

A Human Rights Discourse on Death Penalty for Corruptors during the Outbreaks: Reflection on the Covid 19 Pandemic

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Abstract

The Covid-19 pandemic profoundly impacted Indonesia's stability, yet amidst these challenges, a senior official within the Ministry of Social Affairs engaged in corrupt practices related to social grants, an offense stipulated under Article 2 paragraph (2) of Law No. 20 of 2001, amending Law No. 31 of 1999 on Corruption, which mandates the death penalty. This research examines the tension between imposing the death penalty on corruption offenders during emergencies and the human rights perspective, particularly in Indonesia. Employing a qualitative normative juridical method rooted in criminal law and human rights standards, the study reveals that despite the provision allowing for the death penalty for corruption during Covid-19, Indonesia adopts a moderately particularistic human rights stance that regards human rights as universal principles while addressing national concerns. The study highlights Indonesia's nuanced approach to human rights in the context of criminal justice, particularly



concerning the application of the death penalty to corruption offenders during crises. It underscores the country's effort to uphold human rights as universal while recognizing national circumstances. This research contributes to ongoing scholarly debates on the intersection of emergency measures, criminal justice, and human rights, offering insights into how states navigate legal provisions in times of crisis to maintain stability without compromising fundamental rights. The findings provide a critical perspective for policymakers, legal practitioners, and human rights advocates grappling with issues of justice and rights protection amid global emergencies.

Keywords

Covid19 Pandemic; Death Penalty in Indonesia; Human Rights

Introduction

Since the first case of Covid 19 was announced by President Joko Widodo on March 2nd 2020,¹ the Covid 19 case has yet to be resolved. For more than a year, Indonesia has struggled to survive the difficult conditions caused by various restrictions on activities to reduce the spread of Covid 19 in Indonesia.² This policy has drastically reduced the activity and movement of people throughout Indonesia, especially in big cities.³ The Covid 19 pandemic in Indonesia has had a very significant impact and consequence on the decline in the income of most families in Indonesia. A survey conducted by The SMERU Research Institute Athia

¹ Marchio Irfan Gorbiano, "BREAKING: Jokowi Announces Indonesia's First Two Confirmed COVID-19 Cases - National - The Jakarta Post," 1, accessed March 15, 2023, <https://www.thejakartapost.com/news/2020/03/02/breaking-jokowi-announces-indonesias-first-two-confirmed-covid-19-cases.html>.

² M. Agus Prayudi, "Dampak Covid-19 Terhadap Pariwisata Di Daerah Istimewa Yogyakarta," *Jurnal Nusantara: Jurnal Ilmiah Pariwisata Dan Perhotelan* 3, no. 2 (2020): 14.

³ Wibowo Hadiwardoyo, "Kerugian Ekonomi Nasional Akibat Pandemi Covid-19," *Baskara: Journal of Business & Entrepreneurship*, 2, 2, no. Business and Entrepreneurship (March 4, 2020): 83–92, <https://doi.org/DOI:10.24853/baskara.2.2.83-92>.

Yumna⁴ recorded that 74.3% of households experienced a decrease in income. People who earn from wholesale and retail trade⁵ experience Some of the problems include hampered production (18.83%), access to capital (19.39%), decreased sales or demand (22.9%), difficulty in raw materials (18.875), and hampered distribution (20.1%).

The decline in family income due to the Covid 19 pandemic also has an impact on the poverty rate which has risen again. Central Bureau of Statistics (BPS)⁶ in recorded a 10.19% increase in the poverty rate in Indonesia in September 2020. The constant pressure, making restrictions imposed by the Government, was heeded by the public due to the pressure of economic factors the government is not just silent, through the policy of assistance schemes, people of various social classes in fact it has been assisted by various programs, ranging from those related to food, assistance for those affected by layoffs, micro business assistance, etc. The World Health Organization (WHO) responded to various reports so that on March 11, 2020 it decided to announce Covid19 as a global pandemic by recording More than 121,000 cases of infection are spread throughout the world. From these data, various countries, especially those with high positive COVID-19 rates, can be categorized as being in a non-natural disaster.

The government through the Ministry of Social Affairs is intensively in distributing programs to help many people rise from Covid19. Unfortunately, this Ministry received bad news after Juliari Batubara who held an important position in the Ministry actually committed corrupt practices against the billions of funds that had been prepared for public

⁴ Cantika Adinda Putri, "Survei: Hampir 75% Pendapatan Keluarga RI Drop Selama Pandemi," CNBC Indonesia, 2021, <https://www.cnbcindonesia.com/news/20210304190818-4-227950/survei-hampir-75-pendapatan-keluarga-ri-drop-selama-pandemi>.

⁵ Dani Prabowo, "Satu Tahun Pandemi Dan Persoalan Pencatatan Data Covid-19 Yang Belum terselesaikan," *Kompas.Com*, 2021, <https://www.msn.com/id-id/berita/dunia/satu-tahun-pandemi-dan-persoalan-pencatatan-data-covid-19-yang-belum-terselesaikan/ar-BB1e8cHE?ocid=BingNewsSearch>.

⁶ Dwi Hadya Jayani, "Potret Kemiskinan Di Indonesia Akibat Covid-19 - Analisis Data Katadata," Katadata, 2021, 45, <https://katadata.co.id/muhammadriddhoi/analisisdata/602f7fec0d335/potret-kemiskinan-di-indonesia-akibat-covid-19>.

assistance. Meanwhile, corruption that is committed during a disaster is classified as an emergency as stated in Article 2 paragraph (2) of the Corruption Act. Robert Klitgaard stated that corruption can be in the form of promises, threats or both; it can be initiated by civil servants or the community concerned, it can involve illegal work or it can be legal inside or outside a public organization.⁷

Corruption has entered a mental level and has even "rooted" like the culture in Indonesian society. Corruption can even follow the development of modernization. Increasingly, corruption is getting stronger, lasting, and is embedded in the minds of the people. Therefore, corruption is classified as an extraordinary crime.⁸ Corruption is a crime of extraordinary quality and quantity and can significantly erode the interests of the people's economy. The Corruption Act Number 20 Year 2001 as a positivism-oriented legal science carries the hope of contributing to the development of the legal system and social change for substantive justice.⁹

The death penalty that can be imposed when a country experiences a national disaster, in fact, it still causes polemic in its application. Prof. M. Roeslan Saleh expressed the awareness of the international community about the bad application of the death penalty, so that various modern countries have abolished the death penalty from their legislation. This is based on human rights at the conceptual level which are developing complexly.¹⁰

⁷ Ni Wayan Sinaryati and I Gede Artha, "Formulative Policy of Death Penalty for Corruptors in Indonesia," *Prizren Social Science Journal* 4, no. 2 (2020): 55–69, <https://doi.org/10.32936/pssj.v4i2.151>.

⁸ Toba Sastrawan Manik and Sunarso Sunarso, "Death Penalty for Corruptors: Between the Human Rights and Challenges of Progress in Indonesian Law," *Fiat Justisia: Jurnal Ilmu Hukum* 14, no. 3 (2020): 240, <https://doi.org/10.25041/fiatjustisia.v14no3.1773>.

⁹ Ismail Rumadan, "Problem Lembaga Pemasyarakatan Di Indonesia Dan Reorientasi Tujuan Pemidanaan," *Jurnal Hukum Dan Peradilan* 2, no. 2 (2013): 81, <https://doi.org/10.25216/jhp.2.2.2013.263-276>.

¹⁰ Muhammad Amin Hamid, "Penerapan Hukuman Mati Bagi Terpidana Koruptor Ditinjau Dari Perspektif Hak Asasi Manusia," *Jurnal Hukum & Pembangunan* 19, no. 6 (2017): 519, <https://doi.org/10.21143/jhp.vol19.no6.1180>.

Various arguments against various opinions regarding the imposition of the death penalty were expressed by various figures, including: Cesare Becaria, (*de delitti e delle pene* / on crimes and punishment), does not believe in the death penalty by the state because based on the teachings of the social contract, community survival is still needed to prevent crime. The death penalty cannot prevent crime and is even a form of state brutality. Cesare argued that the death law would only waste human resources; Voltaire, who argued from a utility point of view, asked for a re-examination of the Jean Calas case. After being re-examined (1765) it turned out that Calas was proven innocent, but this was useless considering the death sentence had been imposed on Calas (1762). Based on this incident, it is desired that the people be given legal unity and legal certainty and the imposition of capital punishment as much as possible is limited;¹¹ The book entitled *Du Contract Social* written by JJ. Rousseau argues that based on the fiction of the community agreement (*volonte generale*), no one has the right to give up/ sacrifice their own life. Therefore, no one by agreement can give the kings or rulers the right of life and death to themselves. A social contract cannot justify the death penalty.

The definition of the death penalty cannot be found clearly in the legal literature, so the understanding of the death penalty itself is adapted from a language dictionary. The death penalty basically only threatens certain criminals because it is the toughest type of punishment, is extraordinary in nature and is only imposed when absolutely necessary.¹² The death penalty is basically a classic punishment that has begun to be abandoned because of its questionable effectiveness. The various reasons above are used as justification for groups against capital punishment. Even so, the death penalty in the world is still not completely abolished. In the perspective of the Universal Declaration of Human Rights 1948, article 3 explains that everyone has the right to a person's livelihood, freedom and

¹¹ Iqbal Kamalludin and Barda Nawawi Arief, "Kebijakan Formulasi Hukum Pidana Tentang Penanggulangan Tindak Pidana Penyebaran Ujaran Kebencian (Hate Speech) Di Dunia Maya," *Law Reform* 15, no. 1 (2019): 17, <https://doi.org/10.14710/lr.v15i1.23358>.

¹² Iqbal Kamalludin et al., "Politik Hukum Dalam Kebijakan Hukum Pidana LGBT," *Cita Hukum* 6, no. 2 (2018): 78, <https://doi.org/10.15408/jch.v6i2.7805> Abstract.

safety. This provision is then reinforced by conventions in the field of civil and political rights.¹³

Method

The research was conducted using a qualitative normative juridical method¹⁴ that focuses on the study of the principles and norms of criminal law and human rights. The statute approach is carried out supported by a prescriptive descriptive analysis. Data is based on primary legal materials in the form of various laws and regulations related to research and secondary legal materials in the form of books and journals as a complement.

Result and Discussion

A. Death Penalty in Indonesia: A Human Rights Discourse

Every year there are some death penalty decisions at the court of first instance, appeal, cassation, or judicial review in Indonesia. In Indonesia, data is collected by the Institute for Criminal Justice Reform in Indonesia, taken from the Case Tracing Information System (SIPP) for all District Courts in Indonesia,¹⁵ the website of the Directory of Supreme Court Decisions, data from the Directorate General of Corrections at the Ministry of Law and Human Rights, and news coverage by journalistic media. Throughout 2021, there were 146 death penalty cases with a total of 171 defendants. The figures collected show a downward trend in the number of death penalty cases in the first year of the 2020 pandemic, with a total of 173 cases, or a decrease of -15.6% with a total of 210 defendants, a decrease of -18.6%.

If a comparison is made of death penalty cases in the same period

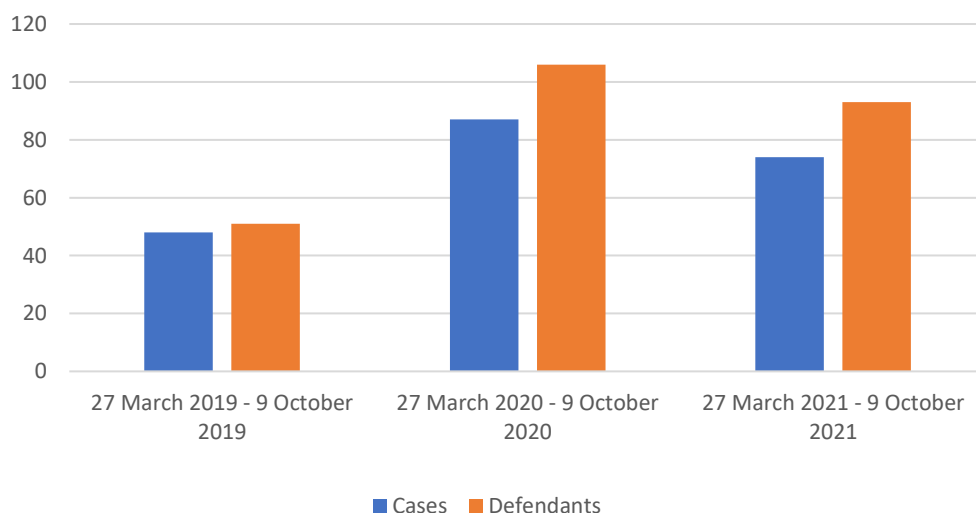
¹³ Amelia Arief, "Problematika Penjatuhan Hukuman Pidana Mati Dalam Perspektif Hak Asasi Manusia Dan Hukum Pidana," *Jurnal Kosmik Hukum* 19, no. Hukum (2019): 22.

¹⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, 16th ed. (Surabaya: Kencana, 2021), 21.

¹⁵ "Direktori Putusan," accessed March 15, 2023, <https://putusan3.mahkamahagung.go.id/>.

per year, namely cases recorded at the time of sentencing at the court of first instance between March 27 and October 9 2021. Although the data for that period does not show an increase from 2020, the sentencing cases The death penalty in 2021 still shows a higher number than before the pandemic which was recorded in 2019. There were 74 death penalty cases for which first-degree verdicts were handed down between March 27, 2021 and October 9, 2021, with 93 defendants. If you add to the cases where verdicts were handed down at the appeal and cassation level also within that time frame, the number will increase to 85 cases with 109 defendants.

FIGURE 1. Comparison of Death Penalty Cases Before and During the Pandemic



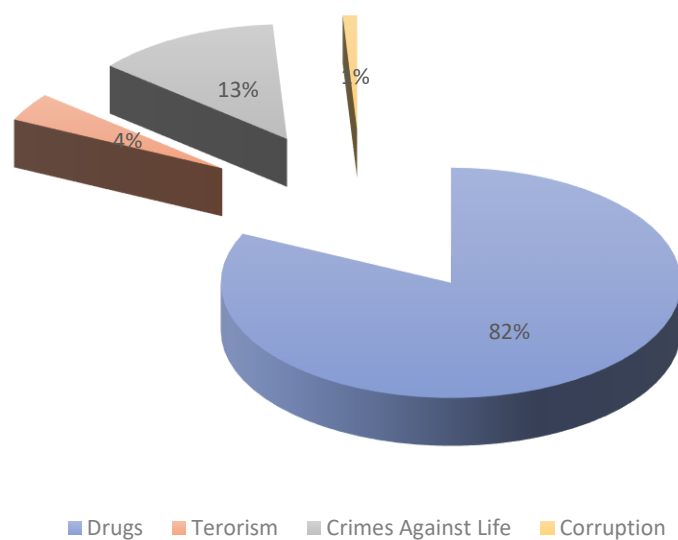
Sources: Direktori Putusan Mahkamah Agung, 2021.

Death penalty cases in Indonesia are still dominated by narcotics crimes.¹⁶ The details of the death penalty above are 120 cases of Narcotics (82%), 6 cases of Terrorism (4%), 1 case of Corruption (1%), and 19 cases of Crimes against Life (13%). The crimes against life consisted of 13 cases of premeditated murder, 1 case of premeditated murder and theft, 2 cases

¹⁶ Ade Paranata, "The Miracle of Anti-Corruption Efforts and Regional Fiscal Independence in Plugging Budget Leakage: Evidence from Western and Eastern Indonesia," *Helijon* 8, no. 10 (2022): 44, <https://doi.org/10.1016/j.helijon.2022.e11153>.

of child rape resulting in death, 2 cases of premeditated murder and child rape, 1 case of premeditated murder and violence against children resulting in death. Meanwhile, one corruption case that was found was in the name of the defendant Heru Hidayat who was charged with the death penalty, which was the first type of corruption case.

FIGURE 2. Types of Cases Prosecuted and/or Sentenced to Death (January -December 2021)

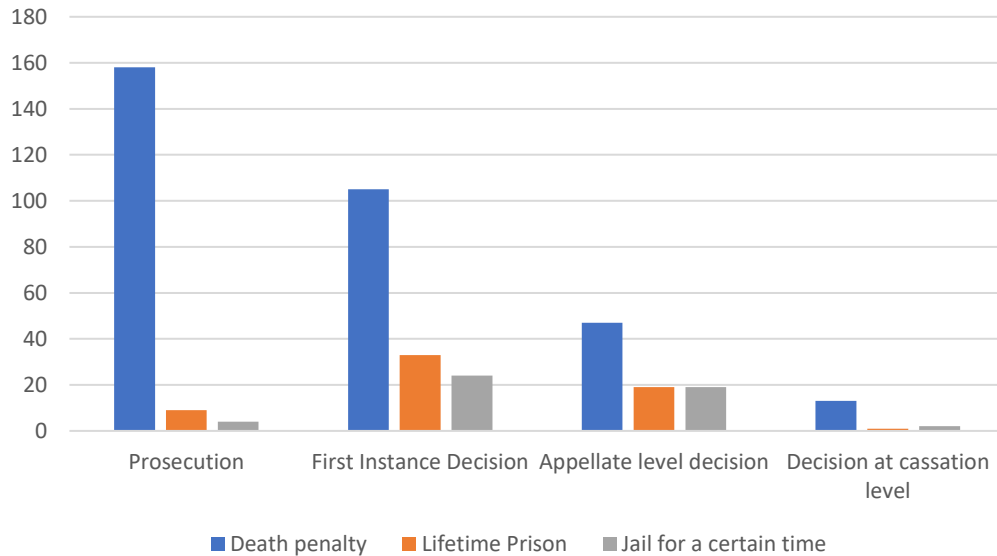


Sources: Direktori Putusan Mahkamah Agung, 2021.

There were 158 defendants who were demanded the death penalty and 105 defendants who were sentenced to death in the first level decisions. In addition, there were 47 defendants and 13 defendants who were sentenced to death respectively found at the appeal level and cassation level decisions. Death penalty sentences at both levels were given in contexts ranging from strengthening the decision of the previous level court, the cassation application being rejected, to changing the sentence from the previously non-death penalty sentence.¹⁷

¹⁷ Marisa Kurnianingsih and M. Zaki Attirmidzi, "The Effectiveness of Imposing the Death Penalty for Corruption Perpetrators as a Solution for Handling Corruption during the Covid-19 Pandemic," *Law and Justice* 6, no. 1 (2021): 72, <https://doi.org/10.23917/laj.v6i1.14048>.

FIGURE 3. Comparison of Death Penalty with Other Types of Crime (January-December 2021)



Sources: Direktori Putusan Mahkamah Agung, 2021.

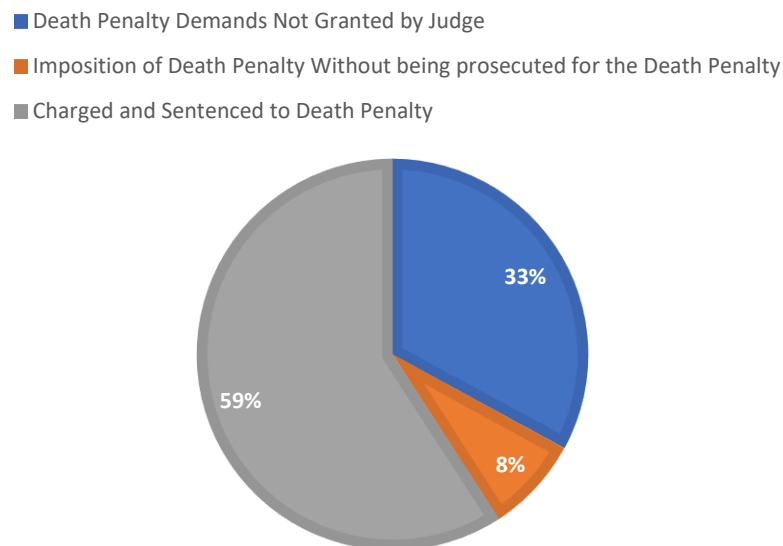
If you look at the area, death penalty cases were found in 18 regions out of a total of 33 provinces. The island of Sumatra is the place where death penalty sentences are most commonly found, especially the highest death penalty charges, namely in the Provinces of Nangroe Aceh Darussalam and North Sumatra. Aceh Province has a total number of death penalty charges against 46 defendants, 60% more than the province with the second highest number of death penalty charges, namely North Sumatra with 28 defendants. Likewise, the number of death penalty sentences by judges, whether through decisions at the district court (PN), high court (PT), and supreme court (MA) in Aceh and North Sumatra, is also among the highest, namely in total each of 27 and 32 defendants. In addition, the number of prosecutions and judge's verdicts against a total of 27 defendants.

Meanwhile on the island of Java, death penalty cases were found in 5 provinces namely Banten, DKI Jakarta, West Java, Central Java and East Java. DKI Jakarta and West Java are the two provinces with the highest number of death penalty sentences, namely 13 defendants in DKI Jakarta, and 22 defendants in West Java Province. Meanwhile, the highest number of death penalty prosecutions on the island of Java were also in DKI

Jakarta and West Java Provinces. A total of 12 and 20 defendants were charged with the death penalty.¹⁸

Kalimantan only recorded death penalty cases spread over 3 provinces, namely West Kalimantan, East Kalimantan and South Kalimantan with a total of 5 defendants being prosecuted and sentenced at most. Meanwhile, death penalty cases in the eastern part of Indonesia were only found in South Sulawesi, Central Sulawesi, NTT, and Maluku where prosecutions and sentences only ranged from 1-2 defendants.¹⁹

FIGURE 4. Various Forms of Imposing and Prosecuting the Death Penalty Against Defendants (January-December 2021)



Sources: Direktori Putusan Mahkamah Agung, 2021.

In 2021, there are 54 defendants who have received death penalty charges but the judges have not granted them, both at first level, appeal, and cassation. The opposite phenomenon was also found, in which 13 defendants were sentenced to death by judges without having previously been charged with capital punishment by the public prosecutor. However, the trend that occurred the most was cases where death penalty charges

¹⁸ Diky Anandya, Kurnia Ramadhana, and Lalola Easter, "Laporan Tren Penindakan Kasus Korupsi Tahun 2021," *Indonesia Corruption Watch*, 2022, 25.

¹⁹ Korupsi Lintas and Trias Politika, "Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 Penulis : Diky Anandya Lalola Easter," 2023, 21.

were granted by judges, namely against as many as 97 defendants. Meanwhile, the remaining 7 defendants out of a total of 171 defendants are still in the process of being prosecuted as of January 11, 2022, the latest data was updated.²⁰

When viewed from the place where the case was tried, there are 10 district courts that are known to have recorded a death penalty case for the first time in 2021, including the Jantho District Court, Tenggara District Court, Langsa District Court, Pangkalan Balai District Court, Pelalawan District Court, Saumlaki District Court, Singkawang District Court, Rembang District Court, Central Jakarta Corruption Court, Oelamasi District Court.

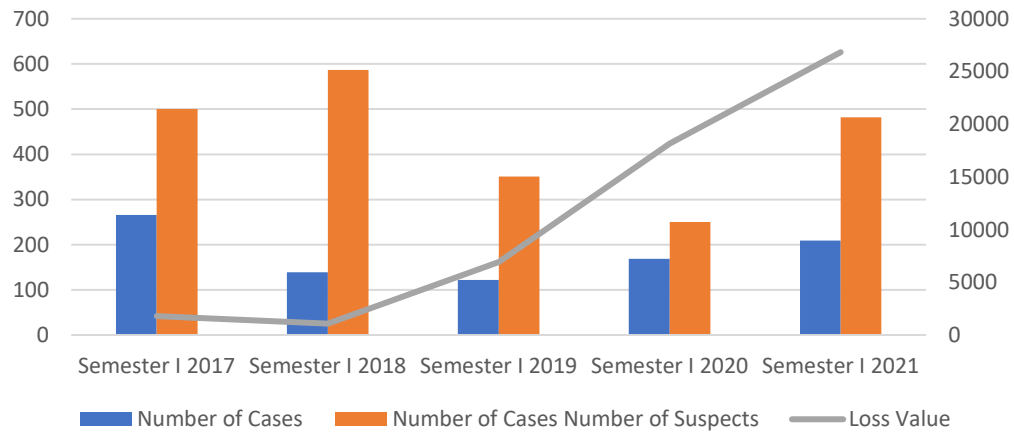
B. Corruption Crimes in Indonesia

Indonesia Corruption Watch (ICW), a non-governmental organization that focuses on the mission of monitoring and reporting to the public regarding acts of corruption that occur in Indonesia,²¹ in its report said that a comparative analysis has been carried out to compare the prosecution of corruption cases handled by law enforcement officials every semester. in the last five years (2017-2021). This is to see the performance of prosecution of corruption cases starting from the number of cases investigated, the actors named as suspects to the value of the state losses incurred.

²⁰ Elisabeth Kramer and Claudia Stoicescu, "An Uphill Battle: A Case Example of Government Policy and Activist Dissent on the Death Penalty for Drug-Related Offences in Indonesia," *International Journal of Drug Policy* 92 (2021): 23, <https://doi.org/10.1016/j.drugpo.2021.103265>.

²¹ Iqbal Kamalludin and B. N. Arief, "Kebijakan Reformasi Maqâshid Al-Syarîah Dan Kontribusinya Dalam Formulasi Alternatif Keringanan Pidana Penjara," *Al-'Adalah* 15, no. 1 (2019): 23, <https://doi.org/http://dx.doi.org/10.24042/adalah.v%vi%i.2931>.

FIGURE 5. Trends in Enforcement of Corruption Cases in Semester I for 5 Years



Sources: Direktori Putusan Mahkamah Agung, 2021.

Judging from the graph above, from the first semester of 2017 to the first semester of 2021, the prosecution of corruption cases by law enforcers tends to fluctuate, both in terms of the number of cases handled or the suspects named. Meanwhile, the value of state losses caused by corruption is trending increasing.²² This at least indicates that the management of the budget carried out by the government every year still needs to be improved in terms of supervision to prevent corruption.

Regarding the mode used by the suspects in committing corruption, mapping was then carried out to see the tendencies of the suspects when carrying out their actions. Following are the results of monitoring related to the mode of corruption:

²² Jose M. Jose and Maria Corazon A. De Ungria, "Death in the Time of Covid-19: Efforts to Restore the Death Penalty in the Philippines," *Forensic Science International: Mind and Law* 2 (2021): 100054, <https://doi.org/10.1016/j.fsimpl.2021.100054>.

TABLE 1. Mapping of Corruption Cases Based on the Mode of Semester I 2021

No	Information	Amount Case	Value of State Loss (Rp Billion) (Rp Billion)	Amount of Bribery / Gratification (Rp Billion)	Extortion Value (Rp Billion)
1	Activities / Projects fictitious	53	270.6	-	-
2	Embezzlement	41	2004 (2.004 trillion)	-	-
3	Abuse Budget	30	37,7	-	-
4	Mark Up	22	203,3	-	-
5	Report fictitious	19	91	-	-
6	Cutting	16	22,9	-	-
7	Abuse Authority	8	455.6	5,7	-
8	Bribe	7	-	52	-
9	Gratification	4	-	38	1
10	Illegal Fees	3	-	-	1,1
11	Extortion	3	-	0.3 (300 million)	0.447 (447 million)
12	Markdown	1	3,2	-	-
13	Stock Manipulation	1	23,739 (23.739 trillion)	-	-
14	Double Budget	1	1,9	-	-
Total		209	26,830	96	2,5

Sources: Direktori Putusan Mahkamah Agung, 2021.

Based on the identification, there were 14 modes used by the suspects to commit corruption. The most widely used mode of corruption by suspects in semester I 2021 is fictitious activities/projects. There were 53 corruption cases or around 25% with a state loss of IDR 270,625,787,117 (IDR 270.6 billion). The fictitious activities/projects identified by ICW are when a work is not completed but the payment has been paid. Cases of corruption that use fictitious activities/projects

tend to be related to the goods/services procurement process.²³ One of the alleged corruption cases involving the Fictitious Activity/Project mode with the greatest state losses was the alleged corruption case in the construction of the Sriwijaya Mosque in Palembang worth IDR 130,000,000,000 (IDR 130 billion).

Meanwhile, another mode that is widely used is embezzlement. There were 41 corruption cases with state losses reaching IDR 2,004,452,959,946 (IDR 2.004 trillion). One of the alleged corruption cases that caused the state to lose the most in this mode was the land sale and purchase case in Labuan Bajo, in which the case involving 18 suspects caused losses to the state's finances of IDR 1,300,000,000,000 (IDR 1.3 trillion). Similar to the results of monitoring the enforcement trend in 2020, the stock manipulation mode still occurs in the enforcement trend in the first half of 2021. There is one mega-corruption case investigated by the Attorney General's Office Jampidsus, namely the case of PT. Asabri is a state-owned company that has lost Rp. 23,739,936,916,742 (Rp 23.7 trillion). The modus operandi of this case is to inflate the share price so that it looks as if PT Asabri's portfolio performance is of good value.

If identified by sector, which is mapped into several categories, including public services, natural resources, state revenues, to natural disasters. The mapping is presented in the following data:

TABLE 2. Mapping of Corruption Cases by Sector in Semester I 2021

No	Sector	Amount Case	Value of State Loss (Rp Billion)	Amount of Bribery / Gratification (Rp Billion)	Extortion Value (Rp Billion)
1	Village Fund	55	35,7	-	-
2	Government	23	101.7	21,3	-
3	Education	23	31.5	0.3 (300 million)	0.1 (100 million)
4	Banking	12	500.6	-	-

²³ O. B. Server, "Corruption: A Major Problem for Urban Management: Some Evidence from Indonesia," *Habitat International* 20, no. 1 (1996): 77, [https://doi.org/10.1016/0197-3975\(95\)00032-1](https://doi.org/10.1016/0197-3975(95)00032-1).

No	Sector	Amount Case	Value of State Loss (Rp Billion)	Amount of Bribery / Gratification (Rp Billion)	Extortion Value (Rp Billion)
5	land	11	1,701 (1.701 trillion)	28.5	0.005 (5 million)
6	Transportation	10	20,8	-	1
7	Health	9	19,3	0.238 (238 million)	-
8	Social societal	9	10,4	5,7	-
9	Irrigation	7	16,2	-	-
10	Trading	4	3,7	0.426 (426 million)	-
11	Agriculture	4	14,1	-	-
12	Cooperative	3	2	-	-
13	Lighting	3	1,9	-	-
14	Fishery	3	1	-	0.021 (21.4 million)
15	Plantation	3	28,2	-	-
16	Energy and Electricity	1	0.577 (577 million)	-	-
17	Religious	2	130,2	-	-
18	Cleanliness	2	4,4	9,8	-
19	Forestry	2	13,7	5,8	-
20	Law Enforcement	2	3,5	1,3	-
21	Sport	2	12,6	-	-
22	Tourist	2	0.656 (656 million)	-	-
23	Election	2	2	-	-
24	Tax	2	-	38,6	1
25	Culture	2	2,1	-	-
26	Capital market	2	23,739 (23.739 trillion)	-	-
27	No Is known	2	179,1	-	-
28	employment	1	665,4	-	-
29	landscaping	1	1	-	-
30	Housing area	1	4	-	-

No	Sector	Amount Case	Value of State Loss (Rp Billion)	Amount of Bribery / Gratification (Rp Billion)	Extortion Value (Rp Billion)
31	Licensing	1	190	-	-
32	Mining	1	50	-	-
33	disaster	1	6,7	-	-
34	youth	1	0.556 (556 million)	-	-
Total		109	26,830	96	2,5

Sources: Direktori Putusan Mahkamah Agung, 2021.

The sector most prone to corruption in the first semester of 2021 is the village fund budget. There were 55 corruption cases related to the village budget and caused state losses of around Rp. 35,718,202,311 (Rp 35.7 billion). Due to the phenomenon of rampant corruption in the village budget sector, corruption prevention initiatives in the context of oversight need to be tightened. Even though the number of corruption cases that have occurred is not very significant compared to the number of villages throughout Indonesia, if the monitoring mechanism is not continuously improved, village welfare will not be achieved either. One of the corruption cases involving the misuse of Village Funds with quite a fantastic loss is the alleged corruption case in the village of Botof and the name of the village head as a suspect. The state loss suffered as a result of this case was IDR 2,100,000,000 (IDR 2.1 billion).²⁴

In addition, the government sector (Central/Regional) and the education sector are also among the sectors most prone to corruption. In the government sector there were 23 cases and caused state losses of around IDR 101,717,182,297 (IDR 101.7 billion) with a bribe value of IDR 21,347,500,000 (IDR 21.3 billion). Meanwhile, in the education sector there were also 23 cases with state losses reaching IDR 31,569,270,176 (IDR 31.5 billion) and bribes and illegal levies totaling IDR 400,000,000 (IDR 400 million).

²⁴ Lintas and Politika, "Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 Penulis: Diky Anandya Lalola Easter," 34.

C. Corruption Crimes During the Covid 19 Pandemic in Indonesia

In addition to the data above, it turns out that 5 (five) cases were found related to the prosecution of cases of misuse of the Covid-19 budget, including:

- a. The alleged corruption case in the procurement of 15,000 masks in Banten province was detrimental state finances of around IDR 1,680,000,000 (IDR 1.68 billion);
- b. Cases of alleged corruption in the procurement of emergency equipment in the form of food packages or staple foods in West Bandung involving AA Umbara, Regent of West Bandung;
- c. The case of alleged deductions from social assistance funds in Cipinang village, Bogor Regency;
- d. The alleged case of cutting BLT in Totok Village, Southwest Sumba, NTT;
- e. The case of alleged misuse of the covid budget in Mamberamo Raya Regency involving Dorinus Dasinapa, Regent of Mamberamo Raya.²⁵

Oversight of the budget for response and recovery due to the Covid-19 pandemic needs to be paid close attention. It is not impossible that the allocation of the budget and its use will result in corruption by officials.²⁶ The government's commitment to eradicating and preventing corruption throughout 2022 is questionable. Why not, the consistent increase in corruption cases shows that the various efforts made by the government are increasingly deadlocked. At least this is illustrated in the latest release issued by Transparency International Indonesia (TII) regarding the Corruption Perceptions Index. The survey results show that in 2022 Indonesia will experience a drastic decrease in its score, from 38 to 34.

It is important to note that the drop in the score by 4 points is the

²⁵ Anandya, Ramadhana, and Easter, "Laporan Tren Penindakan Kasus Korupsi Tahun 2021," 23.

²⁶ Giada Girelli, "'Alternative Facts': Public Opinion Surveys on the Death Penalty for Drug Offences in Selected Asian Countries," *International Journal of Drug Policy* 92, no. xxxx (2021): 43, <https://doi.org/10.1016/j.drugpo.2021.103155>.

worst decline since the reform era. Apart from that, this was also accompanied by a decline in Indonesia's ranking from 96th in 2021 to 110th out of 180 countries surveyed. The decline in both points and Indonesia's GPA rating is actually a reflection of the poor commitment to eradicating corruption carried out during Joko Widodo's administration, including the prosecution of corruption cases. This is at least confirmed by TII's records which show that indicators of anti-corruption law enforcement have proven to be ineffective in eradicating corruption.²⁷

If it is withdrawn throughout 2022, the condition of corruption in Indonesia is indeed increasingly worrying. Corruption occurs in almost all sectors of government, both executive and legislative institutions, finally the corruption of the Supreme Court judges complements corruption in the judicial sector. As a result, the principle of checks and balances between the three branches of power does not work. Instead of being a balancer, each of these institutions actually participates in the vortex of corruption. Thus, the anecdotal from the *trias politica* to the *trias* corrupt really describes this phenomenon.

Therefore, in the end these conditions will make Law Enforcement Officials (APH), both the Attorney General's Office, the Police, and the Corruption Eradication Commission (KPK) the backbone of eradicating corruption. However, in order to maintain the checks and balances of a case handler and ensure that the legal process runs fairly and objectively and avoid the potential for abuse of authority by law enforcement, public participation in monitoring is an important key. The participation of the community itself in efforts to eradicate corruption has been guaranteed by international conventions and laws and regulations in Indonesia. This is further regulated in Article 13 point 1 of the United Convention Against Corruption (UNCAC) and Article 41 of the Corruption Eradication Act. Technical regulations regarding the implementation and procedures for community participation have also been regulated through Government Regulation no. 43 of 2018 concerning Procedures

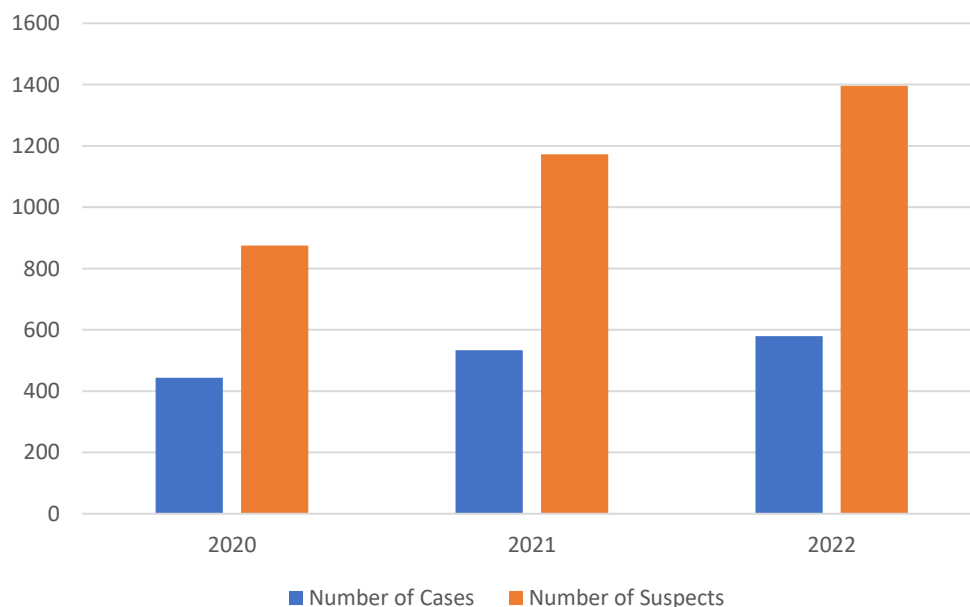
²⁷ Virginie Vial and Julien Hanoteau, "Corruption, Manufacturing Plant Growth, and the Asian Paradox: Indonesian Evidence," *World Development* 38, no. 5 (2010): 23, <https://doi.org/10.1016/j.worlddev.2009.11.022>.

for Implementing Community Participation and Giving Awards in the Prevention and Eradication of Corruption Crimes.²⁸

The regulation in essence emphasizes that the government must open up space for the public to participate in and contribute to the eradication of corruption agenda, including conveying suggestions and opinions to law enforcers regarding the handling of criminal acts of corruption. Of the 579 cases that were uncovered, if the average is calculated every month, there are 48 cases and 116 suspects being handled by law enforcement officials. Thus, on average each law enforcement agency investigates 16 cases, with 39 of them being named suspects each month.

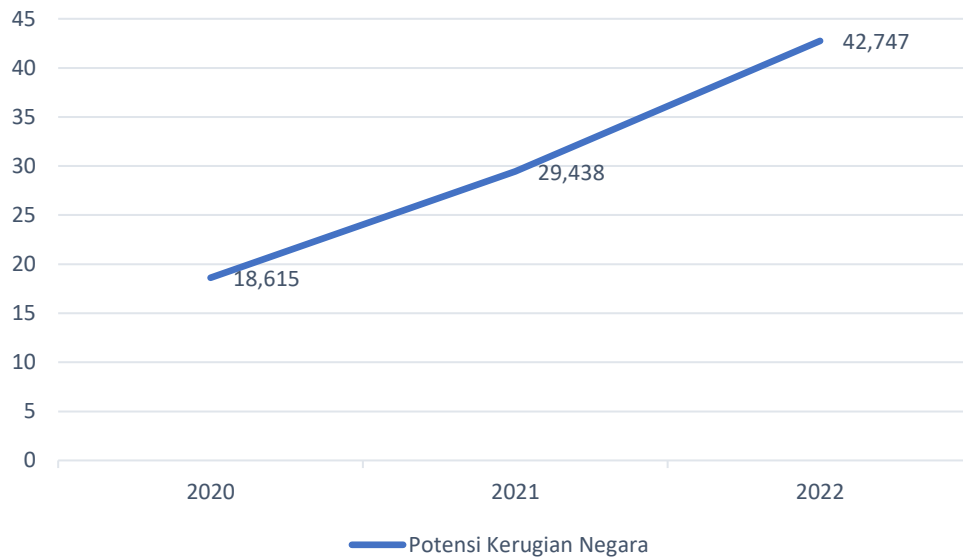
The comparative analysis which can be seen in the graph below shows the quantity of corruption handling data starting from the number of cases investigated, actors named as suspects to the potential value of state losses incurred.

FIGURE 6. Corruption Enforcement in Indonesia during the Covid 19 pandemic



Sources: Direktori Putusan Mahkamah Agung, 2022.

²⁸ J. Vernon Henderson and Ari Kuncoro, "Corruption and Local Democratization in Indonesia: The Role of Islamic Parties," *Journal of Development Economics* 94, no. 2 (2011): 23, <https://doi.org/10.1016/j.jdeveco.2010.01.007>.

FIGURE 7. Potential State Losses (Billion Rupiah)

Sources: ICW Report 2022.²⁹

Based on the graph above, the prosecution of corruption cases in 2022 will experience a significant increase compared to the previous four years. The most significant comparison occurred both in terms of the number of suspects and the potential value of state losses. If we take a closer look, the fantastic potential for state losses this year will only be contributed by a number of cases. For full details, here are five cases that have the potential to cost the state up to trillions of rupiah:

TABLE 3. Five Corruption Cases with the Largest Nominal During the Covid-19 Pandemic in Indonesia

No	Case	Suspect name	Potential Value of State Losses	Period happening follow Criminal Corruption	Apparatus Law Enforcement Handling
1	Corruption Giving Facility Crude Palm Oil (CPO)	1. Indrasari Vishnu Wardhana	18,259,698,998,925	January 2021 – March 2022	Attorney General of the Republic of Indonesia

²⁹ Lintas and Politika, “Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 Penulis: Diky Anandya Lalola Easter,” 23.

No	Case	Suspect name	Potential Value of State Losses	Period happening follow Criminal Corruption	Apparatus Law Enforcement Handling
	exports included Cooking Oil and its derivatives	2. Master Parulian Tumanggor 3. Picare Togar Sitanggang 4. Stanley MA 5. Weibinanto Halimdjati alias Lin Che Wei			
2	Corruption Land Indragiri Hulu Palm Oil	1. King Thamsir Rahman 2. Surya Sarmadi	4,900,000,000,000	2003 - 2022	Attorney General of the Republic of Indonesia
3	Corruption Administration Financing Export	1. Arif Setiawan 2. Ferry Sjaifullah 3. Joseph Agus Susanta	2,726,976,347,917	2016-2020	Attorney General of the Republic of Indonesia
4	30 Cases Corruption and bribery Help Handling Covid 19	Among others 1. Juliari Batubara 2. MatheusJoko Santoso 3. Adi Wahyono 4. Ardian IM 5. Harry Sidabuke	Corruption 22,490,000,000 Billion 23,430,000,000 Billion in bribes	December 2020	Attorney General of the Republic of Indonesia

Sources: Media in Indonesia, 2022

The potential value of this enormous state financial loss, on the one hand, shows that the performance of law enforcement officials is slowly starting to show a positive trend. But at the same time, this phenomenon also shows that the state financial management system by the government, ministries and state institutions is still very poor. This misuse of state budget management should be taken seriously. This is because inaccuracies in financial management both at the central and

regional levels will greatly affect the direction of national development. Because, according to the concept, corruption which has a background of economic crimes which is carried out systematically and widely will violate the social and economic rights of the people.³⁰

D. Regulation of Death Penalty for Corruptors in Indonesia

The regulation of the death penalty has been included in the Criminal Code as a *lex generalis* in the book to one general rule of Chapter II Article 10 concerning Crime. This form of capital punishment is still a tool that has the power and power to deter criminals.³¹ The Corruption Offences Law, which contains the death penalty regulation, only exists in one article, namely in Article 2 of Law no. 31 of 1999 in conjunction with Law No. 20 of 2001 on Corruption Eradication. Law No.31 of 1999 was enacted in line with the increasing demands of the community to eradicate corruption. According to Hadi Setia Tunggal, this law contains several new substances, one of which is the minimum punishment and capital punishment. This is to avoid the disparity in punishment that often occurs,³² as listed below:

Every person who unlawfully commits an act of enrichment of himself or another person or a corporation that can harm the state finances or the economy of the country, is sentenced to imprisonment with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty). years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)

In the event that the criminal act of corruption as referred to in paragraph (1) is committed under certain circumstances, the death

³⁰ Henderson and Kuncoro, "Corruption and Local Democratization in Indonesia: The Role of Islamic Parties," 32.

³¹ Muwahid, "Penerapan Hukuman Mati Bagi Pelaku Tindak Pidana Korupsi," *Al Qanun*, 2, 18, no. Hukum (2015): 29.

³² I Nyoman Sujana and I Nyoman Gede Sugiarta, "Impoverishment Against Corruptors" 282, no. Icblt (2018): 2, <https://doi.org/10.2991/icblt-18.2018.1>.

penalty may be imposed.

The death penalty is still applied in several countries including Indonesia, but in cases of corruption the death penalty has never been implemented, this is because the death penalty has several disadvantages, among others:³³ The death penalty under Indonesian law applies selectively to specific forms of corruption, as outlined in Article 2, paragraph (1), which pertains solely to acts involving illicit enrichment, rather than encompassing all manifestations of corruption, despite the overarching aim of Law Number 31 of 1999 to combat corruption comprehensively.

According to Article 2, paragraph (2), capital punishment is reserved for violations specified in paragraph (1), which are otherwise punishable by life imprisonment or a maximum of 20 years' incarceration under Law Number 31 of 1999, in conjunction with Law Number 20 of 2001. This provision extends beyond Article 2 to include Article 3, which addresses abuse of power or authority, and Article 12, concerning the acceptance of bribes by public officials, judges, and lawyers. Consequently, the exclusive application of the death penalty to offenses detailed in Article 2 appears inconsistent, especially considering the widespread perception that abuses of authority and bribery, given their nature and impact, might warrant similar punitive measures. Notably, bribery stands out as a predominant offense in numerous corruption cases. The formulation of specific criteria justifying the imposition of the death penalty remains ambiguous within the law, lacking explicit guidelines.

Certain circumstances in Article 2 serve as an objection to the perpetrator of the criminal act of corruption when the state is in a state of danger. For example, when a national natural disaster occurs, the crime of corruption is repeated, or when the country is in a state of economic and monetary crisis. Law Number 20 of 2001 has a vision to prevent the occurrence of criminal acts of corruption by including the heaviest crimes such as the death penalty. It's just that in practice, barely Judges have

³³ Zaid Alfauza Marpaung, "Kebijakan Hukuman Mati Bagi Pelaku Tindak Pidana Korupsi Dalam Perspektif Hukum Pidana Islam," *Jurnal Ilmiah Advokasi* 7, no. 1 (2019): 31, <https://doi.org/10.36987/jiad.v7i1.243>.

sentenced death penalty because it is associated with aggravating or mitigating reasons and the mitigating factor is far more dominant.³⁴

The death penalty is still considered suitable for corruption convicts, with various considerations including,³⁵ the imposition of the death penalty is believed to be more effective than other forms of punishment due to its deterrent effect. It is considered to be a more efficient deterrent compared to other penalties. Furthermore, the death penalty serves to prevent potential retaliation from the public against the convicted individual. Its imposition ensures the certainty of punishment. Overall, capital punishment is intended to deter both current and prospective criminals from committing serious offenses.

On the one hand, the formulation of the death penalty in the Corruption Eradication Law shows the serious intention of the government in eradicating corruption, even though at the practical level it has never been established. However, the formulation of capital punishment in the Corruption Eradication Law contains several formal and substantial weaknesses.

Formal weakness relates to the problem of sentence composition and/or choice, namely in the case of: The use of the phrases "certain circumstances" and "can be" omitted. Whereas the formulation of "certain conditions" which becomes the reason for the imposition of capital punishment cannot be clearly and clearly formulated in the formulation of the article. In various legal formulations both within the Criminal Code and outside the Criminal Code, "certain circumstances" that cause criminal charges are generally formulated explicitly and clearly in the formulation of the offense concerned.

The formulation of "certain conditions" contained in Article 2 paragraph (2) of the Corruption Eradication Law which is the reason for the imposition of capital punishment is not formulated explicitly and clearly in the formulation of the article, but is included in the Elucidation of the Article. This condition creates a confusion of norms because based

³⁴ Oksidelfa Yanto, "Penjatuhan Pidana Mati Pelaku Tindak Pidana Korupsi Dalam Keadaan Tertentu (Death Penalty In A Certain Condition)," *Jurnal Legislasi Indonesia*, 1, 14, no. Hukum (2017): 49.

³⁵ Warih Anjari, "Penerapan Pidana Mati terhadap Terpidana Kasus Korupsi," *Masalah-Masalah Hukum*, 4, 49, no. 4 (2020): 22.

on Attachment I of Law Number 12 Year 2011 concerning the Formation of Legislation Number 177 states that explanations cannot be used as a legal basis for making further regulations and may not contain formulations containing norms.³⁶

E. Corruption during the Covid19 Pandemic was an Extraordinary Crime in terms of human rights

Extra ordinary crimes are one of the crimes that have an impact on labor for human civilization. Several terms are used to interpret extra ordinary crime, such as extreme crimes, serious crimes, crimes that have a broad and systematic impact on social, economic, political, legal and cultural life. The location of the clearest difference from conventional crime is the nature, character, way of committing the crime and the impact of the crime.

At first, extra ordinary crime arises from the occurrence of gross human rights violations as contained in Article 5 of the Rome Statute 1998 with the provision that extraordinary crimes must have criteria rather than the most serious crimes concern to the international community which at that time included genocide crimes humanity, war crimes and crimes of aggression. Since then, the term extra ordinary crimes has been identified with these four types of crime.³⁷ In accordance with current legal developments, the term extraordinary crimes is not only limited to the four crimes, but also crimes which have the same characteristics as the four extraordinary crimes.

Corruption can be categorized as an extraordinary crime in Indonesia, especially many legal experts who think that the crime of corruption in Indonesia has ended. Even though there is a disagreement

³⁶ Saldi Isra et al., "Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia," *International Journal of Law, Crime and Justice* 51 (2017): 17, <https://doi.org/10.1016/j.ijlcj.2017.07.001>.

³⁷ Blane D. Lewis and Adrianus Hendrawan, "The Impact of Majority Coalitions on Local Government Spending, Service Delivery, and Corruption in Indonesia," *European Journal of Political Economy* 58 (2019): 75, <https://doi.org/10.1016/j.ejpoleco.2018.11.002>.

with the existing norms in the Rome Statute, the United Nation Convention Against Corruption, and the United Nation on Trans National Organized Crime 2000 categorize corruption as an extraordinary crime.³⁸ Corruption cases in Indonesia have been very unsettling, with a large number and entering into various sectors, both the executive, legislative and judiciary, from the lowest level of government to the central government, from government institutions to the private sector, and it appears that corruption in Indonesia has become a culture.³⁹ Corruption offences is very appropriate if it is categorized as an extraordinary crime, not only because of the systematic mode and system, its consequences also have a domino effect that destroys the entire system of life, from economic, political, socio-cultural, and even moral and mental damage. Indonesian society.

Even though the world is being hit by the Covid-19 pandemic, it has not made corruption that occurs in Indonesia to zero status, even the social assistance funds have been corrupted. Even though various sectors have fallen so badly as a result of the pandemic which has made the Indonesian government reduce various assistance to the community. During the period of one year since the announcement of the first case of Covid19 in Indonesia on March 2, 2020, there have been 1,341,314 positive cases of Covid19 and 36,325 of them have died.⁴⁰ So quickly this virus spreads and even reduces the economic power of the community starting from the business of public transportation, tourism, hotels, modern and traditional shopping centers, conventional trade has decreased turnover.⁴¹ There were also mass layoffs, where the majority occurred in the micro-scale business sector, which reached 56.7% of the total number of workers in the

³⁸ Muhammad Hatta, "Kejahatan Luar Biasa (Extra Ordinary Crime)," *Unimal Press* 01, no. 01 (2019): 174,

³⁹ M Syamsudin, "Korupsi Dalam Perspektif Budaya Hukum," *Unisia*, 64, XXX, no. Hukum (2007): 87.

⁴⁰ Prabowo, "Satu Tahun Pandemi Dan Persoalan Pencatatan Data Covid-19 Yang Belum terselesaikan."

⁴¹ Taufik Taufik and Eka Avianti Ayuningtyas, "Dampak Pandemi Covid 19 Terhadap Bisnis Dan Eksistensi Platform Online," *Jurnal Pengembangan Wiraswasta* 22, no. 01 (2020): 21, <https://doi.org/10.33370/jpw.v22i01.389>.

informal sector.⁴² As reported by Merdeka.com, except for China and Vietnam, the economies of most countries in the world have experienced a decline, such as in Indonesia which recorded an economic decline of up to minus 2.07% during 2020 thus causing the poverty rate recorded in the Central Statistics Agency (BPS) to September 2020 in Indonesia to increase by 0.97% with a total of 27.55 million people compared to the same month in the previous year. Meanwhile, the President of the Republic of Indonesia, Joko Widodo, signed the Presidential Decision to declare Covid-19 a national disaster.⁴³

Corruption during the Covid 19 pandemic was an act that was so painful for the Indonesian people and greatly exceeded the limits of human rights.⁴⁴ Michael Ignatieff emphasized that the goal of human rights is “multipurpose” so that it is not only “negative rights” (the nature of discriminatory treatment and abuse), but also includes poverty which is natural as well as human consequences.⁴⁵ The criteria for a criminal act of corruption as a crime that violates human rights is because corruption has had a negative impact on the social and economic rights of the community which have also been violated. The Universal Declaration of Human Rights on 1948 contains two types of human rights covenants. First, the rights contained in the International Covenant on Economic, Social and Cultural Rights (International Convention on Economic, Social and Cultural Rights). Indonesia has ratified it through Law Number 11 of 2005 concerning Ratification of International Covenant on Economic,

⁴² Siti Indayani and Budi Hartono, “Analisis Pengangguran dan Pertumbuhan Ekonomi sebagai Akibat Pandemi Covid-19,” *Perspektif: Jurnal Ekonomi & Manajemen Universitas Bina Sarana Informatika*, 2, 18, no. Ekonomi (2020): 18, <https://doi.org/https://doi.org/10.31294/jp.v17i2>.

⁴³ Anggun P Situmorang, “Pertumbuhan Ekonomi 2020 Capai Minus 2,07 Persen,” *Merdeka.Com*, 2021, <https://www.merdeka.com/uang/pertumbuhan-ekonomi-2020-capai-207-persen.html#:~:text=Pertumbuhan Ekonomi 2020 Capai Minus 2,07 Persen. Merdeka.com,secara year on year kontraksi sebesar 2,19 persen>.

⁴⁴ Rasyid Arifin, “Proses Sekuritisasi Pandemi Sars-Cov-2 (Covid-19) Di Indonesia Serta Implikasinya Terhadap Hubungan Luar Negeri Indonesia,” *Jurnal Asia Pacific Studies*, 1, 4, no. Asia Pacific Studies (2020), <https://doi.org/https://dx.doi.org/10.33541/japs.v4i1.1746>.

⁴⁵ Romli Atmasasmita, “Hukum Pidana Internasional Dan Hukum Hak Asasi Manusia,” *Pusham UII Yogyakarta*, 2005, 22.

Social and Cultural Rights. Right to work and decent wages, right to social security, right to education, right to health, right to food, right to housing, right to land.

Derivatives of the UDHR are subsequently contained in the 1966 International Convention on Civil and Political Rights (International Convention on Civil and Political Rights). Indonesia ratified it in Law Number 12 of 2005 concerning Ratification of the International Convention on Civil and Political Rights which guarantees several rights including the right to life, the right to freedom from torture, the right to freedom from slavery, the right to be free from detention for failing to fulfill an agreement (debt), right to be free from retroactive punishment, the right as a legal subject, the right to freedom of thought, belief and religion, the right to freedom of peaceful assembly, the right to freedom of association, and the right to freedom of expression and expression. Meanwhile, Indonesia already has specific arrangements regarding human rights in Law Number 39 of 1999 concerning Human Rights.⁴⁶

Corruption is considered a violation of human rights due to its detrimental impact on several fundamental aspects of individuals' lives and society. Firstly, corruption undermines the basic rights guaranteed under Law Number 39 of 1999 concerning Human Rights, such as the right to life, liberty, equality, and freedom from discrimination. It erodes trust in public institutions and diminishes the effectiveness of mechanisms designed to protect these rights.

Secondly, corruption adversely affects basic economic, social, and cultural rights as outlined in Law Number 11 of 2005, which ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). These rights include the right to work, the right to education, the right to health, and the right to participate in cultural life. Corruption diverts resources away from essential public services, perpetuating poverty and inequality, and hindering the realization of these rights for vulnerable populations.

⁴⁶ M Ilham Wira Pratama, "Tindak Pidana Korupsi Sebagai Pelanggaran Hak Asasi Manusia," *Jurnal Lex Renaissance*, 4, 4, no. Hukum (2019): 26.

Thirdly, corruption undermines basic civil and political rights as articulated in Law Number 12 of 2005, which ratified the International Covenant on Civil and Political Rights (ICCPR). These rights encompass freedoms such as freedom of expression, assembly, and association, as well as the right to participate in public affairs and due process of law. Corruption distorts democratic processes, limits political participation, and weakens institutions responsible for upholding these rights.

Law as the bearer of human values, is defined by Radbruch as a parameter for justice and injustice. Including the reflection of the value of justice (advancing human values) is also the basis of law as a tool to realize social welfare. Thus, justice is both normative and constitutive for law. This value of justice is the basis for every dignified positive law. So, for Radbruch, justice is a central point in law. Then, there are still two other aspects, namely certainty and finality/benefit, both of which cannot be separated and influence each other from the framework of justice itself. Radbruch explained that justice aims to create various goodness in the system of human life. This aspect must influence the content of the law. Ideally, according to Gustav Radbruch, a decision must contain *idee des recht*, which contains 3 elements, namely justice (*Gerechtigkeit*), legal certainty (*Rechtsicherheit*) and expediency (*Zweckmassigkeit*). The judges should consider and accommodate these three elements proportionally, so that the decisions issued reflect quality decisions and are in accordance with the expectations of justice seekers.⁴⁷

The death penalty is still considered very relevant to be imposed on corruptors because it is a serious crime that violates various human rights.⁴⁸ To return punishment to its purpose, the retention of capital punishment should aim at protecting society. Seeing the various regulations regarding the protection of human rights to life, the existence of the death penalty in Indonesia will certainly cause debate because it is considered to violate

⁴⁷ Mario Julyano and Aditya Yuli Sulistyawan, "Jurnal Crepido," *Pemahaman Terhadap Asas Kepastian Hukum Melalui konstruksi Penalaran positivisme Hukum* 01 (2019): 56, <https://ejournal2.undip.ac.id/index.php/crepido/>.

⁴⁸ Alvedi Sabani, Mohamed H. Farah, and Dian Retno Sari Dewi, "Indonesia in the Spotlight: Combating Corruption through ICT Enabled Governance," *Procedia Computer Science* 161 (2019): 22, <https://doi.org/10.1016/j.procs.2019.11.130>.

one's right to life.⁴⁹ Even though They are criminal, they still has the right to life which should be respected and protected by the state, including in this case the criminal act of corruption.⁵⁰ Since the right to life is a *conditio sine qua non* (absolute condition) to become a human being, without that right a person cannot be called a human. Meanwhile, the death penalty takes away a person's right to life, so that this type of punishment is a form of denial of the right to life which is inherent or inherent in human nature, even though he is a criminal.

Conclusion

The challenges to state stability caused by the Covid-19 pandemic have not eradicated corruption; instead, they have exacerbated its prevalence. The pandemic, classified as a non-natural disaster, has intensified the gravity of corrupt acts, significantly impacting various sectors of society. According to Article 2, paragraph (2) of Law No. 20 of 2001, which amends Law No. 31 of 1999 on Corruption, the exceptional circumstances of the Covid-19 pandemic meet the criteria outlined in this provision, potentially justifying the imposition of the death penalty on corrupt individuals. Such a measure, if enforced, aims to assess the effectiveness of severe penalties in deterring corruption and mitigating its profound societal repercussions in Indonesia.

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⁴⁹ Nyoman Serikat Putra Jaya, *Pembaharuan Hukum Pidana*, 1st ed. (Semarang: PT Pustaka Rizki Putra, 2017), 23.

⁵⁰ Sabrina O. Sihombing, "Youth Perceptions toward Corruption and Integrity: Indonesian Context," *Kasetsart Journal of Social Sciences* 39, no. 2 (2018): 22, <https://doi.org/10.1016/j.kjss.2018.03.004>.

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