) The forthcoming national criminal law should not overlook aspects pertaining to the human condition, the environment, and the traditions of the Indonesian nation; c) The forthcoming national criminal law should have the capacity to adapt to the evolving global trends observed in civilized societies; d) The forthcoming national criminal law should also take into consideration preventative measures or crime prevention aspects. This is intimately linked to the acknowledgment that the criminal justice system, criminal policies, and law enforcement policies are intertwined with interactive social policies; and e) The forthcoming national criminal law should continually be receptive to all forms of scientific and technological advancements to enhance its effectiveness within society.

Mardjono Reksodiputro further stated in his book that in the draft of the new national Criminal Code formulated by the Drafting Team, there were several principles contained in the drafters, including: a) Criminal law also serves the purpose of emphasizing or reinforcing fundamental social values of conduct within the unitary State of the Republic of Indonesia, which is grounded in the philosophy and ideology of Pancasila; b) Criminal law should, to the greatest extent possible, be employed only in situations where alternative methods of social control are either ineffective or cannot reasonably be expected to be effective; c) When utilizing criminal law within the constraints of points (a) and (b) above, earnest efforts must be undertaken to ensure that the approach minimally encroaches upon individual rights and freedoms, without diminishing the protection of the collective interests of a modern democratic society; and d) Therefore, the draft National Criminal Code must clearly and in language that citizens can understand, formulate: What actions constitute a criminal act; And What kind of error is required to provide criminal responsibility for a perpetrator?

After a long journey, the RKUHP has been ratified and recorded as Law Number 1 of 2023. The new Criminal Code consists of 37 chapters, 624 articles, and 345 pages which are divided into two parts, namely the article and explanatory parts. The advantage

of the Criminal Code Law is that there are alternative sanctions. Prison sentences can be replaced with fines, fines can be replaced with supervision or social work. For example, in one of the articles related to vagrancy which is considered a criminal offense. This article explains that the prohibition on vagrancy is a limitation to maintaining public order. The sanction is not deprivation of the right to freedom but only a fine or other punishment.

However, there are still several articles that are crucial issues and need discussion to make them clearer. These issues include those related to the laws that exist in society (the living law), the death penalty, attacks on the dignity of the president and vice president, criminal acts due to having supernatural powers, doctors or dentists carrying out their work without permission and criminal acts of corruption.

4.2 REJECTION OF CORRUPTION CRIMES TO BE CODIFIED IN LAW NUMBER 1 OF 2023 CONCERNING THE CRIMINAL CODE

The public's desire for severe punishments for corrupt individuals has faced another obstacle with the approval of the Draft Criminal Code (RKUHP) on December 6, 2022. This situation highlights the growing ambiguity and setbacks in the legal and political approach to combating corruption (Wiratraman, 2022). Many of the provisions related to anti-corruption within the RKUHP appear to hinder the efforts to combat corruption effectively. This issue can be traced back to the lack of a clear and coherent strategy from the government and the DPR (People's Consultative Assembly) in formulating an effective approach to eradicate corruption.

The approval of the RKUHP has led to a situation where the government's proposal includes reduced penalties for individuals involved in corruption. In essence, there are at least four significant concerns or criticisms regarding the incorporation of corruption-related articles in the new Criminal Code (KUHP).

a. Loss of the specific nature of criminal acts of corruption (Tipikor).

It's important to note that the inclusion of Corruption Crimes within the Criminal Code would remove the specific nature of these offenses, essentially categorizing them as general crimes. Consequently, corruption would no longer be considered an exceptional or unique form of criminal activity. Corruption crimes often involve intricate and evolving methods, and their societal impact can be highly detrimental. It is fitting that the regulations governing corruption offenses remain contemporary, flexible, and

capable of adapting to the evolving landscape of such crimes in society. Moreover, Indonesia, as a signatory to the UN Convention against Corruption (UNCAC), has not yet criminalized certain offenses recommended by the convention. As a result, it would be more appropriate for legislators to prioritize amending the existing Corruption Law rather than inserting problematic Corruption articles into the Criminal Code.

b. Duplication of articles on main crimes (core crimes) regulated in the Criminal Code with the original law.

To illustrate with an actual provision, Article 603 of the Criminal Code mirrors Article 2 of the Corruption Law. However, a key issue arises in that this particular article within the Criminal Code lowers the minimum penalty for imprisonment from 4 years (as stipulated in the Corruption Law) to 2 years, and it decreases the minimum fine that can be imposed from IDR 200 million to IDR 10 million. If in one case there is the use of two laws with duplication and the same offense but the criminal threats are different, this will open up opportunities for law enforcement officials to use their discretion to 'buy and sell' the articles that are most profitable for corruption suspects.

The minimum reduction in corporal punishment has also occurred in at least several articles in the Criminal Code. While there are instances where certain articles within the Criminal Code increase the minimum prison sentence, as seen in Article 604 corresponding to Article 3 of the Corruption Law, raising the minimum imprisonment period from 1 year to a minimum of 2 years, there is still a notable concern about the overall adjustments made to penalties in the context of corruption offenses. However, this is certainly not commensurate with the subjects regulated in this article, namely, public officials or state administrators. The diminished level of punishment for those involved in corruption, as outlined in the new Criminal Code, intensifies the urgency of the anti-corruption agenda. This concern is substantiated by records from the ICW Sentencing Trend in 2021, which indicate that out of 1,282 corruption cases, the average prison sentence imposed was merely 3 years and 5 months. For example, Djoko Tjandra, where the Jakarta High Court granted the appeal and gave Djoko Tjandra a reduced sentence of 1 year in prison for the case of removing red notices and processing the Supreme Court's fatwa, which was originally 4.5 years to 3.5 years in prison. Apart from that, Jefri Sitindaon, who is a former Bank Sumut official, Jefri, is suspected of corruption in the procurement of official car rentals and operations of Bank Sumut. Initially, Jefri was

sentenced to 7 years in prison. However, the judge reduced his sentence to 3 years in prison after a review.

This problem was further exacerbated by the passing of the Corrections Law which provided for those convicted of corruption cases to obtain remission and conditional release without having to pay additional fines and compensation money, and did not have to become justice collaborators.

c. It lacks provisions concerning supplementary penalties such as restitution payments.

This situation significantly undermines the effort to recover assets derived from criminal activities. ICW's findings reveal that in the trend of verdicts for the year 2021, out of the total state losses amounting to IDR 62.9 trillion, the compensation recovered was a mere IDR 1.4 trillion. Moreover, several crucial regulations, such as the Asset Confiscation Draft Law, have never been included in the national legislative program's list of priorities.

d. Potentially hampers the process of investigating corruption cases.

Indeed, the explanation provided in Article 603 of the Criminal Code specifies that the determination of harm to state finances relies on the findings of an examination carried out by the state financial audit institution. This implies that the authorized entity in this context is solely the Financial Audit Agency (BPK). It's worth noting that the BPK's assessments of state losses often involve a lengthy process, which can consequently impede the timely identification of suspects by law enforcement authorities.

The regulations in the Criminal Code are contrary to the Constitutional Court (MK) decision Number 31/PUU-X/2012 which confirms that law enforcers cannot only coordinate with the BPK when calculating state losses. However, it can also coordinate with other agencies, even allowing law enforcers to be able to prove themselves beyond the findings of these state agencies. Based on the arguments above, it can be concluded that the formulation of the Corruption Article in the Criminal Code is a 'sweet gift' and a red carpet for corruptors for the umpteenth time.

Articles 603 – 606 in Law Number 1 of 2023 which have generated polemics must be thoroughly re-examined. Apart from that, elements of society play an important role in this matter. Article 96 of Law Number 11 of 2012 states that when a statutory regulation is to be formed, the public has the right to assist in its formation, whether in written or oral form. The public can participate in the RKUHP through public hearings, outreach,

work visits, discussions, seminars, and workshops. The voice of the community must be heard, one of which focuses on the existence of specific criminal acts of corruption, one of which is the easing of sanctions in Law Number 1 of 2023 and is different from the Corruption Crime Law. Following the legal adage "vox populi vox dei" which means "the voice of the people is the voice of God" (Li, 2022).

5 CONCLUSION

The refusal of Corruption Crimes to be codified in Law Number 1 of 2023 concerning the Criminal Code is due to the repeal of several articles related to corruption offenses as regulated by Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 21 of 2001. The serious implication of the implementation of the New Criminal Code in the future is that corruption offenses are not extraordinary crimes, i.e. they are equated with ordinary offenses such as theft or embezzlement offenses. The formation of the New Criminal Code carries out a decolonization mission by carrying out partial recodification. However, it turns out that in its formalities there has been a total recodification because there has been a change from the aspect of the philosophy of punishment, towards a philosophy of non-punishment or in other words leaving the philosophy of punishment alone. In connection with the abandonment of the principle of lex specialis derogat legi generalis, this is an implication of the repeal of five articles in Law Number 31 of 1999 as amended by Law Number 21 of 2001, namely Article 2 paragraph (1), Article 3, Article 5, Article 11, and Article 13, as regulated in Article 622 paragraph (1) letter l of the New Criminal Code. The legal consequences of the a quo condition imply that there is no longer any specific authority between law enforcement officials, from the Police, and Prosecutor's Office, to the Corruption Eradication Commission (KPK) in carrying out their duties. One example is that the Corruption Eradication Committee no longer has the authority to conduct wiretapping without permission from the court.

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