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Comparison of Corruption Criminal Law in Indonesia and China: Analysis of Sanctions and Implementation

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Comparison of Corruption Criminal Law in Indonesia and China: Analysis of Sanctions and Implementation

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Abstract

Corruption is a serious problem that affects stability and development in many countries, including Indonesia and China. These two countries have different approaches in terms of regulating sanctions and implementing punishments against corrupt actors. This study aims to conduct a comparative analysis of how the criminal law of corruption is regulated and implemented in Indonesia and China. Departing from the above problems, the author takes three formulations, the first problem is how the regulation of the threat of death penalty in corruption crimes in Indonesia and China differs? Second, how is the regulation of the threat of death penalty in corruption crimes in Indonesia and China similar? And third, how does the regulation of the threat of death penalty in corruption crimes in Indonesia compare with China? In this study, the author uses a normative research method, which is often referred to as doctrinal legal research or literature research. The results of this study are that overall, China tends to have heavier and stricter criminal sanctions in dealing with corruption compared to Indonesia, with the use of the death penalty being an option in extreme cases. On the other hand, Indonesia has shown a focus on restoring state losses and additional law enforcement to increase effectiveness and accountability in the eradication of corruption. Although China's approach to corruption punishment is very firm, not all elements can be adapted to improve the system in Indonesia

Introduction

Corruption crime is a phenomenon that is often found in society. Corruption can arise due to a variety of factors, both intentional and unintentional, which often cause anxiety among citizens. This criminal act has legal consequences, where the perpetrator will be subject to criminal sanctions. The purpose of the sanctions is to create a deterrent effect, restore the situation, and maintain security and order.¹ One approach to

¹ Hendrik Manossoh Factors Causing Factors, Hendrik Manossoh Faculty of Economics and Business, and Department of Accounting, Sam Ratulangi University Manado, 'A NUMBER OF FACTORS THAT CAUSE FRAUD AT THE GOVERNMENT OF NORTH SULAWESI PROVINCE', March, 4.1 (2016),

understanding criminalization is through absolute theory, which comes from the classical school in criminal law. This theory emphasizes that retribution is the basis of punishment. In the context of corruption, the state has the right to impose punishment on perpetrators because they have violated the rights and interests of the community. This punishment is a consequence of actions that harm the state and the public. In contrast, the theory of relativity emphasizes the importance of improving public order through crime prevention. In the case of corruption, criminal sanctions aim to prevent other individuals from committing similar acts by showing that violations of the law will have serious consequences. This theory affirms that the relationship between crime and injustice plays a role in the protection of justice and public order. In addition, there is a combined theory that integrates elements of retribution and order. In the context of corruption, punishment not only serves as retribution to the perpetrator, but also to show that acts of corruption are unacceptable. Retaliation is used as a tool to prevent the recurrence of similar actions in the future and ensure justice is served.²

56 The purpose of criminal law is inseparable from reform in the criminal law system. Law is influenced by the context of space and time, which suggests that legal norms in one place can differ from those that apply in another.³ In the context of corruption in China, this principle is very relevant. China has carried out criminal law reforms to address the corruption problem, including tightening anti-corruption laws and increasing sanctions for violators. These measures reflect the goal of absolute theory in penalization, which emphasizes that punishment is given as a form of retribution for those who break the law and harm society. In addition, the criminal legal system in China is designed to meet local conditions and needs. This suggests that the approach to criminal law in China can differ from other countries, in accordance with the principle that the law is influenced by the context of space and time. For example, China applies the death penalty for large corruption cases as a strong form of deterrence, which is in line with the theory of relativity in criminality, which is to prevent others from committing similar crimes.⁴ China is also using a comprehensive approach to fighting corruption that includes structural reforms and increased surveillance. This is in line with the combined theory in criminalization, which combines retribution and prevention. Thus, punishment not only aims to punish the perpetrators but also to improve the system and prevent corruption in the future. As mentioned by Barda Nawawi Arief, criminal law reform is part of criminal law policy.⁵

47 Based on the existing reality, the problem of corruption in Indonesia will never be solved without a strong will from leaders to eradicate it. Corruption in Indonesia may occur systematically, but it is unclear who regulates the practice to continue to grow. On the one hand, there is an intention to fight corruption, but on the other hand, corruption has become a fertile environment and is even maintained by the community and the rulers.

484–95.

2 Anak Agung and others, 'PUNISHMENT OF PERPETRATORS OF CORRUPTION CRIMES THROUGH A DOUBLE TRACK SYSTEM', 1.2 (2020) <<https://doi.org/10.22225/jph.v1i2.2408.196-200>>.

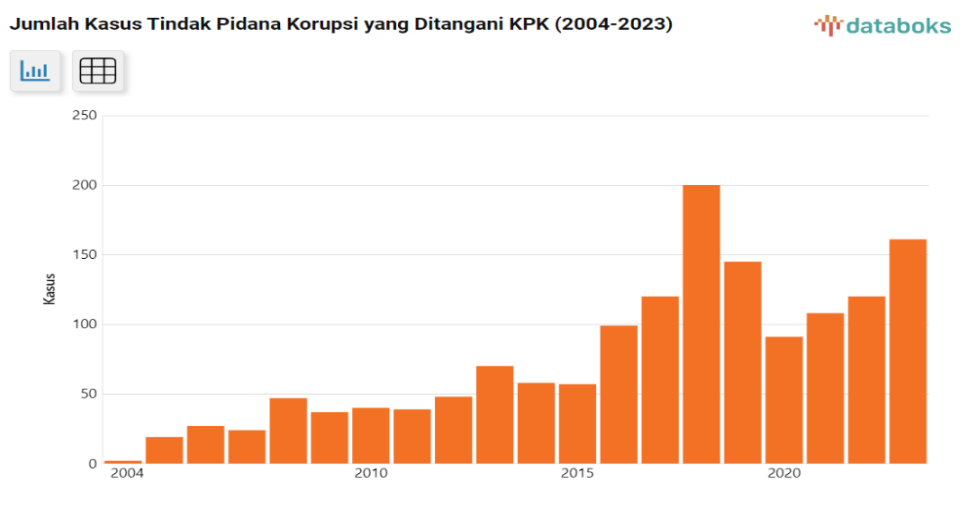
3 *COMPARATIVE INTRODUCTION TO LEGAL SYSTEMS (Civil Law, Common Law, and Customary Law)*.

4 Koko Arianto Wardani and Sri Endah Wahyunongsih, 'DEATH PENALTY FORMULATION POLICY AGAINST PERPETRATORS OF CORRUPTION CRIMES IN INDONESIA', Vol. 12 (2017).

5 Barda Nawawi, *POTPOURRI CRIMINAL LAW POLICY* (Bandung: PT. CitraAdityaBakti, 2002).

The problem of corruption in Indonesia is very complex, starting from competition or change of power between regimes which often involves fraud or acts of corruption. Corruption is also rampant in the exercise of power itself, so it is not surprising that it is difficult to eradicate corruption in Indonesia comprehensively. Efforts to eradicate corruption are often partial, targeting only certain parties, while those close to the ruling regime are usually impunity. As a result, corrupt practices continue to run as usual.⁶

Graph 1. Number of corruption cases handled by the KPK (2004-2023)



Source: Dokuments of Katadata Media Network

Based on the graph from the databoks above, the KPK has handled 1,512 corruption cases in the last two decades. According to a report by the Corruption Eradication Commission (KPK), the number of cases handled from 2004 to 2023 shows a peak in 2018, which handled 200 cases, while the lowest number was recorded in 2004, which was 2 cases. The following are details of the types of corruption crimes handled by the KPK from 2004 to 2023:

1. Gratuities/bribery : 989 cases
2. Procurement of goods/services : 339 cases
3. Money laundering (TPPU) : 58 cases
4. Budget abuse : 57 cases
5. Licensing : 28 cases
6. Levies/extortion : 28 cases
7. Obstructing the KPK process : 13 cases

Between 2004 and 2023, most corruption crimes occurred in district/city government agencies, with a total of 601 cases. Meanwhile, in ministries/agencies there

⁶ A Study on Institutional Governance and Community Participation Mechanisms in the Implementation of Presidential Regulation Number, STRENGTHENING THE NATIONAL STRATEGY FOR CORRUPTION PREVENTION (STRANAS PK) TRANSPARENCY INTERNATIONAL INDONESIA 2023, 2018.

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were 474 cases, and in the provincial government there were 196 cases.⁷ Regarding sanctions for perpetrators of corruption crimes, the Indonesia government has taken significant steps by increasing the punishment as stipulated in Article 2 paragraph (2) of Law Number 31 of 1999 jo Law Number 20 of 2001. This article establishes the death penalty for acts of corruption related to funds for emergency relief, natural disasters, widespread social unrest, economic and monetary crises, as well as repeated violations in corruption crimes. The death penalty under this provision can only be imposed under certain conditions.⁸

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Unlike Indonesia, the Chinese government's commitment to eradicating corruption is very clear and firm, not just a slogan. China has shown its seriousness by imposing the death penalty on officials proven to be corrupt. In the past, China was known as one of the most corrupt countries in the world, but now it has managed to get out of the list of the most corrupt countries. This success is largely due to the commitment of former Premier Zhu Rongji, who campaigned against corruption by applying the death penalty to corrupt perpetrators, even challenging anyone to shoot him if found guilty.⁹

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Although both countries share the same goal in eradicating corruption, there are significant differences in legal approaches, the application of sanctions, and the results achieved, which makes this comparison interesting to study further. Against this background, this study aims to comparatively analyze the criminal sanctions of corruption in Indonesia and China, as well as evaluate the implementation of these penalties in the context of each country. The results of this analysis are expected to contribute to the development of legal policies in Indonesia, by taking lessons from China's experience in effectively eradicating corruption.¹⁰

15 27 5 Method

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In this study, the researcher uses a normative juridical analysis knife, which is often referred to as *doctrinal* legal research or literature research. In normative research, law is conceptualized as what is written in laws and regulations (*law in books*) or as rules or norms.¹¹ The approach used in this study is the *comparative approach*, which is an approach taken to compare the laws of one country with the laws of other countries. W. Ewald (in *Critical Comparative Law*) quoted by Barda Nawawi Arief stated that legal comparison is essentially a philosophical activity. Comparative law is a study or comparative study of the intellectual conceptions that exist behind the main legal institution/institution of one or several foreign legal systems. Where the regulations and policies of the criminal law on corruption in Indonesia and China are systematically compared.¹²

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⁷ Cindy Mutia Annur, 'KPK Handles 1,500 Corruption Cases in Two Decades', Databoks, 2024 <<https://databoks.katadata.co.id/politik/statistik/5e6f4f7ee095749/kpk-tangani-1500-kasus-korupsi-dalam-dua-dekade>> [accessed 21 September 2024].

⁸ 'Law Number 31 of 1999 Jo Law Number 20 of 2001'.

⁹ Yulius Kaka, 'Eradicating Corruption: Learn from China', 2018 <<https://kumparan.com/yulius-kaka/berantas-korupsi-belajarlah-dari-china>> [accessed 21 September 2024].

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¹⁰ Ayu Fitri Hardianti, Nandang Sambas, and Dian Andriasari, *Comparative Study of Sustaining Criminal Sanctions to Accidents of Criminal Acts in Corruption in Indonesia State with China Country* <<http://sriyuliani.staff.fisip.uns.ac.id/wp-content/uploads/sites/10/2011/06/KORUPSI-blog.pdf>>.

¹¹ Zainal Asikin and Amiruddin, *INTRODUCTION TO LEGAL RESEARCH METHODS*, Tenth Print (Jakarta: PT. RajagrafindoPersada, 2018).

¹² Barda Nawawi Arief, *COMPARISON OF CRIMINAL LAW* (Jakarta: RajawaliPers, 2014).

Results and discussion

A. Differences in the regulation of the threat of death penalty in corruption crimes in Indonesia and China

Etymologically, corruption means corruption, depravity, dishonesty, and immoral behavior, and can refer to acts of bribery or insult. According to Robert Klitgaard, corruption is defined as "the abuse of public power for personal gain."¹³ Meanwhile, in the Indonesia Anti-Corruption Encyclopedia, the term "corruption" comes from the Latin words "corruption" which means bribery, and "corruptore" which means destructive. Corruption reflects a situation in which a state official or institution abuses its authority through actions such as bribery, forgery, and various other forms of irregularities.¹⁴ In this context, corruption is not only an ethical issue, but also a violation of the law that involves the abuse of power for personal gain.¹⁵

Corruption is one of the crucial problems that has long been rooted in Indonesia and is a major challenge for law enforcement. Corruption as an extraordinary crime establishes the death penalty for the perpetrators. However, in reality, this provision has never been applied by a judge in a corruption case. As a result, corruption continues to occur and is increasingly widespread both in terms of modus operandi and the number of perpetrators.¹⁶ In positive law in China, there is no explicitly regulated definition of corruption instead, the focus is more on "Embezzlement And Bribery" which in Indonesian means "embezzlement and bribery." Among the various forms of corruption, embezzlement (贪污 tanwu), bribery (贿赂 huilu), and misuse of public funds (挪用公款 gongkuan nuoyong) are serious offenses in China.¹⁷ In ancient times in China, terms such as "bribery" or "corruption" did not exist. The term "bribery" first appeared in the work "Zuoshi Chunqiu Zhuan" around 500 BC, and was used to describe the act of giving money or goods to public officials or members of the military, as well as the receipt of money or goods by them outside of official salary.¹⁸

Table 1. Differences in the regulation of the threat of criminal sanctions in criminal acts of corruption based on Indonesian and Chinese laws and regulations

No	Indicators of the difference in death penalty for corruption perpetrators	Indonesian	China
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¹³ Robert Klitgaard, *GUIDE TO THE ERADICATION OF CORRUPTION IN LOCAL GOVERNMENT* (Jakarta: Yayasan OborIndonesia, 2002).

¹⁴ Leden Marpaung, *CORRUPTION CRIME* (Jakarta: Djambatan, 2007).

¹⁵ Jawade Hafidz Arsyad, *CORRUPTION IN HAN PERSPECTIVE* (Jakarta: SinarGrafika, 2017).

¹⁶ Warih Anjari, 'APPLICATION OF THE DEATH PENALTY TO CONVICTS IN CORRUPTION CASE 1'.

¹⁷ Weng Cuifen, *ANALYSIS ON THE GROWTH OF BRIBERY IN CHINA* (PekingUniversity, 2010).

¹⁸ Elizabeth Purba, *DEATH PENALTY FOR PERPETRATORS OF CORRUPTION CRIMES IN VARIOUS COUNTRIES*, 2018.

16	1	Threat of death penalty	Regulated in Article 2 paragraph (2) with the provision that it is caused by certain circumstances	Imposed because the level of loss caused by the calculation of the loss is the highest, regulated in Article 383, Article 386 and Article 394
49	2	Postponement of the imposition of the death penalty	Absence of settings	Regulated for certain reasons in Article 383
7	3	If the suspect dies before the court decision	A civil lawsuit can be filed against the heirs, this is regulated in articles 33 and 34	Absence of settings
20	4	Reasons for removing criminal sanctions	Regulated in the case of gratuities regulated in Article 12 C	It is regulated differently in Article 383, Article 389 and Article 392.

Source: Law Number 31 of 1999 jo Law Number 20 of 2001 and Criminal Law of the People's Republic of China

The data from the table above is obtained from comparing Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption. With the Criminal Law of the People's Republic of China or the Criminal Code which was drafted in 1979 and came into effect in 1980. In the Special Provisions of the Criminal Code of China, Chapter I deals with crimes that threaten national security, Chapter II deals with crimes that endanger public order, Chapter III deals with crimes that harm the socialist economy, Chapter IV covers crimes that violate personal rights and democratic rights, Chapter V deals with crimes against property, Chapter VI deals with crimes that undermine the order of social administration, Chapter VII concerns crimes that endanger the interests of national defense, Chapter VIII focuses on bribery and bribery, Chapter IX deals with the crime of abandoning duty, and Chapter X deals with the crime of breach of duty by military personnel.¹⁹ As mentioned above in the Chinese Criminal Code, corruption is categorized into embezzlement, misuse of public funds, bribery, and receipt of gifts. Criminal sanctions for bribery offenses involving state officials are generally heavier compared to non-state officials. If a person accepts multiple bribes, the total amount of those bribes will be combined to determine the appropriate punishment. According to Guo, bribery is the most common type of corruption among the three main

¹⁹Randi Rahardian and Nyoman Serikat, POLICY OF FORMULATION OF DEATH PENALTY SANCTIONS IN INDONESIAN CRIMINAL LAW, DIPONEGORO LAW JOURNAL, 2016, v.

categories (embezzlement, bribery, and misuse of public funds) in China.²⁰ For severe bribery cases, the state officials involved can be subject to the death penalty. Bribers who amount to more than 3,000,000 yuan, or between 1,500,000 yuan and 3,000,000 yuan with aggravating factors, can be sentenced to 10 years in prison, life, or the death penalty, as well as fines or confiscation of assets. State officials who accept large amounts of bribes and cause serious harm to the interests of the state and society can also be sentenced to life imprisonment or the death penalty, as well as confiscation of property.²¹

The threat of the death penalty in Indonesia is regulated in Article 2 paragraph (2) of the Eradication of criminal acts of corruption Law for corruption cases in certain circumstances.²² In China, the death penalty is imposed for corruption cases that cause huge losses and have a wide impact on society, with stricter provisions after the 2015 amendment. In Indonesia, there is no provision regarding the postponement of the death penalty for corruption convicts, while in China it is regulated in Article 383, which allows death row inmates to get a two-year delay and can be considered for life without parole. The threat of life imprisonment sanctions is regulated in the Eradication of criminal acts of corruption Law and China's criminal law, where in Indonesia this is the maximum threat in several articles. In China, life threats are also determined based on the degree of loss, similar to the classification for the death penalty. The classification of perpetrators is explained in detail in the Eradication of criminal acts of corruption Law, including Article 5 concerning bribery to civil servants, Article 6 concerning bribery to judges, and Article 7 concerning bribery by contractors or building experts.²³

B. Similarities in the regulation of the threat of death penalty in corruption crimes in Indonesia and China

Corruption is one of the crucial problems that has long been rooted in Indonesia. In the history and development of anti-corruption regulations, efforts to eradicate corruption in Indonesia have made significant progress. Prior to the enactment of Law No. 31 of 1999, the eradication of corruption was regulated by Law No. 3 of 1971. However, along with changes in social, political, and economic dynamics, anti-corruption regulations in Indonesia were updated through Law Number 31 of 1999, which was later enhanced by Law Number 20 of 2001. This change aims to adjust the law to the complexity of corruption crimes and the need for more effective law enforcement.²⁴

The similarity in the regulation of the threat of death penalty in corruption crimes in Indonesia and China can be seen in this context. Both countries have a clear legal basis for eradicating corruption and imposing strict criminal sanctions.²⁵ They

²⁰Anne Peters, 'Corruption as a Violation of International Human Rights', *European Journal of International Law* (Oxford University Press, 2018), 1251–87 <<https://doi.org/10.1093/ejil/chy070>>.

²¹ Ibid

²²Risva Fauzi Batubara, Barda Nawawi Arief, and Eko Soponyono, DEATH PENALTY FORMULATION POLICY FOR PERPETRATORS OF CORRUPTION CRIMES IN INDONESIA.

²³ Agus Sugiyatmo and Listyowati Sumanto, 'COMPARISON OF THE LAW ON THE DEATH PENALTY IN INDONESIA WITH THE PEOPLE'S REPUBLIC OF CHINA (CHINA)'.

²⁴ Abd Hannan and Zainuddin Syarif, 'A REVIEW OF LEGAL SOCIOLOGY ON THE REGULATION OF SOCIAL SANCTIONS FOR CORRUPTION PERPETRATORS IN CONTEMPORARY INDONESIA' <<https://journal.iainkudus.ac.id/index.php/Yudisia/index>>.

²⁵ Rizqi Nurul Awaliyah and Rehnalemken Ginting, 73 Comparison of Sanctions Arrangement... INDONESIA AND CHINA, 2015, iv <<http://www.Chinafile.com/infographics/visualizing->

also adjusted their regulations to reflect social dynamics and the need for better law enforcement. Both Indonesia and China set the threat of the death penalty under certain conditions related to the huge losses caused by acts of corruption.²⁶ Thus, the regulation of the threat of criminal sanctions in both countries reflects joint efforts to deal with corruption problems seriously and systematically.

Table 2. Similarities in regulating the threat of criminal sanctions in criminal acts of corruption based on Indonesian and Chinese laws and regulations

No	Indicators of the similarities in death penalty for corruption perpetrators	Indonesian	China
1	Punishment under certain conditions	In both countries, the threat of the death penalty is applied in certain situations, in Indonesia it is regulated in Article 2	Articles 385 and 386 of the Chinese Criminal Code, which regulate corruption that results in great losses to the state or society.
2	Disadvantages Criteria	Both Indonesia and China have strict criteria for determining whether corrupt acts deserve the death penalty, which is usually based on the level of losses incurred in Indonesia regulated in article 2	Article 385 of the Chinese Criminal Code, which stipulates that the death penalty can be imposed for corruption crimes that result in enormous losses to the state

Chinasanticorruption->.

²⁶Mahfudz Harahap and Reski Anwar, 'JCH (Jurnal Cendekia Hukum) SUPREME COURT REGULATION (PERMA) NUMBER 1 YEAR 2020: SOLUTIONS IN THE GUIDELINES FOR DETERMINING DEATH PENALTY FOR CORRUPTION CRIMINAL ACTS IN CERTAIN CONDITIONS SUPREME COURT REGULATION (PERMA) NUMBER 1 OF 2020: SOLUTIONS IN THE GUIDELINES FOR GRANTING THE DEATH PENALTY FOR PERPETRATORS OF CORRUPTION CRIMES IN CERTAIN CIRCUMSTANCES (' <[https:// doi.org/10.3376/jch.v7i2.474](https://doi.org/10.3376/jch.v7i2.474)>.

33	3	Classification of Perpetrators	of Law Number 31 of 1999 concerning the Eradication of Corruption, with specific articles such as: Article 5 (bribery to civil servants), article 6 (bribery to judges), article 7 (bribery by contractors or building experts).	China's Criminal Code, specifically in Article 385, describes various categories of corruption crimes, including bribery to state officials and judges.
6	4	Formal Regulations	Law Number 31 of 1999 jo Law Number 20 of 2001	Criminal Law of the People's Republic of China which establishes legal provisions on corruption crimes and applicable sanctions.
37	5	Improvement of Provisions Since Amendment:	Amendment to Law Number 31 of 1999 which was enhanced by Law Number 20 of 2001, which was issued on December 29, 2001. This amendment strengthens the provisions regarding sanctions and law enforcement procedures against corruption.	An amendment to China's Criminal Code made in 2015, which tightened the penalty provisions for corruption and clarified the criteria for imposing the death penalty.

Source: Law Number 31 of 1999 jo Law Number 20 of 2001 and Criminal Law of the People's Republic of China

Thus, despite differences in implementation and legal context, the two countries have similarities in their approach to the threat of the death penalty in corruption cases.

C. Comparison of the regulation of the threat of death penalty in corruption crimes in Indonesia and China

The criminal sanctions system for corruption in China is regulated in the Criminal Law of the People's Republic of China as well as various other related regulations. The

punishment imposed for corruption perpetrators varies, ranging from several years in prison to the death penalty, especially for cases that are considered very serious or that harm the state on a large scale. In addition, large fines can also be imposed without a clear maximum limit like in Indonesia.²⁷ The state also has the authority to confiscate assets resulting from corruption crimes, including property, money, and other items related to the crime.²⁸

The death penalty is applied in cases of gross corruption, especially those involving large financial losses to the state. The main difference between China and Indonesia lies in the application of the death penalty for serious corruption cases in China, while in Indonesia the punishment does not apply to corruption cases, in Indonesia there has not been a single corruption case that has been successfully sentenced to death.²⁹ In China, there is no maximum limit to fines, and law enforcement is more focused on asset confiscation and the imposition of severe corporal punishments, such as the death penalty. In contrast, in Indonesia, priority is given to the restitution of state losses and the imposition of additional sanctions such as the revocation of certain rights and the publication of court decisions.³⁰

The advantages of the corruption criminal system in China can be seen from a very firm and comprehensive approach in dealing with corruption that is detrimental to the state. China does not hesitate to impose the death penalty in cases that are considered very serious or that cause great harm to the country, providing a strong deterrent effect for potential perpetrators. In addition, prison sentences in China range widely, including life sentences, and the government actively confiscates assets proceeds from corruption to restore wealth taken from the state. The efficiency and transparency of China's judicial system ensure consistent law enforcement, demonstrating a strong commitment to justice and accountability in the eradication of corruption at the national level.³¹

Overall, this comparative analysis shows that despite fundamental differences in approaches to corruption, both Indonesia and China have the opportunity to learn from each other's experiences. Effective efforts to eradicate corruption require a combination of strict sanctions, a transparent system, and community participation, as well as respect for the principles of justice and human rights. However, each country has a different cultural context. An approach that works in China may not always be effective in Indonesia, which has different traditions and social norms.³²

In addition, China adheres to a centralized legal system, China is one of the communist countries that still exists today, although its economy has been liberalized

²⁷ Susan Trevaskes, *The Death Penalty in Contemporary China*, berilustrasi (Australia: Springer, 2012, 2012).

²⁸ William Zheng, 'Chinese Legal Community Asks: Where Is the Line on Death Penalty for Corrupt Officials?', *MyNEWS*, 2024 <https://www.scmp.com/news/china/politics/article/3277649/chinese-legal-community-asks-where-line-death-penalty-corrupt-officials?module=perpetual_scroll_0&pgtype=article> [accessed 26 September 2024].

²⁹ Kesuma Irdini, 'Legal Comparison against the Death Penalty Sanctions Regulated in the Positive Laws of Indonesia and China', *Corruptio*, 2.2 (2021), 113–26 <<https://doi.org/10.25041/corruptio.v2i2.2387>>.

³⁰ Hong Lu and Terance D. Miethe, *China's Death Penalty*, 1st Edition edn (New York: Routledge, 2010) <<https://doi.org/10.4324/9780203941300>>.

³¹ Steven Makaruku, *PENERAPAN SANKSI PIDANA MATI KEPADA KORUPTOR PERBANDINGAN HUKUM ANTARA INDONESIA DAN CINA*, 2016.

³² Zainal Arifin, Andriyadi, and Samson Fajar, 'ADAPTATION AND INFLUENCE OF LEGAL CULTURE IN INDONESIA', Vol.8 No.1 (2024).

and adopted several principles of capitalism. The Criminal Code of the People's Republic of China, drafted in 1979, came into effect in 1980. Furthermore, changes to China's Criminal Code were made at the 9th National People's Congress in 2015.³³ Where the power of law enforcement and anti-corruption policies is highly controlled by the central government. This means that important decisions are often taken by high authorities without much involvement from independent institutions or civil society. In the context of corruption, China applies severe sanctions, including the death penalty for serious offenses. Law enforcement can be done quickly and decisively, but often at the expense of a transparent and fair process. This creates a climate in which corrupt actors may be afraid, but it can also lead to injustice and abuse of power.³⁴

China's authoritarian system allows the government to use law enforcement as a tool to maintain power. Cases of corruption are often politicized, and individuals perceived as a threat to the government can be targeted. Meanwhile, Indonesia adheres to a more open democratic system, where independent institutions such as the Corruption Eradication Commission (KPK) have an important role in eradicating corruption. The KPK has the authority to investigate, prosecute, and adjudicate corruption cases, and operates with the principles of transparency and accountability.³⁵ In a democratic system, there is room for public participation in legal processes and public policies. This allows the community to play an active role in supervision and accountability, so that law enforcement can be more responsive to the needs and expectations of the public.

Therefore, the death penalty sanctions in China cannot be applied in Indonesia directly due to differences in the legal system and legal provisions of each country.³⁶ Indonesia has its own laws that regulate criminal sanctions, including for corruption crimes, as stated in the Law on the Eradication of Corruption Crimes. China has different criminal laws, and the application of the death penalty in China is often more extensive.³⁷

In Indonesia, there is a protracted debate about the death penalty, especially related to human rights. Societies and international organizations often oppose the application of the death penalty. Unlike China, despite international pressure on the practice of the death penalty, China continues to implement it as part of its anti-corruption strategy. With the full support of the Chinese Premier at the time, Zhu Rongji, known as the savior of the people's money, put forward a striking statement: "Give me a thousand coffins, ninety-nine will be used to bury corruptors, and one for me if I am involved in corruption crimes".³⁸

The problem in eradicating corruption in Indonesia is actually not in the law but in the imposition of criminal sanctions. According to former Supreme Court Justice Benjamin Mangkudilaga, the Supreme Court needs to study the issues that are currently

³³ 'LAW AND POLITICS IN CHINA (A STUDY OF THE PARTY'S POWER RELATIONS TO THE LEGAL PROFESSION)', *Legal Arena*, 14.1 (2021), 84–111 .

³⁴ Ririn Darini, 'CORRUPTION IN CHINA: A HISTORICAL PERSPECTIVE'.

³⁵ Akiya Qidam Hayya, Tiara Intan Putri, and Sunan Ampel State Islamic University JI Yani, 'INDONESIA IN THE PERSPECTIVE OF MUWAHID LEGAL SYSTEM THEORY', December, 7.2 (2021).

³⁶ AINAL MARDHIAH, 'THE POLITICS OF INDONESIAN CRIMINAL LAW ON THE DEATH PENALTY IN THE NEW CRIMINAL CODE', Bireuen District Court [accessed 21 September 2024].

³⁷ Zhang Ning, 'The Debate Over the Death Penalty in Today's China', *China Perspectives*, 2005.6 (2005) <<https://doi.org/10.4000/chinaperspectives.545>>.

³⁸ Barhamudin, 'THE POSITION OF THE POLICE IN THE INVESTIGATION OF CRIMINAL ACTS ACCORDING TO THE CRIMINAL JUSTICE SYSTEM', Vol 18 No 2.

being faced by the Indonesian nation, so that the court (judge) can focus more on handling the case. Therefore, the Supreme Court needs to formulate sentencing guidelines as a reference for judges in imposing criminal sanctions on state administrators involved in corruption, so that they can provide severe sanctions in accordance with the provisions of the Law on the Eradication of Corruption.³⁹ The law in China is more centralistic and allows for the application of the death penalty more widely, while Indonesia adheres to a more decentralized and humanist legal principle, which emphasizes rehabilitation. Overall, this statement reflects the complexity of applying the death penalty to corruption crimes, which depends not only on similarities in law but also on the broader legal, social, and political context in each country.⁴⁰

Conclusion

The results of this study show that China has a more assertive and onerous approach to dealing with corruption, including the use of the death penalty in extreme cases, while Indonesia focuses more on restoring state losses and additional law enforcement to improve the effectiveness of corruption eradication. Effective efforts to eradicate corruption require a combination of strict sanctions, a transparent system, and community participation, as well as respect for the principles of justice and human rights. Although China is considered successful in eradicating corruption, especially the death penalty, not all elements of their system can be adapted to improve the system in Indonesia because each country has a different cultural context. An approach that works in China may not always be effective in Indonesia, which has different traditions and social norms. Therefore, it is necessary to increase penalties for serious corruption cases, stricter asset confiscation, increase transparency, anti-corruption education, strengthen anti-corruption institutions, consistent law enforcement, and the application of modern technology. These are some of the steps that can be taken to improve the corruption criminal sanctions system in Indonesia. By adopting best practices from China, Indonesia can strengthen efforts to eradicate corruption and improve government integrity so that it can increase public trust in the government.

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³⁹ *INDONESIAN CONSTITUTIONAL LAW-THEORY AND APPLICATION*.

⁴⁰ Aulia Milono, FORMULATION OF GUIDELINES FOR IMPOSING CRIMINAL SANCTIONS AGAINST STATE ADMINISTRATORS WHO COMMIT CORRUPTION CRIMES IN INDONESIA.

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**Comparison of Corruption Criminal Law in Indonesia and China:
Analysis of Sanctions and Implementation**

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Abstract
Corruption is a serious problem that affects stability and development in many countries, including Indonesia and China. These two countries have different approaches in terms of regulating sanctions and implementing punishments against corrupt actors. This study aims to conduct a comparative analysis of how the criminal law of corruption is regulated and implemented in Indonesia and China. Departing from the above problems, the author takes three formulations, the first problem is how the regulation of the threat of death penalty in corruption crimes in Indonesia and China differs? Second, how is the regulation of the threat of death penalty in corruption crimes in Indonesia and China similar? And third, how does the regulation of the threat of death penalty in corruption crimes in Indonesia compare with China? In this study, the author uses a normative research method, which is often referred to as doctrinal legal research or literature research. The results of this study are that overall, China tends to have heavier and stricter criminal sanctions in dealing with corruption compared to Indonesia, with the use of the death penalty being an option in extreme cases. On the other hand, Indonesia has shown a focus on restoring state losses and additional law enforcement to increase effectiveness and accountability in the eradication of corruption. Although China's approach to corruption punishment is very firm, not all elements can be adapted to improve the system in Indonesia.

Introduction
Corruption crime is a phenomenon that is often found in society. Corruption can arise due to a variety of factors, both intentional and unintentional, which often cause anxiety among citizens. This criminal act has legal consequences, where the perpetrator will be subject to criminal sanctions. The purpose of the sanctions is to create a deterrent effect, restore the situation, and maintain security and order.¹ One approach to

¹Hendrik Manosob Factors Causing Factors, Hendrik Manosob Faculty of Economics and Business, and Department of Accounting, Sam Ratulangi University Manado, 'A NUMBER OF FACTORS THAT CAUSE FRAUD AT THE GOVERNMENT OF NORTH SULAWESI PROVINCE', March, 4.1. (2016).

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