



## **DEATH PENALTY AS AN ANTI-CORRUPTION STRATEGY IN EXTRAORDINARY CRIMES: EVALUATING INDONESIA'S LEGAL FRAMEWORK DURING THE COVID-19 PANDEMIC**

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### **ABSTRACT**

This study examines the regulation, legitimacy, and effectiveness of capital punishment as an anti-corruption strategy within Indonesia's legal system, particularly in cases of corruption committed during national emergencies. The research is motivated by the increasing vulnerability of public finance governance during crises, such as the COVID-19 pandemic, which has intensified debates regarding the proportionality and relevance of extreme criminal sanctions. Using a normative juridical method combined with a conceptual and comparative approach, the study analyzes statutory provisions, constitutional interpretations, criminal policy theory, and international human rights discourse. The findings demonstrate that capital punishment is formally regulated under Indonesia's Anti-Corruption Law as a conditional and exceptional sanction applicable in aggravated circumstances. Its legitimacy is constitutionally recognized; however, its practical implementation remains absent, indicating a divergence between normative design (*das sollen*) and enforcement reality (*das sein*). The study argues that while capital punishment serves a strong expressive and symbolic function in classifying corruption as an extraordinary crime, its deterrent effectiveness is questionable without strengthened institutional integrity, enforcement certainty, and transparency mechanisms. Furthermore, the extension of capital punishment to non-lethal economic crimes raises proportionality concerns within evolving global human rights standards. This research concludes that capital punishment in corruption cases occupies a legally legitimate yet practically restrained position in Indonesia's criminal policy framework, necessitating a balanced approach between penal severity and structural reform in emergency governance.

***Keywords:*** *Capital Punishment; Corruption; National Emergency; Criminal Policy; Human Rights*



## INTRODUCTION

Corruption is widely recognised as an extraordinary crime due to its systemic impact on economic stability, governance integrity, and public welfare. Unlike ordinary criminal offences, corruption undermines institutional legitimacy, disrupts equitable resource distribution, and weakens public trust in government authority<sup>1</sup>. In many developing countries, corruption not only affects administrative efficiency but also directly threatens national development and social justice. Consequently, states have adopted exceptional legal frameworks to combat corruption through enhanced enforcement mechanisms and stricter criminal sanctions<sup>2</sup>. Indonesia, as one of the countries facing persistent corruption challenges, has enacted comprehensive legal regulations to address corruption through Law Number 31 of 1999 as amended by Law Number 20 of 2001 on the Eradication of Corruption. These regulations reflect Indonesia's commitment to treating corruption as a serious criminal offence requiring extraordinary countermeasures.

One of the most controversial provisions within Indonesia's anti-corruption legal framework is Article 2(2), which allows the imposition of capital punishment under certain aggravated circumstances, particularly when corruption occurs during national emergencies or in situations that severely endanger public welfare. Normatively, this provision demonstrates the state's intention to establish strong deterrent measures against corruption that causes extensive societal harm. The inclusion of capital punishment within anti-corruption legislation signifies the state's recognition of corruption as a crime that may justify the harshest criminal sanction when it threatens national resilience and public safety<sup>3</sup>.

However, despite this strong normative commitment, empirical enforcement of capital punishment for corruption offences in Indonesia remains nonexistent. In practice, courts continue to impose imprisonment, fines, and asset confiscation as primary sanctions, even in corruption cases involving significant financial losses and widespread societal impact<sup>4</sup>. This discrepancy became particularly evident during the COVID-19 pandemic, when several corruption cases emerged involving the misappropriation of public funds allocated for emergency relief, social

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<sup>1</sup> Firmansyah and others, 'Confiscating Corruption Assets Without Verdict: Mashlahah-Based Strategy To Restore State Finances' (2025) 10 *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 662.

<sup>2</sup> Eleftherios Spyromitros and Minas Panagiotidis, 'The Impact of Corruption on Economic Growth in Developing Countries and a Comparative Analysis of Corruption Measurement Indicators' (2022) 10 *Cogent Economics and Finance* 1.

<sup>3</sup> Amar Muammar Rahman and Muhammad Husnul, 'Failure of Criminal Law in Recovering State Losses Due To Criminal Acts of Corruption' (2024) 9 *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 305.

<sup>4</sup> *ibid.*



assistance, and health crisis management. The pandemic created an extraordinary situation that increased state expenditure and weakened administrative oversight mechanisms, thereby creating opportunities for corrupt practices. The persistence of corruption during national crises highlights the structural challenges faced by Indonesia's anti-corruption enforcement system<sup>5</sup>.

The absence of capital punishment enforcement in corruption cases raises fundamental questions regarding the consistency and effectiveness of Indonesia's criminal policy. From a *das sein* perspective, the legal system demonstrates reluctance to apply the death penalty despite the existence of normative provisions allowing such punishment<sup>6</sup>. From a *das sollen* perspective, the law envisions capital punishment as a legitimate instrument to deter corruption, particularly in circumstances involving national emergencies and large-scale public harm<sup>7</sup>. This tension between normative expectations and empirical enforcement illustrates the complexity of criminal law policy in addressing extraordinary corruption crimes.

Globally, the legitimacy of capital punishment remains highly contested. International human rights law increasingly promotes the abolition of the death penalty, emphasising the right to life, proportionality of punishment, and evolving standards of criminal justice reform<sup>8</sup>. The United Nations and various international human rights bodies have consistently encouraged states to restrict or eliminate the use of capital punishment. Within this global discourse, capital punishment is generally justified only for the most serious crimes, particularly those involving intentional killing. The expansion of capital punishment to economic crimes, including corruption, remains controversial and subject to extensive academic and policy debate.

Several scholarly works have examined the relationship between capital punishment and corruption. First, research conducted by Bagaric explores the theoretical justification of capital punishment as a deterrent mechanism in serious criminal offences<sup>9</sup>. This study concludes that while capital punishment may produce symbolic deterrence, empirical evidence supporting its effectiveness remains inconclusive, particularly in crimes driven by systemic institutional factors

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<sup>5</sup> Ali Farazmand and others, 'Corruption, Lack of Transparency and the Misuse of Public Funds in Times of Crisis: An Introduction' (2022) 22 *Public Organization Review* 497.

<sup>6</sup> Daniel McCarthy and Ian Brunton-Smith, 'Attitudes towards the Death Penalty: An Assessment of Individual and Country-Level Differences' (2024) 21 *European Journal of Criminology* 116.

<sup>7</sup> Ambar Soeseno and others, 'A New Paradigm in the Application of Criminal Sanctions Against Corruption (Legal and Political Studies To Find Effective Criminal Sanctions for Corruption Eradication in Indonesia, Especially About the Application of Death Penalty)' (2024) 18 *Revista de Gestao Social e Ambiental* 1.

<sup>8</sup> A Arifullah, 'A Juridical Study of the Death Penalty from a Human Rights Perspective' (2024) 4 *Golden Ratio of Law and Social Policy Review* 1.

<sup>9</sup> Mirko Bagaric, *Punishment and Sentencing: A Rational Approach* (Taylor & Francis Group 2025).



such as corruption. This study highlights the limitations of capital punishment as a purely punitive instrument without addressing structural governance weaknesses.

Second, research by Rose-Ackerman and Palifka examines corruption from an institutional governance perspective, emphasising that corruption thrives in environments characterised by weak accountability mechanisms and limited transparency. Their findings suggest that anti-corruption strategies should prioritise institutional reform, regulatory strengthening, and administrative accountability rather than relying solely on punitive criminal sanctions. Although this research provides significant insights into corruption prevention, it does not specifically analyse the role of capital punishment within emergency governance contexts or its potential function as an extraordinary criminal policy instrument<sup>10</sup>.

Third, a study conducted by Carolyn Hoyle analyses the global trend towards the abolition of capital punishment and its relationship with evolving human rights norms. Their research emphasises that the legitimacy of capital punishment is increasingly questioned in modern legal systems due to concerns regarding judicial errors, proportionality, and moral legitimacy. While their study contributes to understanding the human rights dimension of capital punishment, it does not examine its application in corruption cases, particularly in countries that still maintain capital punishment within their anti-corruption legal frameworks.<sup>11</sup> Although these previous studies contribute valuable theoretical and empirical insights, they reveal several research limitations. Existing scholarship predominantly examines capital punishment within general criminal law contexts or analyzes corruption from governance and institutional perspectives. Limited research specifically addresses the intersection between capital punishment, corruption, and emergency governance. Moreover, the application of capital punishment in corruption cases within developing legal systems, particularly in Indonesia, remains underexplored<sup>12</sup>. This gap becomes increasingly relevant in light of corruption cases involving emergency public funds during the COVID-19 pandemic, which represent a unique intersection between extraordinary crime, national crisis management, and criminal law policy.

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<sup>10</sup> Susan Rose-Ackerman, *Public Sector Performance, Corruption and State Capture in a Globalized World*, vol 296 (Routledge 2024).

<sup>11</sup> Carolyn Hoyle, 'Efforts Towards Abolition of The Death Penalty: Challenges and Prospects' [2023] Death Penalty Research Unit (DPRU) Research Papers 1 <[https://www.law.ox.ac.uk/sites/default/files/2023-12/Carolyn Hoyle - %27Efforts towards abolition of the death penalty%27.pdf](https://www.law.ox.ac.uk/sites/default/files/2023-12/Carolyn%20Hoyle%20-%20Efforts%20towards%20abolition%20of%20the%20death%20penalty.pdf)>.

<sup>12</sup> Roberth Kurniawan Ruslak Hammar and Henrikus Renjaan, 'The Role of Common Law in the Criminal Justice System Regarding Capital Punishments in Indonesia: An Evaluation of the Legal Framework and Implications' (2022) 17 *International Journal of Criminal Justice Sciences* 1 <<https://ijcjs.com/menu-script/index.php/ijcjs/article/view/572>>.



This study seeks to fill this research gap by analysing capital punishment as an anti-corruption strategy within Indonesia's legal framework, focusing specifically on corruption involving emergency public funds during national crises. The study adopts a dual analytical framework integrating *das sein* and *das sollen* perspectives to examine the discrepancy between normative legal provisions and empirical enforcement practices. By combining criminal policy analysis with contemporary human rights discourse, this research offers a multidimensional evaluation of capital punishment in corruption cases. Furthermore, the study contributes to comparative criminal law scholarship by providing insights into how developing legal systems balance anti-corruption enforcement with evolving global human rights standards.

The novelty of this study lies in several aspects. First, it introduces an integrative analysis linking capital punishment with emergency governance and public crisis management, an area that remains rarely examined in existing corruption studies. Second, the study employs the *das sein* and *das sollen* analytical framework to systematically evaluate the gap between normative regulation and enforcement reality, thereby providing a more comprehensive legal analysis. Third, the study develops an academic argument regarding the relevance of capital punishment as an extraordinary anti-corruption strategy while simultaneously assessing its compatibility with modern human rights principles. Fourth, this research contributes policy-oriented recommendations concerning the future direction of Indonesia's anti-corruption criminal law reform in addressing corruption during national emergency situations.

Accordingly, this study seeks to examine two central research questions. First, how is capital punishment regulated and legitimised as an anti-corruption strategy within Indonesia's legal system in addressing extraordinary crimes? Second, to what extent is capital punishment effective and relevant in responding to corruption offences committed during national emergencies, particularly those involving the misappropriation of COVID-19 public relief funds?.

This study employs a normative juridical (doctrinal legal) research method combined with a qualitative analytical approach<sup>13</sup>. The primary focus of the research is to examine the regulation, legitimacy, and policy orientation of capital punishment within Indonesia's anti-corruption legal framework, particularly in relation to corruption committed during national emergencies. As a doctrinal study, this research analyses statutory provisions, legal principles, and constitutional

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<sup>13</sup> Muhammad Iqbal and others, *Metodologi Penelitian Hukum: Panduan Teoritis Dan Praktis* (Fuadi Fuadi ed, Cet. 1, CV Sangpena Media 2025).



norms governing corruption and capital punishment, with particular emphasis on Law Number 31 of 1999 as amended by Law Number 20 of 2001. The study is grounded in legal interpretation and systematic analysis of legislation to assess the coherence, consistency, and normative justification of capital punishment as an extraordinary criminal sanction.

In addition to statutory analysis, this research incorporates a conceptual and comparative approach to situate Indonesia's legal framework within broader international criminal law and human rights discourse<sup>14</sup>. The conceptual approach draws upon theories of criminal policy, deterrence theory, proportionality in punishment, and the protection of fundamental rights, particularly the right to life. The comparative dimension is used to examine global trends concerning the application and abolition of capital punishment, especially in the context of non-lethal offences such as corruption. By integrating the *das sollen* (normative expectations) and *das sein* (empirical enforcement reality) perspectives, the study critically evaluates the discrepancy between legal provisions and practical implementation, thereby providing a multidimensional assessment of the effectiveness and legitimacy of capital punishment in corruption cases.

## METHOD

The method used in this writing is normative or doctrinal legal research. This type of research views law as a system of norms. The sources of legal materials in this research consist of primary, secondary, and tertiary legal sources. Primary sources include statutory regulations, constitutional provisions, and relevant court decisions. Secondary sources comprise scholarly articles, academic books, international legal instruments, and policy reports addressing corruption, criminal sanctions, and capital punishment.

Data collection is conducted through systematic literature review and document analysis, while data analysis is carried out using qualitative legal reasoning and prescriptive analysis to formulate normative arguments and policy recommendations<sup>15</sup>. Through this methodological framework, the study aims to generate a comprehensive evaluation of capital punishment as an anti-corruption strategy within Indonesia's legal system, particularly in the context of emergency governance.

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<sup>14</sup> Samza Fatima, 'Employability of a Research Method and Methodology in a Socio-Legal Study' (2023) VIII Global Social Sciences Review 341.

<sup>15</sup> Patricia Leavy, *Research Design: Quantitative, Qualitative, Mixed Methods, Arts-Based, and Community-Based Participatory Research Approaches* (Sharlene Nagy Hesse-Biber and Patricia Leavy eds, The Guilford Press 2017) <<https://www.ptonline.com/articles/how-to-get-better-mfi-results>>.



## **ANALYSIS AND DISCUSSION**

### **A. Regulatory Framework and Legal Legitimacy of Capital Punishment as an Anti-Corruption Strategy in Indonesia**

The regulation of capital punishment as an anti-corruption strategy within Indonesia's legal system reflects a deliberate criminal policy choice to categorise corruption as an extraordinary crime (*extraordinary crime*). This classification is not merely rhetorical but is embedded within the legislative framework governing corruption offences. Law Number 31 of 1999, as amended by Law Number 20 of 2001, explicitly recognizes corruption as a crime that causes systemic harm to state finances, national development, and public welfare. The most significant manifestation of this extraordinary classification is found in Article 2(2), which provides that capital punishment may be imposed under "certain circumstances." These circumstances include situations where corruption is committed during national emergencies, natural disasters, economic crises, or when state funds allocated for crisis management are misappropriated. Normatively, this provision demonstrates that the Indonesian legislature considers corruption under emergency conditions to reach a level of gravity comparable to the most serious crimes.

From a regulatory standpoint, capital punishment in corruption cases is not formulated as a mandatory sanction but as an alternative maximum penalty<sup>16</sup>. This legal architecture reveals that the death penalty is designed as an exceptional and contingent punishment, not a standard one. The provision is discretionary in keeping with the evident dilemma between punitive strictness and judicial discretion. The intention is to maintain proportionality; the National Assembly makes it impossible for capital offences in relation to corruption except those that lead to great social harm. The real function of such a provision thus is two-fold: It symbolically signals commitment towards stamping out corruption, while providing procedural rigor for judges to follow. Limiting the death penalty to only the worst cases of corruption is a way for the government to make an example out of those who break its new rules<sup>17</sup>. This will also preserve flexibility in sentencing and ensure that each case is dealt with on its individual merits. The challenge in the end is to combine repressive and restorative measures, which are punitive enough to prevent corruption, yet leave enough room for justice to prevail.

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<sup>16</sup> Soeseno and others (n 7).

<sup>17</sup> Piong Khoifung and Asmariah, 'The Implementation of The Death Penalty In Cases of Corruption According to Law No . 31 of 1999 , as Amended by Law No . 20 of 2001 and Law No . 1 of 2023 , From The Perspective of Legal Certainty Is as Follows' (2023) 4 International Journal of Sociology, Policy and Law 20.



In addition to the death penalty, the government has taken a number of steps to stop corruption before it starts. This means setting up groups that support corruption, being open about things, and regularly checking operations to make sure nothing wrong is happening. The government wants to create a culture of responsibility and make people accountable for their actions by setting standards for honesty and sending the message that everyone should act honorably<sup>18</sup>. The government has also been working hard to win back people's trust in a questionable court system and show them that it is serious about upholding the law by prosecuting and punishing everyone who is found to have been involved in corrupt activities. For example, in a recent case of corruption in a country, the country's anti-corruption agency found suspicious financial transactions involving high-ranking officials. They were able to stop what could have turned into much worse criminal activity because they were always being audited and were open about what they were doing. The government made it clear that it would not put up with corruption again by making quick arrests and convictions. This gave the government credibility that made people trust its new institutions.

The legality of the death penalty in instances of corruption can be assessed from both constitutional and legislative viewpoints<sup>19</sup>. The 1945 Constitution of the Republic of Indonesia's Articles 28A and 28I, recognize the right to life as a constitutional right. But the Constitution doesn't say that the death penalty is against the law. According to constitutional doctrine, especially decisions made by the Constitutional Court, the death penalty is still allowed in Indonesia as long as it follows strict legal procedures and reasonable criteria<sup>20</sup>. The Court has repeatedly said that the right to life is not absolute when it comes to criminal penalties, as long as the restrictions are legal and serve a valid state interest. This interpretation of the Constitution gives capital punishment a legal basis to continue to exist in Indonesia's legal system, even for crimes of corruption.

Many human rights groups and legal experts have criticized this position, saying that the death penalty for non-violent crimes like corruption goes against international human rights standards<sup>21</sup>. In fact, a lot of countries have done away with the death penalty because they see it

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<sup>18</sup> Ade Paranata, 'The Miracle of Anti-Corruption Efforts and Regional Fiscal Independence in Plugging Budget Leakage: Evidence from Western and Eastern Indonesia' (2022) 8 *Heliyon* e11153.

<sup>19</sup> Arifullah (n 8).

<sup>20</sup> Padlah RIYADI, 'Construction Of Death Penalty Legal Arrangements in Indonesia' (2023) 1 *Journal of Political And Legal Sovereignty* 5.

<sup>21</sup> Aikaterini Christina Koula, 'Human Rights Violations Committed Against Human Rights Defenders Through the Use of Legal System: A Trend in Europe and Beyond' (2024) 25 *Human Rights Review* 99.



as a cruel form of punishment. These critics say that the death penalty doesn't stop corruption; instead, it keeps the cycle of violence and injustice going. They think that other types of punishment, like long-term prison time and rehabilitation programs, would do a better job of fighting corruption and holding people accountable. Indonesia still uses the death penalty for corruption crimes, even though some people have said bad things about it. This shows that there is still a lot of debate about the use of capital punishment in the modern world.

From a criminal policy standpoint, the incorporation of capital punishment in anti-corruption legislation signifies a deterrent-focused approach. According to classical deterrence theory, the harshness of punishment may stop people from committing crimes<sup>22</sup>. In this context, the Indonesian legislature seems to believe that corruption that happens during national emergencies is so bad that only the most severe punishment can stop it from happening again. The symbolic role of capital punishment is therefore crucial: it indicates the state's unwavering opposition to corruption that jeopardizes public safety and national stability. When there are a crisis and public resources are needed to stay alive and get better, stealing those resources may be seen as just as bad as crimes that put people's lives in danger.

As a result, in times of national emergency, the Indonesian government has enforced stringent anti-corruption policies, including severe punishments like the death penalty for corrupt officials. This strategy seeks to make it abundantly evident that corruption will not be accepted, particularly when it endangers the lives and welfare of the populace. The government aims to highlight the seriousness of these crimes and discourage people from committing them by linking corrupt practices to crimes that endanger human life. Although the death penalty is contentious, the Indonesian legislature feels that it is essential to successfully fight corruption in emergencies.

In 2019, Indonesia condemned a former district chief to death for receiving bribes in return for granting mining permits that resulted in environmental degradation and jeopardized local people<sup>23</sup>. This prominent case acted as a clear admonition to other officials engaged in corrupt activities, illustrating the government's dedication to ensuring accountability for individual misconduct. The severe penalty of death for corruption conveys a clear message that such conduct will not be accepted in Indonesia. The government aims to dissuade others from participating in

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<sup>22</sup> Swati Kaushal and Harish Kumar Tiwari, 'Exploring the Relevance of Deterrence Punishment and Its Implications To Social Stability and Legal Sanction' (2023) 11 Russian Law Journal 25.

<sup>23</sup> Marfungah Luthfi and others, 'Corruption in Mining Sector and Threat to Environmental Sustainability' (2023) 12 Eurasia: Economic & Business 48.



analogous illicit acts by imposing stringent accountability on high-ranking officials. This stringent position against corruption is deemed crucial for safeguarding the nation's resources and ensuring the welfare of its populace.

In reality, there exists a distinction between the enforcement of the law and its formulation. Despite numerous high-profile cases of corruption related to emergency funds, the death penalty has never been imposed by Indonesian courts<sup>24</sup>. Conversely, sentencing patterns indicate an increased likelihood of incarceration or monetary penalties. This fact renders it difficult to accept that Article 2(2) fulfills a beneficial function. The provision seems to serve more as a normative threat than as an enforceable penalty. Dasein asserts that the death sentence is not now employed as a means to combat corruption. Das sollen asserts that it continues to exist as legislation designed to highlight corruption offenses.

This regulatory implementation gap may be explained by several factors. First, evidentiary and procedural standards in capital cases require a high threshold of proof, particularly concerning the aggravating circumstances specified in Article 2(2). Courts may hesitate to categorise corruption cases as fulfilling the “certain circumstances” requirement, especially given the absence of clear legislative guidelines defining the scope and criteria of emergency conditions. Second, judicial caution may reflect broader awareness of international human rights discourse, which increasingly discourages the expansion of capital punishment beyond crimes involving intentional killing. Third, the proportionality principle embedded within criminal justice practice may lead judges to consider long-term imprisonment as a sufficient and more balanced sanction.

The legitimacy of capital punishment as an anti-corruption strategy must also be examined within the broader framework of international law. Indonesia remains a party to the International Covenant on Civil and Political Rights (ICCPR), which permits capital punishment only for the “most serious crimes.” The United Nations Human Rights Committee has interpreted this phrase restrictively, generally limiting it to crimes involving intentional killing. Corruption, although economically and socially destructive, does not directly constitute a lethal offense<sup>25</sup>. Therefore, the application of capital punishment to corruption offenses may raise questions concerning compatibility with evolving international human rights standards. Nevertheless, international law

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<sup>24</sup> Ridwan Ridwan and others, ‘The Death Penalty for Bribery in Law Enforcement: A Critical Reconsideration of Its Role in Preventing Corruption in Indonesia’ (2025) 8 *Jambe Law Journal* 751.

<sup>25</sup> Muhammad Rahjay Pelengkahu and Fajri M Kasim, ‘Phenomena of Corruption as A Social Pathology: A Review on Legal Sociology’ (2023) 10 *Jurnal Hukum Prasada* 130.



does not categorically prohibit capital punishment in retentionist states, leaving room for domestic legal interpretation. Indonesia's position reflects a balancing approach: retaining capital punishment within statutory law while exercising practical restraint in its application.

The Indonesian government has faced criticism for its continued use of the death penalty, particularly in cases of drug trafficking. Despite pressure from international human rights organizations, Indonesia has defended its use of capital punishment as a deterrent against serious crimes<sup>26</sup>. However, there have been calls for a re-evaluation of the death penalty in corruption cases, as it may not align with international human rights standards. The government must carefully consider the implications of applying capital punishment in cases of corruption, weighing the potential consequences on both a domestic and international level. One example of this is the case of a high-ranking government official who was sentenced to death for embezzlement. This sparked debate over whether the death penalty was an appropriate punishment for white-collar crimes, with critics arguing that it could deter individuals from reporting corruption out of fear of being executed. Others, however, believe that such severe consequences are necessary in order to send a strong message and deter others from engaging in corrupt activities. The government must balance the need for justice with the potential negative effects that the death penalty could have on efforts to combat corruption. Ultimately, the decision to apply capital punishment in cases of corruption should be made with careful consideration and in alignment with international human rights standards.

Within Indonesia's broader legal system, the classification of corruption as an extraordinary crime has justified the establishment of specialized institutions, such as the Corruption Eradication Commission (KPK), and special procedural mechanisms aimed at enhancing enforcement efficiency<sup>27</sup>. The inclusion of capital punishment aligns with this extraordinary framework by reinforcing the perception that corruption constitutes a grave threat to state integrity. In this sense, the legitimacy of capital punishment derives not solely from its punitive severity but from its integration into a comprehensive anti-corruption architecture. The regulatory structure indicates that the state perceives corruption, particularly during emergencies,

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<sup>26</sup> Alif Arhanda Putra, 'The Politics of Law Regarding Capital Punishment and the Protection of the Right to Life in Indonesia: A Perspective from Law Number 1 of 2023' (2025) 7 Sign: Jurnal Hukum 188.

<sup>27</sup> Muhamad Ghifari Fardhana Bahar, Sedy Pratama Firdaus and Hanny Hilmia Fairuza, 'Paradigm of Recodification of Corruption in Criminal Code Against Its Designation as Extraordinary Crime' (2024) 17 Arena Hukum 694.



as an offense capable of undermining collective survival, thereby warranting exceptional measures.

By incorporating capital punishment into the anti-corruption framework, the state sends a strong message that corrupt practices will not be tolerated under any circumstances. This approach serves as a deterrent to potential wrongdoers, highlighting the serious consequences that await those who engage in corrupt activities. Furthermore, the integration of capital punishment underscores the government's commitment to upholding the rule of law and maintaining the integrity of state institutions. It also underscores the importance of maintaining public trust and confidence in the government's ability to effectively combat corruption. However, studies have shown that the threat of severe punishment such as capital punishment may not always deter individuals from engaging in corrupt activities. In some cases, individuals may be willing to take the risk if they believe they can evade detection or if the potential gains outweigh the potential consequences. Therefore, in addition to implementing strict punishments, it is crucial for governments to also focus on strengthening anti-corruption measures, increasing transparency, and improving accountability within state institutions. By creating a culture of integrity and promoting ethical behavior, governments can work towards preventing corruption at its roots rather than solely relying on punitive measures. Ultimately, a multi-faceted approach that combines deterrence with prevention is necessary to effectively combat corruption and maintain public trust in government institutions.

Nevertheless, questions remain regarding the effectiveness of severity-based criminal policy. Empirical studies in criminology suggest that the certainty of punishment often exerts a greater deterrent effect than its severity. If enforcement institutions struggle with investigation capacity, political interference, or systemic corruption, the symbolic presence of capital punishment may not substantially alter offender behavior. Thus, the regulatory legitimacy of capital punishment does not automatically translate into practical deterrence. The Indonesian experience demonstrates that while the law formally authorizes the death penalty, enforcement agencies and courts prioritize other penal strategies. For example, in Indonesia, despite having the death penalty as a legal punishment for drug trafficking, enforcement agencies and courts may focus more on rehabilitation and education programs to deter drug-related crimes. This shows that



the actual implementation of capital punishment may be influenced by a variety of factors beyond just its regulatory legitimacy<sup>28</sup>.

In this case, the existence of the death penalty in Indonesia does not necessarily lead to its effective deterrence of drug-related crimes<sup>29</sup>. Instead, the emphasis on rehabilitation and education programs suggests that alternative approaches can be prioritized over capital punishment in practice. These alternative approaches recognize the complexities of drug addiction and aim to address the root causes of criminal behavior. By offering support and resources for individuals struggling with substance abuse, enforcement agencies and courts can work towards preventing future crimes and promoting long-term rehabilitation. While the death penalty may still be a legal option, the focus on education and rehabilitation signals a shift towards a more holistic and compassionate approach to addressing drug-related offenses.

From a normative standpoint, the retention of capital punishment in corruption legislation can be interpreted as a strategic compromise between abolitionist and retentionist perspectives within domestic political discourse. By maintaining the death penalty as an alternative sanction, the legislature preserves a strong rhetorical commitment to combating corruption while allowing judicial discretion to determine its application. This approach creates a layered legitimacy structure: constitutional permissibility, statutory authorisation, and discretionary judicial control. The combined effect is a regulatory framework that symbolically affirms the extraordinary nature of corruption without necessarily institutionalising routine capital sentencing.

Moreover, the maintenance of the death penalty in cases of corruption serves as a deterrent to potential offenders, sending a clear message that such crimes will not be tolerated. It also provides a sense of justice for victims and their families, who may feel that only the most severe punishment can adequately address the harm caused by corrupt practices. Additionally, the threat of capital punishment can incentivize individuals involved in corrupt activities to cooperate with authorities in exchange for leniency, leading to the exposure and prosecution of larger criminal networks. In this way, the death penalty for corruption can be seen as a tool for both punishment and prevention, serving to uphold the rule of law and protect the integrity of the state.

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<sup>28</sup> Satria Unggul Wicaksana Prakasa, Asis and Muallimin Mochammad Sahid, 'Reduce Corruption in Public Procurement: The Effort Towards Good Governance' (2022) 10 *Bestuur* 33.

<sup>29</sup> Muwahid, 'Penerapan Hukuman Mati Bagi Pelaku Tindak Pidana Korupsi (Sebuah Upaya Progresif Dalam Pemberantasan Korupsi)' [2013] *Al-Qanun: Jurnal Pemikiran dan Pembaharuan* ... 7 <<https://core.ac.uk/download/pdf/34212252.pdf>>.



By holding corrupt individuals accountable through the ultimate penalty, society sends a clear message that such behavior will not be tolerated under any circumstances<sup>30</sup>. This can serve as a deterrent not only for those currently engaging in corrupt activities but also for potential future wrongdoers who may think twice before committing similar offenses. Ultimately, the use of the death penalty for corruption can help maintain a level playing field in society, where fairness and honesty are valued above all else.

In conclusion, capital punishment is regulated within Indonesia's anti-corruption legal system as an exceptional and conditional sanction designed to address aggravated corruption committed under extraordinary circumstances. Its legitimacy is grounded in statutory law, supported by constitutional interpretation, and framed within a deterrence-based criminal policy rationale. However, empirical enforcement reveals a consistent pattern of non-application, indicating that the death penalty functions more as a symbolic instrument than as an operational punitive mechanism. The regulatory framework reflects an attempt to balance extraordinary crime classification, constitutional permissibility, and international human rights considerations. Consequently, capital punishment in corruption cases occupies a complex position within Indonesia's legal system—normatively authorised, constitutionally tolerated, but practically restrained.

## **B. The Effectiveness and Relevance of Capital Punishment in Addressing Corruption During National Emergency Situations**

The effectiveness and relevance of capital punishment as an anti-corruption strategy in national emergencies must be examined through a multidimensional lens that integrates criminal law theory, empirical enforcement patterns, governance realities, and human rights considerations. While the Indonesian anti-corruption legal framework formally authorises the death penalty under specific aggravated circumstances, its practical utility in responding to corruption committed during crises, such as the COVID-19 pandemic, requires deeper scrutiny. Effectiveness in criminal law cannot be measured solely by the severity of sanctions; rather, it must be evaluated through its deterrent impact, enforceability, proportionality, and consistency with broader legal principles<sup>31</sup>.

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<sup>30</sup> Latuharhary Latuharhary, 'Komnas HAM: Hukuman Mati Bukan Solusi Pemberantasan Korupsi' (*Komnas HAM RI*, 2021) <<https://www.komnasham.go.id/index.php/news/2021/3/12/1709/komnas-ham-hukuman-mati-bukan-solusi-pemberantasan-korupsi.html>> accessed 10 May 2023.

<sup>31</sup> Satri Unggul Wicaksana Prakasa and others, 'Social Aid of Covid-19 Corruption: Strategy and Mitigation Policy of Muhammadiyah East Java' (2021) 29 *Legality : Jurnal Ilmiah Hukum* 27.



From a deterrence perspective, capital punishment is often justified on the assumption that extreme severity generates strong preventive effects. Classical deterrence theory suggests that rational actors weigh the potential costs and benefits of criminal behaviour. Under this logic, the possibility of facing capital punishment should theoretically discourage individuals from engaging in corruption, particularly when such conduct occurs during national emergencies involving large-scale public harm. The Indonesian legislature appears to have relied upon this assumption when incorporating Article 2(2) into the Anti-Corruption Law, signalling that corruption committed in crisis conditions is morally reprehensible and socially destructive to an extraordinary degree. Therefore, the threat of capital punishment serves as a powerful deterrent to potential wrongdoers, as the severe consequences outweigh any potential gains from corrupt activities. By making the punishment for corruption in times of crisis so severe, the Indonesian government aims to protect the well-being of its citizens and preserve the integrity of the state. This tough stance on corruption sends a strong message that such behavior will not be tolerated, especially when the stakes are highest.

However, empirical criminological research consistently demonstrates that the certainty of punishment exerts a greater deterrent effect than its severity. In corruption cases, decision-making is rarely driven by impulsive behaviour; instead, it is embedded within systemic networks, institutional vulnerabilities, and power asymmetries. Corruption during emergencies often arise from weak oversight mechanisms, rapid budget reallocations, and administrative discretion exercised under urgent conditions<sup>32</sup>. In such contexts, potential offenders may perceive the likelihood of detection and prosecution as relatively low, thereby diminishing the deterrent impact of even the harshest available sanction. Consequently, the mere existence of capital punishment may not substantially alter behavioural incentives unless accompanied by robust enforcement certainty, transparency mechanisms, and institutional accountability.

For example, in countries where corruption is rampant and law enforcement agencies are ineffective, even the threat of capital punishment may not deter individuals from engaging in criminal activities during emergencies. Additionally, in cases where the judicial system is easily manipulated or influenced by powerful individuals, the implementation of capital punishment may not serve as a strong deterrent against criminal behavior.

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<sup>32</sup> Kristina Dwi Putri and Agustianto Agustianto, 'Efektifitas Penerapan Hukuman Mati Bagi Para Pelaku Tindak Pidana Korupsi Di Indonesia' (2021) 4 e-Journal Komunitas Yustisia 736.



In these cases, individuals may weigh the potential consequences against the likelihood of being caught and prosecuted, ultimately choosing to take the risk. To effectively deter criminal behavior, it is essential to address the root causes of corruption and inefficiency within the legal system. This may require implementing comprehensive reforms, such as strengthening anti-corruption measures, improving law enforcement capabilities, and ensuring judicial independence. Only by addressing these underlying issues can capital punishment have a meaningful impact on deterring criminal activity.

An actual case study for evaluating the applicability of the death penalty in an emergency is the COVID-19 pandemic. Governments all throughout the world used exceptional budgetary measures during the pandemic to handle social aid, economic recovery, and health issues. Significant public expenditures were allotted by Indonesia for pandemic control, which included purchasing medical supplies and distributing social relief. The abuse of these monies in subsequent corruption scandals exposed weaknesses in crisis governance frameworks<sup>33</sup>. These incidents generated public discussion over whether the death penalty should be used in accordance with Article 2(2)'s requirement of severe circumstances. However, judges did not seek the death penalty in these cases despite widespread public indignation.

Instead, the judges imposed heavy fines and lengthy prison sentences on those found guilty of misusing the pandemic funds. This decision was met with mixed reactions from the public, with some feeling that stricter punishment was necessary to deter future corruption, while others believed that rehabilitation and restitution were more effective measures. Regardless, the government vowed to strengthen anti-corruption measures and increase transparency in order to prevent similar incidents from occurring in the future. The ultimate goal was to rebuild trust in the government and ensure that public funds were used for their intended purposes of aiding those in need during times of crisis.

This enforcement pattern suggests that capital punishment, while symbolically powerful, may not be operationally integrated into judicial practice. Judges appear to prioritise proportional sentencing principles, evidentiary clarity, and alignment with broader constitutional values. The reluctance to impose capital punishment in pandemic-related corruption cases may reflect judicial awareness of international human rights standards and the evolving global trend toward abolition. Even in retentionist states, courts often exercise restraint in expanding capital punishment beyond

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<sup>33</sup> Prakasa and others (n 31).



crimes involving intentional killing. As such, the practical relevance of capital punishment in corruption cases becomes limited when courts interpret proportionality narrowly and emphasise rehabilitative or restorative objectives.

The principle of proportionality constitutes a central pillar in evaluating the relevance of capital punishment. Modern criminal justice systems increasingly emphasise proportionality between the gravity of the offence and the severity of the sanction<sup>34</sup>. While corruption during national emergencies undeniably causes significant harm—diverting resources intended for public survival—it remains categorised as a non-lethal offence. The moral and legal equivalence between economic crimes and intentional homicide remains contested within both domestic and international discourse. Critics argue that extending capital punishment to corruption risks diluting the threshold of “most serious crimes” under international human rights law. Proponents, however, contend that corruption during emergencies indirectly endangers lives by undermining access to essential services, thereby justifying severe sanctions.

For example, during a natural disaster like a hurricane, corrupt officials siphoning off relief funds meant for food and shelter can directly harm the survival of affected individuals. This diversion of resources not only deprives people of necessary aid but also prolongs their suffering, potentially leading to preventable deaths. Furthermore, corruption during emergencies can also exacerbate social inequalities and deepen poverty within already vulnerable communities. The impact of corrupt practices in diverting resources away from those in urgent need can have long-lasting effects on the overall development and stability of a society. Therefore, stringent measures to combat corruption during crises are crucial in ensuring that emergency relief reaches those who need it most and in preventing further harm to already marginalized populations. Ultimately, addressing corruption in such situations is essential for upholding human rights and promoting justice and equality for all individuals, especially in their times of greatest need<sup>35</sup>.

In assessing relevance, it is also necessary to examine whether capital punishment aligns with the broader objectives of anti-corruption policy. Effective anti-corruption strategies typically combine preventive, administrative, and punitive measures. Institutional reforms, digital transparency systems, independent oversight bodies, and whistleblower protections often demonstrate measurable impact in reducing corruption risks<sup>36</sup>. If structural weaknesses remain

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<sup>34</sup> Hammar and Renjaan (n 12).

<sup>35</sup> Prakasa, Asis and Sahid (n 28).

<sup>36</sup> Khoyfung and Asmariah (n 17).



unaddressed, reliance on extreme punitive measures may function more as a symbolic response than as a substantive solution. The Indonesian experience during the pandemic illustrates that corruption risks were closely linked to emergency procurement procedures, rapid fund disbursement, and oversight limitations. Addressing these systemic vulnerabilities may yield greater long-term effectiveness than escalating penal severity.

For example, in Indonesia, implementing transparent procurement processes, strengthening oversight mechanisms, and providing avenues for whistleblowers to report corruption can help mitigate risks during emergencies like the pandemic. By addressing these structural weaknesses, the government can prevent corruption before it occurs, rather than relying solely on punitive measures after the fact. This proactive approach can create a more sustainable and accountable system that promotes transparency and accountability. By focusing on prevention rather than punishment, Indonesia can build a stronger foundation for future emergency responses, ensuring that resources are allocated efficiently and effectively. Ultimately, addressing systemic vulnerabilities is essential for combating corruption and building a more resilient society.

By implementing comprehensive oversight mechanisms and increasing transparency in decision-making processes, the government can establish a culture of integrity and ethical behavior within its institutions. Additionally, investing in education and training programs for public officials can help instill a sense of responsibility and professionalism in their roles. By addressing the root causes of corruption and fostering a culture of accountability, Indonesia can pave the way for a more prosperous and equitable society for all its citizens.

Moreover, the expressive function of punishment must be considered. Criminal sanctions do not only deter; they also communicate societal condemnation of particular conduct. Capital punishment, in this sense, represents the strongest possible moral denunciation of corruption during crises. In societies experiencing high levels of public distrust toward political elites, the symbolic imposition of capital punishment could theoretically restore confidence in the rule of law. However, if rarely or never implemented, the symbolic message may weaken over time, transforming the provision into a rhetorical device rather than a credible enforcement mechanism. The credibility of criminal law depends upon consistent application; dormant provisions risk undermining normative coherence.

Implementing capital punishment for corruption may initially restore confidence in the rule of law, but if not consistently enforced, it could lead to a loss of credibility and ultimately weaken



the deterrent effect on corrupt behavior. Inconsistent application of laws can erode trust in the legal system and undermine its effectiveness in combating corruption<sup>37</sup>. For example, if a high-ranking government official is found guilty of corruption but is not sentenced to capital punishment, it could create the perception that the law is being selectively applied. This could lead to public disillusionment and a lack of faith in the legal system's ability to effectively address corruption.

Another dimension of effectiveness concerns international reputation and legal diplomacy. Indonesia operates within an increasingly interconnected global legal order. International investment, trade relations, and diplomatic engagement often involve scrutiny of domestic legal practices, including human rights compliance<sup>38</sup>. Expanding or actively applying capital punishment to corruption offences may generate international criticism, particularly from abolitionist jurisdictions and human rights organisations. Such criticism could influence Indonesia's global standing and legal partnerships. Therefore, policymakers must weigh the domestic symbolic value of capital punishment against potential international implications.

Judicial discretion also plays a crucial role in determining practical relevance. Article 2(2) does not mandate capital punishment; it merely authorises it under certain circumstances. This design grants judge interpretive authority to determine whether emergency conditions justify maximum penalties. In practice, courts may interpret "certain circumstances" conservatively to avoid irreversible sentencing outcomes. The absence of clear legislative criteria defining emergency corruption thresholds may further discourage capital sentencing. Without detailed statutory guidance, judicial application risks inconsistency and potential arbitrariness, factors that undermine both fairness and legitimacy. To address these concerns, lawmakers should establish specific guidelines outlining the conditions under which maximum penalties can be imposed for corruption offenses during emergencies. By providing clear and objective criteria, legislators can help ensure that capital sentencing decisions are made in a consistent and fair manner. This transparency and consistency will not only enhance the legitimacy of the judicial process but also uphold the principles of justice and the rule of law.

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<sup>37</sup> Elizabeth Purba, Madiasa Ablisar and Mahmud Mulyadi, 'Hukuman Mati Terhadap Pelaku Tindak Pidana Korupsi Di Berbagai Negara Yang Menerapkan Hukuman Mati (Indonesia, China Dan Thailand)' (2018) 1 Mahupiki 1 <[http://download.garuda.kemdikbud.go.id/article.php?article=1433357&val=4136&title=HUKUMAN\\_MATI\\_TERHADAP\\_PELAKU\\_TINDAK\\_PIDANA\\_KORUPSI\\_DI\\_BERBAGAI\\_NEGARA\\_YANG\\_MENERAPKAN\\_HUKUMAN\\_MATI\\_INDONESIA\\_CHINA\\_DAN\\_THAILAND](http://download.garuda.kemdikbud.go.id/article.php?article=1433357&val=4136&title=HUKUMAN_MATI_TERHADAP_PELAKU_TINDAK_PIDANA_KORUPSI_DI_BERBAGAI_NEGARA_YANG_MENERAPKAN_HUKUMAN_MATI_INDONESIA_CHINA_DAN_THAILAND)>.

<sup>38</sup> Koula (n 21).



Furthermore, the evolution of Indonesia's criminal law reform, particularly with the enactment of the new Criminal Code (KUHP 2023), reflects a shifting approach toward capital punishment<sup>39</sup>. The new code introduces a conditional death penalty model, allowing conversion to life imprisonment after a probationary period under certain conditions. This reform indicates a gradual movement toward moderation and restraint in capital sentencing policy. Within this broader reform context, the relevance of capital punishment in corruption cases may increasingly be viewed through a rehabilitative and restorative justice lens rather than purely retributive logic.

For example, a high-ranking government official convicted of embezzlement may be sentenced to the conditional death penalty under the new Criminal Code. After serving a probationary period and demonstrating genuine remorse and efforts at restitution, their sentence could be commuted to life imprisonment, providing an opportunity for rehabilitation and societal reintegration. This approach prioritizes addressing the root causes of corruption and promoting accountability while also allowing for the possibility of redemption and reform. However, this approach may lead to leniency towards powerful individuals who have committed serious crimes, sending the message that there are different standards of justice for the wealthy and influential. Additionally, the potential for corruption and manipulation in the process of determining genuine remorse and restitution efforts could undermine the credibility and fairness of the criminal justice system.

From a policy-analysis standpoint, the effectiveness of capital punishment must ultimately be measured by its capacity to reduce corruption incidence during emergencies. There is currently no empirical evidence demonstrating that the presence of capital punishment provisions correlates with lower corruption rates in crisis governance. Comparative studies show that countries with strict capital sanctions for economic crimes do not necessarily exhibit lower corruption indices. Instead, governance quality, institutional independence, and transparency frameworks appear more strongly correlated with anti-corruption success<sup>40</sup>.

Thus, severity alone may not constitute a decisive variable in influencing corruption dynamics. These findings suggest that simply having harsh penalties like capital punishment in place is not enough to effectively combat corruption during times of crisis. Governments must

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<sup>39</sup> Ahmad Irzal Fardiansyah, 'Why Indonesia Maintain Capital Punishment?' (2021) 15 *Fiat Justisia: Jurnal Ilmu Hukum* 25.

<sup>40</sup> Martha Safira, 'Law Is a Tool of Social Engineering Dalam Penanganan Tindak Pidana Korupsi Di Indonesia Ditinjau Dari Hukum Islam Dan Perundang-Undangan Di Indonesia' (2017) 11 *Kodifikasi* 181.



focus on improving governance quality, ensuring institutional independence, and establishing transparent frameworks to effectively address corruption issues. By addressing these key factors, countries can create a more conducive environment for combating corruption and promoting accountability in times of emergency. Ultimately, the emphasis should be on implementing comprehensive anti-corruption measures that go beyond just punitive measures.

Nevertheless, the retention of capital punishment may still serve a conditional relevance function. In extreme hypothetical scenarios involving corruption that directly causes mass casualties—for example, deliberate embezzlement of funds leading to catastrophic public health failures—the moral argument for severe sanctions may intensify. The legal system must retain flexibility to address unprecedented forms of harm. In this sense, capital punishment functions as a reserve mechanism within the criminal justice arsenal, intended for exceptionally grave and demonstrably harmful circumstances. However, historically, there have been numerous cases of wrongful convictions and misconduct in the criminal justice system, leading to innocent individuals being sentenced to death<sup>41</sup>.

This undermines the argument for retaining capital punishment as a reserve mechanism, as it allows for potential abuse and irreversible harm to be inflicted on innocent people. Therefore, the flaws and failures within the criminal justice system call into question the reliability and fairness of capital punishment as a reserve mechanism. The risk of executing an innocent person is simply too great, and the potential for abuse and misconduct cannot be ignored. In order to truly address unprecedented forms of harm, it may be necessary to reevaluate the use of capital punishment and explore alternative methods of punishment that do not carry the same risk of irreversible harm to innocent individuals.

In conclusion, the effectiveness and relevance of capital punishment in addressing corruption during national emergencies remain complex and context-dependent. While normatively justified as a deterrent and expressive instrument against extraordinary corruption, empirical enforcement patterns in Indonesia demonstrate consistent restraint in its application. Deterrence theory, proportionality principles, international human rights norms, and institutional governance realities collectively shape judicial reluctance to operationalise capital punishment in corruption cases. Consequently, capital punishment presently functions more as a symbolic

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<sup>41</sup> Gomgom Tp Siregar and Rudolf Silaban, 'The Relevance of Criminal Close to the Modern Criminal Justice System' (2022) 5 *Jurnal Daulat Hukum* 318.



affirmation of the extraordinary nature of emergency corruption rather than as an actively implemented enforcement tool. Its practical relevance depends not solely on statutory authorisation but on broader structural reforms, enforcement certainty, and alignment with evolving constitutional and international legal standards.

## CONCLUSION

This study examined the regulation, legitimacy, effectiveness, and relevance of capital punishment as an anti-corruption strategy within Indonesia's legal system, particularly in the context of corruption committed during national emergencies. The analysis demonstrates that capital punishment is formally embedded in Indonesia's Anti-Corruption Law as an exceptional and conditional sanction applicable under aggravated circumstances, including emergency situations. Its legal legitimacy is supported by statutory regulation and constitutional interpretation, which continues to recognise the permissibility of capital punishment under strict legal safeguards. Normatively, the provision reflects a criminal policy stance that classifies corruption during crises as an extraordinary crime requiring extraordinary measures.

However, the findings reveal a clear divergence between normative design (*das sollen*) and enforcement reality (*das sein*). Despite high-profile corruption cases involving emergency public funds, including those related to the COVID-19 pandemic, Indonesian courts have never imposed capital punishment in corruption cases. This enforcement pattern indicates that the death penalty functions primarily as a symbolic or declaratory instrument rather than an operational sanction. Its presence in the legal framework reinforces the expressive function of criminal law—signalling strong state condemnation—yet its deterrent value remains uncertain in the absence of consistent application.

From a criminal policy perspective, the study underscores that the effectiveness of anti-corruption enforcement depends more on the certainty of detection and prosecution than on the severity of punishment alone. Corruption during emergency governance is often driven by structural vulnerabilities such as weak oversight, discretionary budget allocation, and limited transparency mechanisms. In such contexts, escalating penal severity without strengthening institutional safeguards may have limited preventive impact. The findings therefore suggest that capital punishment, while legally available, does not constitute a decisive instrument in reducing corruption risks during national crises.



The analysis also highlights the tension between domestic legal authority and evolving international human rights norms. Although Indonesia retains sovereign discretion to regulate capital punishment, global legal standards increasingly restrict its application to the most serious crimes, generally interpreted as offences involving intentional killing. The extension of capital punishment to non-lethal economic crimes such as corruption raises proportionality concerns within contemporary human rights discourse. Judicial restraint in applying the death penalty to corruption cases may reflect an implicit alignment with these global normative developments.

Overall, this study concludes that capital punishment in Indonesia's anti-corruption regime occupies a legally legitimate but practically restrained position. It operates more as a symbolic affirmation of the extraordinary nature of corruption during emergencies than as an effective enforcement mechanism. Strengthening anti-corruption efforts in national crisis situations requires prioritising institutional integrity, enforcement certainty, and transparent governance mechanisms rather than relying predominantly on extreme penal sanctions. The future trajectory of Indonesia's criminal policy should therefore balance the expressive value of severe punishment with proportionality principles and structural reform to ensure both legal coherence and practical effectiveness.

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