

# The Application of Criminal Law in Addressing Corruption Crimes: Strategies and Challenges

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## Abstract

Corruption represents a significant challenge for Indonesia, with implications for various dimensions of community life, national development, and the functioning of the state. Corruption has resulted in financial losses for the perpetrators, both in terms of internal and external transactions, as well as significant economic consequences. To overcome this problem, it is necessary to harmonize legislation, promote international cooperation, develop an integrated approach to law enforcement, and facilitate active community participation. Furthermore, the challenges inherent in combating corruption must be addressed through improvements in education and training, as well as the instillation of moral values. The objective of this research is to gain insight into the characteristics of normative legal knowledge and to elucidate, apply, and comprehend legal regulations and their underlying principles. In conducting this research, the normative juridical approach, which relies on the analysis of secondary data or legal materials, has been employed. It is imperative that corruption be actively prevented, and that corruption courts assume a more proactive role in its eradication. The findings of this research include the implementation of rigorous law enforcement measures, the abolition of gratuities, enhanced transparency and accountability, and the promotion of heightened legal awareness and public ethics. It is imperative that the government, law enforcement agencies, and the community collaborate to collectively address the issue of corruption. The implementation of fair law enforcement, legal certainty, and community benefits is contingent upon the existence of a strong conviction among all parties involved. It is imperative that all parties involved maintain a sense of optimism with regard to the ongoing efforts to combat corruption. To ensure the effective eradication of corruption in Indonesia, it is essential to implement a multifaceted approach that encompasses system improvement measures, educational campaigns and repressive actions. Through sustained and coordinated efforts, it is possible to minimise the negative impact of corruption and to create an environment that is free from corruption, which would in turn increase public trust, attract investors, maintain the dignity of the nation and act as a deterrent for those engaged in corrupt activities. Furthermore, the recovery of state funds that have been lost to corruption can be maximised.

**Keywords:** *criminal, law, corruption*

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## INTRODUCTION

Corruption represents one of the most pervasive and troubling forms of criminal activity, affecting a diverse range of individuals and entities. These include state officials at various levels of bureaucracy, political elites, and businessmen with ties to power. Corruption represents a significant impediment to Indonesia's socio-economic advancement and the preservation of public confidence in the government's commitment to eliminating corruption, collusion, and nepotism (KKN). Corruption is not only an extraordinary crime but also a transnational crime, given its pervasiveness across all aspects of life and even across countries. Notwithstanding the implementation of eradication strategies, the number of cases, the magnitude of state losses, and the intricacy of corruption continue to escalate annually, exhibiting increasingly systematic and pervasive patterns (Brimen Begni Gudmen Sihotang, 2023).

The Indonesian nation has been acutely aware of the threat posed by corruption to its collective welfare since the advent of the reform era, which has seen the prioritisation of anti-corruption measures as a central objective. All reform agendas, whether directly or indirectly, seek to reduce the potential for corruption. This is exemplified by changes to the 1945 Constitution which aim to establish a system of checks and balances to prevent the concentration of power that is vulnerable to corruption (Nanda et al., 2024). One of the most significant developments in legal reform is the initiative to eradicate corruption. The Corruption Eradication Commission (KPK) has assumed a pivotal role in this endeavor, employing novel strategies such as "Operasi Tangkap Tangan" (OTT), or "arrest operations," which represent a novel approach to anti-corruption enforcement in Indonesia. This included the arrest of high-ranking officials, including ministers, governors, members of parliament, and businessmen, which constituted a significant turning point in the history of anti-corruption law enforcement (Andini et al., 2023).

The presence of corruption not only undermines the integrity of the governmental structure, but also impedes the process of development and governance, which, in turn, has an adverse effect on the climate of investment, economic growth, and the general welfare of the population. Corruption is a reflection of the lifestyle of individuals who equate wealth and power with success. In Durkheim's analysis, corruption represents a deviation from the norm that emerges in response to economic conditions where the pursuit of success is often measured by the accumulation of wealth, frequently obtained through illicit means (Sipayung & Wahyudi, 2024). Furthermore, the pursuit of a lavish lifestyle and the desire for wealth are frequently identified as key motivators for public officials engaged in corrupt practices that inflict harm upon the state.

Despite amendments to anti-corruption legislation, the culture of law enforcement in Indonesia remains mired in antiquated patterns that are feudalistic, discriminatory, and opportunistic (Suvedi, 2024). It is therefore imperative that law enforcement agencies, such as the KPK, the Police and the Attorney General's Office, collaborate effectively and demonstrate unwavering commitment to combat corruption comprehensively and proactively, in order to safeguard the nation from the pervasive threat of corrupt practices.

## METHOD

This research employs a normative juridical approach, a legal research method that prioritizes the analysis of secondary data or legal materials. The objective of this research is to identify the defining attributes of normative legal knowledge and to comprehend, elucidate, and implement pertinent legal rules and principles. This approach serves a crucial role in

developing arguments pertinent to the research questions raised and holds the potential to yield new theories, concepts, or prescriptions within the context of the issue under investigation.

## **RESULT & DISCUSSION**

The term "corruption" has its etymological roots in the Latin word "corrumpere," which signifies a process of turning over, bribing, rotting, or shaking. As defined by Transparency International, corruption is the act of public officials, including politicians and civil servants, engaging in improper conduct. It is illegal for them to abuse their public power for personal gain or the benefit of those in their close circle (Riswanto et al., 2024)

Conversely, the term "corruption" can also be understood to signify rottenness, ugliness, and depravity (e.g., "corrupt," "koruptie," and "korup"). Acham offers support for this definition. The term "corruption" is defined as an act that is contrary to social norms and that is undertaken with the intention of obtaining personal financial gain at the expense of the interests of society as a whole (Hapsoro, 2020). In essence, corruption can be defined as the abuse of public or private trust for personal gain. Consequently, corruption serves a dual function that is antithetical in nature. On the one hand, it is utilized for the purpose of personal gain, whereas on the other, it is employed for the benefit of the broader community (Sodikin, 2023).

Corruption can be defined as a calculated crime committed by individuals who consider themselves to be highly educated. Moreover, corruption may occur when an individual possesses the capacity to exploit their position by misusing financial resources for personal benefit.

While the concept of corruption is widely understood by the general public, it is not yet fully codified. The concept of corruption is understood in different ways across different eras, civilizations, and geographical areas (Effendi & Susanti, 2024a). The formulation of corruption may vary depending on the approach and point of emphasis, including political, sociological, economic, and legal perspectives. A number of scientists and philosophers have studied and assessed corruption as a phenomenon that deviates from the norms of cultural and state societies (Wulandari et al., 2024). For example, both Machiavelli and Aristotle proposed the concept of moral corruption.

Despite the implementation of various strategies, the eradication of corruption continues to encounter significant obstacles. Despite the efforts of the Corruption Eradication Commission (KPK) to apprehend corrupt officials through operations (OTT) and the imposition of severe penalties by law enforcement, instances of corruption continue to occur. The impediments to the eradication of corruption can be classified into the following categories:

**Structural Barriers:** These arise from inefficiencies in state and government administration, which impede the effective handling of corruption. Significant challenges persist, including sectoral and institutional egoism, whereby agencies prioritize their own funding without consideration of national needs and engage in the concealment of internal irregularities. In addition, there is an evident lack of effective supervisory roles, poor coordination between oversight and law enforcement institutions, and inadequate internal control systems, which contribute towards the prevalence of irregularities, inefficiencies in the management of state assets, and subpar public services (Wulandari et al., 2024).

**Cultural Barriers:** These originate from deeply entrenched negative societal habits. This category encompasses several factors, including the pervasive reluctance and tolerance exhibited by government officials, which impede efforts to address corruption effectively. Another crucial element is the lack of transparent leadership from agency figures, which may inadvertently convey tolerance for corrupt individuals or practices. Additionally, the involvement of executive, legislative, and judicial branches in corruption cases can impede the

process. Furthermore, there seems to be a lack of commitment towards addressing corruption in a decisive manner. Finally, public indifference towards corruption eradication efforts is another instrumental barrier to overcome.

These are associated with inadequate legal and regulatory frameworks that hinder effective corruption management. Issues in this category include the following: The presence of overlapping laws and regulations that contribute to the accumulation of funds within government agencies; The absence of a universal identification system that could reduce opportunities for abuse; The weakness of law enforcement in corruption cases. Such deficiencies can be attributed to a failure to implement effective management principles, such as dedication to fairness, transparency, and accountability, which ultimately impact the efficacy of corruption management efforts. In addition, the following issues impede effective corruption management: insufficient governmental commitment to addressing supervisory results; weak coordination among oversight bodies, as well as between these bodies and law enforcement; lack of technological support for governance; lack of independence among supervisory organizations; insufficient professionalism among supervisory staff; inadequate support for supervisory systems and procedures; and deficiencies in personnel management, which include recruitment, low civil servant salaries, and ineffective performance appraisal and reward systems.

Measures to prevent crime may be classified broadly into two categories: penal (through criminal law) and non-penal (outside the criminal justice system). Penal approaches are reactive, focusing on suppression and eradication of criminal activity after it has occurred. In contrast, non-penal approaches are proactive, aiming to prevent crime.

In the fight against corruption, it is insufficient to rely solely on criminal law and punishment. Non-penal strategies are of critical importance in addressing the root causes of corruption, which frequently encompass political, economic, and social issues. It is imperative that anti-corruption strategies undergo continuous development in order to effectively combat corruption and ensure accountability.

It is a commonly held belief that the most effective method of combating corruption is through the imposition of the harshest penalties on those involved. Nevertheless, corruption is akin to a pervasive ailment that insidiously erodes economic stability and permeates all aspects of society, rendering the eradication of this phenomenon through legal sanctions an exceptionally arduous undertaking. The most effective anti-corruption strategies must take into account the specific characteristics of the individuals and environments involved. A variety of strategies can be employed in an effort to combat corruption, with consideration being given to socio-political, socio-economic, socio-cultural, and other contextual factors. It is of the utmost importance to tailor anti-corruption efforts to the unique characteristics of the targeted society or organization. It is incumbent upon each country, society, and organization to identify its own approach to effectively address and eliminate corruption (Effendi & Susanti, 2024b).

It is imperative that the general public maintain a sense of optimism with regard to anti-corruption initiatives. It is imperative that anti-corruption legislation be enhanced, that institutions dedicated to combating corruption be strengthened, and that public engagement and oversight be improved through the use of mass media if corruption is to be eradicated in Indonesia.

The current optimism in this regard is buttressed by the existence of law enforcement agencies—such as the police, prosecutors, and courts—and the presence of enabling legislation, including the Corruption Eradication Law and the Public Information Disclosure Law. Moreover, anti-corruption bodies, including the KPK, PPATK, and the Information Commission, play a pivotal role in facilitating the eradication of corruption, in conjunction with the active participation of the public.

Fortunately, Indonesia possesses a multitude of legal instruments to address corruption. In view of the fact that corruption is currently considered an extraordinary crime, efforts to combat it should be extraordinary rather than conventional.

The implementation of effective strategies is essential for the successful tackling of corruption. System improvement measures include: A considerable number of existing systems in Indonesia unwittingly provide fertile ground for corruption. To address this issue, it is essential to implement system improvements, including:

The enhancement of transparency is a crucial aspect of anti-corruption efforts. It is recommended that mechanisms such as the KPK's acceptance of wealth reports (LHKPN) and gratification reports be employed to promote openness among state administrators. It is recommended that corrective actions be put forth. It is recommended that relevant ministries and institutions implement the requisite corrective measures.

The modernisation of public services is a key objective. It is recommended that online and integrated monitoring systems be adopted in order to enhance transparency and efficiency in public services.

Initiatives in the areas of education and campaigns: It is imperative that educational programs and campaigns be implemented to foster anti-corruption awareness. The aforementioned strategies are designed with the following objectives in mind: It is imperative to raise public awareness. It is imperative to educate the general public about the ramifications of corruption and to foster engagement in anti-corruption initiatives.

The objective is to cultivate an anti-corruption culture. It is imperative to instill anti-corruption values from an early age, extending through higher education and into the general public. Repressive measures are employed in instances where the aforementioned strategies have proven ineffective. Those found to be involved in corrupt activities are subject to legal prosecution. The process typically involves the following steps (Arifin et al., 2023):

The handling of public complaints is a crucial aspect of the anti-corruption process. The KPK is responsible for the verification and review of reports of corruption. The subsequent phase of the process is the investigation and prosecution of those involved in corruption. Conduct comprehensive investigations and pursue legal action, including prosecution and execution, based on the findings.

An effective strategy should foster optimism and confidence in the effort to combat corruption. The success of any endeavor is contingent upon the collective confidence and commitment of its members. The 1945 Constitution and Pancasila provide the fundamental framework for anti-corruption efforts, and it is of the utmost importance that these provisions are adhered to with the utmost diligence. It is imperative that all government bodies, related institutions, and the general public play a pivotal role in the eradication of corruption. It is imperative that there be unity and optimism in order to achieve the goal of a corruption-free Indonesia (Syah & Malik, 2021).

In order to eradicate corruption, it is essential to gain a comprehensive understanding of the multifaceted nature of corruption. This entails a thorough examination of the intricacies of corruption, encompassing its extent, measurement, and manifestations across various sectors and forms. Additionally, it necessitates an analysis of the underlying causes and consequences of corruption, as well as an appreciation of corruption from the perspectives of both perpetrators and those affected by it. In order to achieve the desired outcome, it is necessary to implement a series of strategies, including:

1. The creation of anti-corruption institutions is a crucial step in the fight against corruption. In order to develop strategies for the combating of corruption, it is essential to focus on a number of key institutions. The following institutions should be targeted: political institutions, legislative institutions, judicial institutions, other institutions with

the responsibility of conducting audits in government institutions, independent institutions involved in the combat of corruption, and private institutions or sectors that can be involved in corruption or corruption eradication efforts, such as private contractors or auditors.

2. The prevention of corruption in the public sector can be addressed through several strategies, including:
  - a. Require public officials to report and announce the amount of wealth owned before, during, and after assuming office, thereby enabling the public to monitor the fairness of the official's wealth;
  - b. Conduct open auctions or bids for work contracts or the procurement of goods at the central, regional, and military governmental levels;
  - c. Enhance transparency and accountability in the recruitment of State Civil Apparatus (ASN) and military personnel.
3. Social prevention and community empowerment. Ensure that individuals have the right to access information. The government's willingness to implement transparent policies may be increased if the public is aware of their right to access information.

The dangers of corruption can be highlighted through mass media, seminars, and discussions to raise public awareness and concern about the issue. This may help to eradicate corruption.

The public can participate in community empowerment by reporting corruption cases. It is imperative to implement an anonymity system that ensures the identity of the reporting party is concealed from the perpetrator. This will encourage the public to participate in the eradication of corruption without fear of retribution. The government must issue regulations pertaining to the procedures for implementing community participation and awarding in the prevention and eradication of corruption.

A free press is a fundamental pillar of democracy. The more information that is made available to the public, the more they will be able to comprehend the potential consequences of corruption, and vice versa. Non-governmental organizations (NGOs) play a pivotal role in the prevention and eradication of corruption at both the national and international levels.

It is insufficient to rely solely on the Corruption Eradication Law for the prevention and elimination of corruption. A comprehensive approach necessitates the utilisation of an array of legal instruments, including the Law on Money Laundering, the Law on Witness and Victim Protection, the Free Press Law, and other pertinent legislation.

International cooperation is of paramount importance and can be facilitated through the exchange of information, the enhancement of the knowledge and skills of law enforcement and anti-corruption agents, and the establishment of bilateral or multilateral agreements for extradition or mutual legal assistance.

The monitoring and evaluation of anti-corruption strategies and programs is an indispensable aspect of assessing their overall effectiveness. It is essential to expand successful initiatives and to subject unsuccessful ones to rigorous examination in order to determine the underlying causes of failure. In the absence of such oversight, it is challenging to gauge progress and achievements in corruption eradication efforts.

Corruption, collusion, and nepotism—or, as they are more commonly known, the "three evils"—have plagued Indonesian society for decades. The persistence of these problems has driven the push for comprehensive reform in the post-New Order period. Following the amendment of the 1945 Constitution and the removal of the dual function of ABRI, the eradication of corruption became a core mandate of the reform movement.

In the reform era, Law No. 3/1971 was replaced by Law No. 31/1999 on the Eradication of Corruption. This was later revised by Law No. 20/2001 and further reinforced by the

ratification of the United Nations Convention Against Corruption (UNCAC) through Law No. 7/2006.

In response to public demands for more effective corruption eradication, the Abdurrahman Wahid administration in the 2000s established the Joint Team for the Eradication of Corruption (TGTPK). The TGTPK was established under Government Regulation No. 19/2000 and was coordinated by the Attorney General, Marzuki Darusman. It comprised 25 members from various sectors and was chaired by Adi Andoyo Soetjipto, former Chief Justice of the Indonesian Supreme Court. The regulation sought to confer upon the TGTPK enhanced powers to address complex corruption cases, but it was also the subject of criticism on the grounds of its legal robustness. This resulted in a decision by the Supreme Court (No. 03P/HUM/2000) that declared the regulation invalid, which in turn led to the dissolution of the TGTPK in 2001.

The ongoing struggle against corruption demonstrates the inherent challenges associated with its eradication, which are further compounded by physical threats, institutional weakening, and legal challenges. The dissolution of TGTPK resulted in the establishment of the Corruption Eradication Commission (KPK), which was a more robust institution with a stronger legal foundation. Nevertheless, opposition to the KPK has persisted, as evidenced by the numerous constitutional challenges and attempts to amend its legal framework (Fitriati & Roza, 2022).

In the subsequent administrations, such as that of Megawati, the KPK was introduced, and Susilo Bambang Yudhoyono's administration established the Corruption Eradication Coordination Team (TimTasTipikor) through Presidential Decree No. 11/2005. The team, comprising 48 members from various agencies and chaired by Hendarman Supandji, was tasked with investigating and prosecuting corruption cases and reporting directly to the President. Notwithstanding its accomplishments, including the handling of numerous cases and the recovery of substantial state funds, the TimTasTipikor was dissolved in 2007, with its progress subjected to close scrutiny and debate by anti-corruption activists.

The historical cycle of establishing and subsequently dissolving anti-corruption institutions in Indonesia reflects a challenging and turbulent journey in the country's fight against corruption. Each regime has encountered sophisticated resistance from corrupt actors, which has included legal maneuvers and systematic attacks aimed at undermining anti-corruption efforts.

The commitment to address KKN was codified by MPR Decree No. XI/MPR/1998, which introduced asset reporting standards and established the State Officials Wealth Examination Commission (KPKPN). Despite its relatively brief tenure, the dissolution of the KPKPN paved the way for the formation of the KPK, which has remained a cornerstone of Indonesia's anti-corruption strategy.

As delineated in Article 3 of Law No. 30/2002, the KPK is tasked with operating in an autonomous and impartial manner, free from external pressures and supported by legal frameworks that guarantee its efficacy. In order to enhance the capabilities of the KPK, five key strategies are proposed. These are as follows: granting immunity to KPK leaders and staff; limiting "pretrial" motions for corruption suspects; restricting legal aid for corruption cases driven by greed; establishing a Special Procedural Law for corruption cases; and setting up KPK offices in each province to better address regional corruption issues.

## **CONCLUSION**

Corruption in Indonesia is a criminal offense that must be eradicated. The government, with the assistance of relevant parties, must devise an optimal strategy to eradicate corruption, which has a detrimental impact on various stakeholders, particularly the community. A variety of

strategies are being addressed with due diligence and confidence, both in terms of the established rules and their implementation. By understanding the nature of corruption, its obstacles, and challenges, the eradication of corruption can be properly addressed. The strategies that must be implemented to achieve an Indonesia free from corruption are inherently complex, as previously discussed. These strategies include the establishment of a robust and accountable anti-corruption institution and the prevention of corruption in the public sector. Also prevention of Corruption in the Social Sector and Community Empowerment, Development of a range of legal instruments that support the prevention and eradication of corruption, International cooperation and Regular monitoring and evaluation of the aforementioned strategies is imperative that cooperation from various parties be consistently maintained in order to ensure the successful implementation of eradication efforts and to achieve the anticipated outcomes for the nation and the unitary state of Indonesia. The government's commitment to eradicate corruption has been inconsistent, particularly in the context of the old order, new order, and reform order. This is due to various factors, including the weakening of personnel through intimidation and the dissolution of institutions through legal loopholes. Consequently, the longevity of anti-corruption institutions has been limited. In the current era, however, the Corruption Eradication Commission (KPK) has demonstrated a remarkable capacity for prosecution and eradication of corruption among those engaged in corrupt practices. This is not merely a matter of central government action; the KPK has also made inroads at the provincial and regional levels, pursuing suspects from a range of professional backgrounds, including those in executive, legislative, judicial, political party, and business and contractor roles. Nevertheless, despite the KPK's apparent determination to pursue and prosecute corrupt individuals, it continues to encounter significant challenges and opposition. These attacks have manifested in two primary ways: firstly, through the criminalisation of KPK personnel, and secondly, through the weakening of the institution itself through judicial and legislative review of the KPK Law. In order to achieve the goal of a corruption-free Indonesia, which is one of the fundamental objectives of the reform movement, it is necessary to grant the KPK greater authority. This should begin with the reinforcement of the legal basis for KPK personnel and institutions, followed by the expansion of KPK offices at the provincial level. Furthermore, the current efforts to provide "pretrial" and "legal aid" to corruptors due to greed, rather than force and opportunity, should be limited or even eliminated.

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