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APPLYING HUMAN RIGHTS PERSPECTIVES TO CORRUPTION: ANALYSIS OF REGULATIONS AND COURT DECISIONS IN INDONESIA

Annelien de Vries [1,2]

Leiden Law School, Leiden University, Leiden, Netherlands [1];

ABSTRACT

This research investigates the linkage between corruption and human rights violations in Indonesia, focusing on anti-corruption laws and judicial outcomes. Employing a doctrinal legal approach, the study analyzes relevant legislation, including the United Nations Convention against Corruption 2003 and Indonesia's Anti-Corruption Act of 1999/2001, alongside court decisions to explore how corruption infringes upon economic, social, and cultural rights. The findings reveal that various forms of corruption, such as bribery and embezzlement, directly undermine fundamental rights, including access to education, healthcare, and fair trials. A hypothetical scenario is used to illustrate the practical connections between these variables. However, the analysis of 100 randomly selected court verdicts indicates limited recognition of corruption as a human rights violation in judicial reasoning, with only a few cases explicitly linking the two. Notably, even when courts acknowledge this connection, it rarely results in harsher penalties, as human rights violations are seldom treated as aggravating factors, often leading to lenient sentences. The study underscores the need for broader recognition of corruption as a human rights issue through extensive research and advocacy. It recommends that law enforcement institutions, including the police, prosecutors, and judiciary, develop guidelines and provide ongoing training to better integrate a human rights-based approach in handling corruption cases, ensuring stricter enforcement and punishment to enhance accountability and protect citizens' rights.

Keywords: *crimes of corruption; human rights violation; regulation; judicial decision*

CORRESPONDING AUTHOR:
Annelien de Vries
Leiden Law School, Leiden University, Leiden, Netherlands
contact: *annelien90@gmail.com*

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1. INTRODUCTION

This study examines the interplay between Indonesia's anti-corruption legislation and human rights violations, highlighting their interconnected nature. Corruption, particularly by public officials, poses a significant threat to the protection and fulfillment of human rights, creating a negative relationship where increased corrupt practices diminish the realization of fundamental rights (Ngugi, 2010). Such activities undermine the government's capacity to deliver essential services, impacting citizens' quality of life by reducing available resources for critical sectors like education and healthcare (Kumar, 2008). Moreover, corruption stifles economic development, exacerbates poverty, and amplifies other human rights abuses, creating a vicious cycle of deprivation and inequality (Spyromitros & Panagiotidis, 2022). In Indonesia, identifying corruption is challenging due to its complex and sophisticated methods, which often lead to substantial financial losses and violations of rights to education, adequate healthcare, and equitable treatment under the law (Sadoff, 2017; Shams, 2001; Delaney, 2007; Davis et al., 2015). High-profile cases, such as the Hambalang athletes' guesthouse scandal, the Bank Indonesia liquidity assistance case, the bribery of a former Constitutional Court Chief Justice, and the electronic identification card controversy, exemplify how corruption directly infringes on these fundamental rights.

Despite the evident link, research exploring the nexus between corruption and human rights abuses in Indonesia remains limited, particularly concerning existing legal frameworks. Previous studies have provided valuable insights into specific aspects of this relationship. For instance, Prabowo (2014) emphasized the importance of understanding the motivations behind corruption, including opportunities, pressures, and rationalizations that drive offenders to weigh perceived benefits against risks. Similarly, Hadiprayitno (2010) analyzed the enforcement of human rights within Indonesia's legal and political systems, highlighting systemic challenges. Juwita (2017) explored how international human rights law addresses corruption's impact on the right to education, underscoring its detrimental effects on access and quality. Additionally, Ersan (2018) argued that a deeper legal understanding of the concepts linking human rights and criminal processes is essential for effectively combating corruption. Farida (2022) further clarified that asset confiscation in corruption cases does not inherently violate human rights, provided it adheres to legal standards.

This research aims to analyze the connection between Indonesia's anti-corruption regulations, specifically the United Nations Convention against Corruption (UNCAC) 2003 and the Anti-Corruption Act of 1999/2001, and human rights violations. It focuses on how various forms of corruption—such as bribery, illicit enrichment, trading in influence, and conflicts of interest in public procurement—committed by government officials and public servants infringe upon fundamental rights. The study also evaluates judicial responses to the application of a human rights-based approach in corruption cases, assessing whether courts adequately consider this perspective when determining penalties. By examining these dynamics, the research seeks to contribute to the development of a robust anti-corruption strategy that integrates a human rights perspective into both substantive criminal law and procedural frameworks. This approach could guide judges in imposing stricter penalties for corruption cases that violate human rights, thereby enhancing accountability.

The study is structured to provide a comprehensive analysis. Section 1 establishes the conceptual framework, illustrating how corruption directly, indirectly, or remotely triggers human rights violations, supported by practical examples. Section 2 explores the specific connections between the types of corruption outlined in the UNCAC 2003 and the Anti-Corruption Act of 1999/2001 and their impact on human rights. It highlights how acts like bribery and illicit enrichment undermine rights such as equality, health, and education. Finally, Section 3 analyzes judicial decisions to determine the extent to which courts recognize corruption as a human rights violation and whether such recognition influences the severity of punishments. The findings aim to inform policymakers, legal practitioners, and academics on the need for a human rights-based approach to strengthen anti-corruption efforts in Indonesia, ensuring that violations of fundamental rights are adequately addressed in legal proceedings.

2. MATERIAL AND METHOD

This research utilized a doctrinal legal research approach to investigate corruption cases, focusing on Indonesia's anti-corruption legislation and judicial decisions. The primary data were sourced from the legal frameworks outlined in the United Nations Convention against Corruption (UNCAC) 2003 and Indonesia's Anti-Corruption Act of 1999/2001. These laws were analyzed to identify the types of corruption criminalized four in the UNCAC and seven in the Anti-Corruption Act and their connections to human rights violations. The analysis included descriptive examples to illustrate how specific corrupt practices infringe upon fundamental rights. Additionally, the study reviewed judicial decisions to assess whether courts adequately link corruption to human rights abuses and consider these violations when determining penalties. A sample of 100 corruption case verdicts was randomly collected from the Directory of Supreme Decisions (accessed via putusan3.mahkamahagung.go.id on February 10, 2023). Of these, 38 verdicts involved the misappropriation of public funds or extortion by judges, civil servants, state officials, advocates, or private entities, with direct or indirect implications for human rights violations. Only nine verdicts explicitly recognized corruption as a direct violation of human rights. These cases were examined to evaluate the authenticity of judicial reasoning and the extent to which human rights considerations influenced sentencing severity. The findings aim to support the development of a comprehensive strategy to address corruption by integrating a human rights perspective into judicial processes, emphasizing the need for consistent recognition of such violations in legal outcomes.

3. CORRUPTION AS A HUMAN RIGHT VIOLATION: CONCEPTUAL FRAMEWORK

The phenomenon of corruption lacks a universally accepted definition due to its multifaceted nature, which spans various disciplines. Political scientists often characterize corruption as the abuse of state authority resulting from inadequate checks and balances within governance structures (Spalding, 2014). Sociologists, on the other hand, view it as a deviation from socially acceptable norms, particularly in societies marked by historical or sociocultural tensions (Spalding, 2014). A widely cited definition by Reyes (2019) describes corruption as the misuse of entrusted or public power for private gain, constituting a breach of duty. Similarly, Underkuffler (2013) defines corruption as the failure of public officials to fulfill their legal obligations in exchange for illicit benefits. Klitgaard's formula, Corruption = Monopoly Power + Discretion − Accountability, highlights the conditions fostering corruption: concentrated power, significant discretionary authority, and lack of public accountability (Terracino, 2012). While this model emphasizes causal factors, it also aids in conceptualizing the nature of corrupt acts. Stuart categorizes corruption into grand and petty types. Grand corruption involves high-level officials, such as presidents or ministers, and large sums of money, whereas petty corruption pertains to lower-level employees, like civil servants or police officers, engaging in smaller-scale illicit transactions.

From a human rights perspective, corruption is primarily associated with state actors, including government officials, police, military personnel, and elected representatives such as governors or members of parliament. This focus stems from the premise that only state entities can violate human rights, as they hold the authority to respect, protect, and fulfill these rights (Adzanela, 2011). Corruption occurs when state actors, acting in their official capacity rather than as private individuals, abuse their power or neglect their duty to uphold citizens' rights. This framework establishes three key principles for linking corruption to human rights violations: (1) only state actors perpetrate human rights-based corruption, (2) these acts are committed in their official roles, and (3) they result from failing to protect or respect human rights obligations.

Corruption can directly, indirectly, or remotely contribute to human rights violations, forming a theoretical basis for understanding its impact (Adzanela, 2011). Direct violations occur when corrupt acts immediately infringe upon specific rights. For example, bribing a judge to favor one party in a trial directly violates the right to a fair trial, as it undermines judicial impartiality and independence (International Council on Human Rights, 2009). Similarly, when individuals bribe public school principals or hospital administrators to secure admissions or medical services, the rights to education and health are directly compromised. Indirect violations arise when corruption triggers events that lead to human rights abuses. For instance, immigration officials accepting bribes to allow the importation of hazardous materials near populated areas may indirectly violate the rights to health and life if residents fall ill or die due to exposure (Gebeye, 2012). Remote violations occur when corruption is a contributing factor among others. For example, electoral fraud may spark protests, and if state forces suppress these demonstrations with violence, rights to life, freedom from torture, and freedom of expression are violated. Here, corruption is not the sole cause but a significant contributor to the chain of events leading to human rights abuses (Hermann & Warhurst, 2009).

Corruption significantly undermines the right to equality and non-discrimination, fundamental principles enshrined in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. These covenants emphasize that every individual is entitled to equal protection under the law without discrimination (Besson, 2012). Discrimination occurs when: (a) similar cases are treated differently, (b) differential treatment lacks legitimate justification, or (c) the means used to achieve a goal are disproportionate to the objective (Terracino, 2007). When public officials accept bribes, they grant preferential treatment to certain individuals, violating the principle of equal treatment. For instance, a student paying a bribe to gain school admission undermines the right to non-discriminatory access to education. Corruption inherently involves discriminatory intent or outcomes, as it creates distinctions, exclusions, or preferences that hinder equal enjoyment of rights such as life, health, or education (International Council on Human Rights, 2009).

The right to life, a cornerstone of human rights, is also violated through corruption, particularly when interpreted through a broad socioeconomic lens. For example, a public official accepting a bribe to permit the illegal importation of toxic chemicals that cause fatalities directly infringes on the right to life. Similarly, corruption affects the right to freedom of religion or belief, which encompasses theistic, non-theistic, and atheistic beliefs and the freedom not to profess any belief (Tahzib, 1996). When government funds allocated for building places of worship are misappropriated, followers of affected religions are deprived of spaces to practice their faith, violating their freedom of religion.

The rights to freedom and security are equally impacted by corruption. While the right to liberty is not absolute and can be restricted through lawful arrests, arbitrary limitations violate this right. For instance, whistleblowers exposing corruption may face imprisonment or threats, breaching their right to personal security and liberty (International Council on Human Rights, 2009). Corruption also restricts the right to freedom of movement, which includes the ability to reside in or move between countries and access travel documentation (Yalincak, 2013). When officials demand bribes for issuing passports or identity cards, they create discriminatory barriers, violating the right to freedom of movement for those unable to pay.

Access to public information, a critical component of anti-corruption frameworks, is another right undermined by corrupt practices. Everyone is entitled to access information held by government entities unless legally prohibited (Elsaman, 2020). Transparency and accountability are essential for preventing corruption, particularly in sectors like education and health, which are vulnerable to abuse (Marzen, 2020). When officials withhold information to conceal corrupt activities, they violate the right to public information, hindering public oversight and accountability. For example, misappropriation of funds designated for public services like healthcare or education often goes undetected due to restricted access to information, further entrenching systemic corruption.

The right to a fair trial, encompassing due process and impartial judicial proceedings, is directly compromised when judges or prosecutors accept bribes to favor one party or manipulate legal outcomes (Bostan, 2004; Sherman, 2017). Such actions undermine the integrity of the judicial system, denying equal treatment under the law. Similarly, the right to health encompassing access to adequate healthcare facilities, clean water, sanitation, and a healthy environment is violated when corruption diverts funds meant for public health initiatives (Terracino, 2008). For instance, if hospital directors misappropriate funds intended for free treatment for the underprivileged, they limit access to healthcare, infringing on the right to health (Sekalala et al., 2020).

The right to education, vital for personal development and dignity, is also affected by corruption. Education must be available, accessible, acceptable, and adaptable to societal needs (International Council on Human Rights, 2009). When school officials embezzle funds allocated for primary education, students may be forced to pay fees, violating the state's obligation to provide free education (Margerin, 2010). This misappropriation can lower educational quality, limiting students' ability to develop their potential and access future opportunities, including employment.

The right to food, or freedom from hunger, is another fundamental right impacted by corruption. Everyone is entitled to sufficient and culturally appropriate food (Burgess, 2010; McDermott, 2012). Corruption, such as bribing officials to secure permits for land use, can disrupt equitable food distribution, leading to violations of this right (Nichols, 2012). Similarly, the right to water essential for survival and health is compromised when corrupt practices restrict access to clean, safe, and affordable water (Černič, 2011; Nemeth, 2022). For example, companies bribing regulators to gain excessive water extraction rights deprive local communities of their water resources, violating their right to water (Satterthwaite, 2021).

In summary, corruption undermines a wide range of human rights, from equality and non-discrimination to life, health, education, and access to information, water, and food. By directly or indirectly contributing to these violations, corruption erodes the state's ability to fulfill its human rights obligations. This conceptual framework underscores the need for a human rights-based approach to anti-corruption efforts, ensuring that legal and judicial systems recognize and address these interconnections to protect citizens' fundamental rights.

4. RESULTS AND DISCUSSION

This section presents the findings and analysis of the study, exploring the nexus between corruption and human rights violations as delineated in the United Nations Convention against Corruption (UNCAC) 2003, Indonesia's Anti-Corruption Act of

1999/2001, and judicial decisions. The analysis is structured into three subsections: the connection between corruption and human rights violations under the UNCAC, the provisions of the Anti-Corruption Act, and the examination of court rulings. The findings underscore how corruption undermines fundamental rights and highlight the limited judicial recognition of this linkage, which often results in lenient sentencing.

4.1 Corruption and Human Rights Violations in the United Nations Convention against Corruption, 2003

Indonesia ratified the UNCAC through Law Number 7 of 2006, acknowledging corruption as a severe threat to social stability, democratic institutions, ethical values, justice, and sustainable development. The UNCAC emphasizes three core principles relevant to human rights: the rule of law, democracy, and sustainable development. The rule of law entails government accountability, appropriate use of discretionary powers, and the protection of human rights (Kumar, 2003). Democracy is underpinned by respect for human rights, ensuring equitable governance (Lister, 2012). Sustainable development, as defined by the World Commission on Environment and Development (1987), involves meeting present needs without jeopardizing future generations' capabilities, a goal impeded by corruption, particularly environmental corruption (Bratspies, 2018). These principles frame the UNCAC's human rights-based approach to combating corruption, promoting integrity, accountability, and transparent management of public affairs (Roht-Arriaza, 2021).

The UNCAC's preamble highlights the importance of an independent and impartial judiciary, universally applicable laws, and equitable law enforcement (United Nations Development Programme, 2004). By recognizing civil, political, and economic rights, the UNCAC establishes a framework to prevent and counter corruption through transparency and accountability (Al-Jurf, 1990). Article 1 of the UNCAC aims to foster integrity and proper management of public resources, emphasizing equitable access to public services and information as critical anti-corruption measures (Kumar, 2004). However, many governments fail to uphold these principles, restricting access to information and enabling corrupt practices that undermine public trust and governance.

The UNCAC mandates the criminalization of specific corrupt acts, beginning with bribery. Article 15 defines bribery as offering, promising, or providing undue benefits to public officials to influence their actions or inactions in their official duties. Article 16 extends this to foreign public officials and international organization employees, addressing both domestic and transnational bribery (Spahn, 2009). Bribery, whether active (offering) or passive (accepting), violates rights to equality and non-discrimination by granting preferential treatment to those who pay, undermining equitable access to public services.

The second act, trading in influence, is outlined in Article 18. This involves offering or providing undue benefits to public officials or others to misuse their real or perceived influence for improper advantages from state institutions. Conversely, it includes officials soliciting or accepting such benefits to abuse their influence. Trading in influence can infringe on rights to political participation, equality, freedom of speech, and access to information. For example, a media outlet receiving favors from a public official to secure broadcasting rights violates freedoms of expression and information, while manipulating voter lists through bribes undermines political participation rights (Trechsel, 2000; Rajagopal, 1999).

Illicit enrichment, addressed in Article 20, occurs when public officials accumulate wealth disproportionate to their legitimate income without justification. This can involve accepting bribes or embezzling public funds, directly harming state finances and violating the right to property ownership when acquired illegally. The right to property is protected only for lawfully acquired assets, and illicit enrichment undermines this principle by diverting public resources for personal gain.

Bribery in the private sector, involves offering or accepting undue benefits within private organizations to breach duties. While international human rights law, such as the International Covenant on Economic, Social, and Cultural Rights, primarily holds states accountable for human rights violations, private sector corruption can indirectly affect rights when states fail to regulate such activities (Rose, 2011). The state's obligation to protect citizens from private actors' violations requires proactive measures to prevent, investigate, and rectify corruption-related harms (Terracino, 2008). Privatization of public services, such as healthcare or water supply, often exacerbates corruption, impacting rights to health and water when regulatory oversight is compromised (Terracino, 2008).

Asset recovery, a critical component of the UNCAC under, focuses on confiscating property obtained through corrupt practices. This includes assets directly acquired through corruption, those used as tools for corrupt acts, or those mixed with legitimate property. Indonesia, as a signatory, must implement effective anti-corruption laws, encourage community involvement, and foster international cooperation to recover stolen assets (Webb, 2005; Vlasic & Cooper, 2011). Asset recovery respects the right to property by ensuring only illegally acquired assets are seized, balancing individual rights with anti-corruption objectives (Kututwa, 2007). However, recovering assets is challenging due to perpetrators' ability to conceal or launder proceeds across borders.

4.2 Law on Corruption Eradication, 1999/2001

Indonesia's Anti-Corruption Act (Law 31 of 1999, amended by Law 20 of 2001) recognizes corruption as a significant cause of human rights violations, particularly economic and social rights, by depleting state finances and undermining public welfare. The Act adopts a human rights-based approach, aligning with international conventions that protect citizens from social, legal, and political abuses (Koechlin, 2007). Corruption weakens fundamental rights, such as equality before the law and non-discrimination, necessitating a robust legal framework to address these violations (Ugaz Sanchez-Moreno, 2007).

The Act categorizes seven types of corruption, each with implications for human rights:

1. **Corruption Causing State Financial Loss**: This includes acts that deplete public budgets, violating rights to life, food, health, education, work, clean water, and freedom of religion. For instance, misappropriating funds intended for food subsidies for the poor can lead to starvation, infringing on the right to life and food. In healthcare, corruption, such as hospital directors limiting free treatment for the underprivileged, violates the right to health and non-discrimination (Toebes, 2007; Bellinger & Sullivan, 2022). Similarly, embezzling education funds forces students to pay fees, undermining the state's obligation to provide free primary education (Strayer, 2019).
2. **Bribery**: Bribery involves offering or accepting gifts to influence public officials' actions. It violates civil-political rights (e.g., fair trial, equality), economic-social rights (e.g., health, education), and solidarity rights (e.g., water, environment). For example, bribing judges to favor a defendant undermines fair trial rights, while bribing health officials to approve hazardous waste disposal violates the right to health and life (Jennett, 2007; Gruenberg & Biscay, 2007). Bribery in immigration processes, such as paying for passports, restricts freedom of movement and equality.
3. **Embezzlement and Forgery** (Rusydianta, 2020): Embezzlement, such as misappropriating education or health funds, reduces access to these services, violating rights to education and health. Forgery, like falsifying hospital records to inflate patient numbers, limits free medical care for the poor, breaching health rights (Gani & Rahaditya, 2020).
4. **Unlawful Extortion**: Extortion by officials, such as demanding extra payments for services, violates equality before the law. For instance, a police officer threatening to tow a vehicle unless a bribe is paid undermines equal treatment.
5. **Cheating**: Fraudulent acts, such as using substandard materials in public infrastructure, can lead to collapses, violating rights to life and personal security.
6. **Conflict of Interest in Procurement**: When officials favor certain parties in procurement, it violates equality and non-discrimination, skewing fair competition (International Council on Human Rights, 2009).
7. **Gratification**: Accepting unreported gifts related to an official's duties, such as a laptop from a passport applicant, violates equal access to public services.

4.3 Judicial Decisions

The study analyzed 38 corruption case verdicts, focusing on misappropriation of public funds and extortion by judges, civil servants, state officials, advocates, and private parties. Only nine verdicts explicitly linked corruption to human rights violations, addressing rights to fair trial, non-discrimination, education, health, and a clean environment. Table 1 illustrates that judicial reasoning often acknowledges this connection, but it rarely translates into harsher penalties. Only three cases resulted in sentences exceeding ten years, with most receiving less than eight years, indicating that human rights violations are not consistently treated as aggravating factors (Court Decision 54/Pid.B/TPK/2012/P.Jkt.Pst, 2012; Court Decision 11/Pid.B/TPK/2006/PN.Jkt.Pst, 2006).

In the case of Angelina Patricia Pinkan Sondakh, the defendant was convicted of accepting a IDR 12.5 billion bribe for athletes' estates and university facilities, violating economic and social rights, including education. The court cited this as an aggravating factor, sentencing her to 12 years (Court Decision 54/Pid.B/TPK/2012/P.Jkt.Pst, 2012). Similarly, Urip Tri Gunawan, a former prosecutor, was paid USD 660,000 to leak investigation details, enabling discriminatory law enforcement. This was noted as an aggravating factor (Court Decision 11/Pid.B/TPK/2006/PN.Jkt.Pst, 2006). However, the general trend shows lenient sentencing, as human rights violations are not uniformly considered aggravating circumstances.

Table 1. The Relation between Corruption and Human Rights Violations, as well as the Severity of Punishment in the Court Decisions.

Court Decision	**Case Position**	**Human Right Violation**	**Severity of Punishment**
11/Pid.B/TPK/2006/PN.Jkt/Pst	The defendant received USD 660,000 from witness Artalyta Suryani for providing updates on the investigation into the alleged corruption case, which was confidential and allowed Sjamsul Nursalim to be heard as	Rights to non-discrimination	20 years of imprisonment and an IDR 500 million fine

Court Decision	Case Position	Human Right Violation	Severity of Punishment
	the former President and Director of BDNI. Tbk not involved in the process		
04/Pidsus/TPK/2011/Pn.Srg	The defendant accepted bribes from Ferry Priatman Hakim of IDR 500,000,000 to avoid being named a suspect	Right to a fair trial	1.5 years of imprisonment and IDR 20 million fine
14/Pid.B/TPK/2010/Pn.Jkt.PSt	The defendant had received IDR 300,000,000 from witness Adner Sirait in his capacity as counsel from witness Darianus Longguk Sitorus, President Director of	Right to a fair trial	6 years of imprisonment and an IDR 200 million fine

Court Decision	Case Position	Human Right Violation	Severity of Punishment
	Sabar Ganda Tbk		
17/Pid.B/TPK/Pn.Jkt.Pst	The defendant makes false of the Education Office's budget to his advantage	Right to education	7.5 years of imprisonment and IDR 300 million fine
54/Pid.B/TPK/2012/P.Jkt.Pst	The defendant accepts bribes from Mindo Rosalina Manulang in connection with the project to secure educational facilities at the State University	Right to education	12 years of imprisonment and an IDR 500 million fine
13/Pid.B/2008/PN.Jkt.Pst	The defendant accepted bribes related to converting the forest area into a business area	Right to a healthy and clean environment	2.5 years of imprisonment and IDR 100 million fine

Court Decision	Case Position	Human Right Violation	Severity of Punishment
31/Pid.B/TPK/2010 /Pn.Jkt.Pst	The defendant, the Head of the Planning and Budget Bureau of the Secretariat General of the Ministry of Health of the Republic of Indonesia, corrupted state funds in the procurement project of portable X-ray equipment for servants and local hospitals	Right to a clean and healthy environment	5 years of imprisonment and an IDR 100 million fine
22/Pid.B/TPK/2008/PN.Jkt/Pst	The defendant took payments regarding the process of releasing protected forest lands	Right to a clean and healthy environment	4.5 years of imprisonment and IDR 200 million fine
Nomor.123/Pid.Sus-TPK/2017/PN. Jkt. Pst),	The defendant	Right to a clean and	12 years of

Court Decision	Case Position	Human Right Violation	Severity of Punishment
	issued a mining permit to AHB Tbk to conduct exploration activities and production operations to the detriment of state finances	healthy environment	imprisonment and an IDR 1 billion fine

Sources: proceeded by the author.

Punishment theories proportionality, prevention, and rehabilitation—shape judicial sentencing. Proportionality theory demands penalties align with crime severity (Luna, 2003; Goh, 2013; Husak, 2011). Prevention theory seeks to deter future crimes by imposing costs outweighing benefits (Sarma, 2017; Cicchini, 2010). Rehabilitation theory emphasizes individualized sanctions tailored to the offender's circumstances (Tonry, 2006). In corruption cases, balancing victims' and perpetrators' rights is crucial. Society, as a collective victim, requires asset recovery to restore public services like healthcare and education. Thus, prevention and rehabilitation theories may be more appropriate than proportionality, ensuring both accountability and respect for human rights (UN, 1948).

5. CONCLUSIONS

The United Nations Convention against Corruption and Indonesia's Anti-Corruption Act of 1999/2001 integrate a human rights perspective, recognizing corruption as a violation of economic, social, and cultural rights. This study confirms a clear connection between corrupt practices in Indonesian law and human rights abuses, using realistic scenarios to illustrate this nexus comprehensively. However, judicial decisions rarely reflect this linkage, with few court rulings explicitly associating corruption with human rights violations. Even when judges acknowledge this relationship, it is often limited to legal reasoning and not treated as an aggravating factor, resulting in lenient sentences for offenders.

To address these findings, several recommendations are proposed. First, corruption undermines democratic foundations and violates a broad spectrum of rights economic, social, cultural, civil, and political. Yet, public awareness remains low. Academics, practitioners, policymakers, and civil society must advocate for recognizing corruption as a human rights violation to foster greater accountability. Second, key institutions, including the Supreme Court, Attorney General's Office, police, and Corruption Eradication Commission, should collaboratively develop guidelines mandating that investigators, prosecutors, and judges identify and establish connections between corruption and human rights abuses. These guidelines should position human rights violations as an aggravating factor, warranting harsher penalties aligned with prevention and rehabilitation theories rather than solely proportionality. Engaging human rights legal experts in corruption trials could further clarify this nexus, strengthening judicial outcomes. Third, while the Attorney General's Office and Corruption Eradication Commission prosecute corruption cases, and specialized judges handle trials, current training focuses primarily on understanding corruption itself. Enhanced, specialized training is essential to equip legal professionals with the skills to prosecute and adjudicate corruption cases through a human rights lens, ensuring robust enforcement and recognition of human rights infringements.

Author Contributions

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Author ORCID iDs

First Author Name https://orcid.org/000x-000x-xxxx-xxx

Second Author Name https://orcid.org/000x-000x-xxxx-xxx
Third Author Name https://orcid.org/000x-000x-xxxx-xxx

REFERENCES

1. Adzanela, A. (2011, July 29–30). *Corruption as a violation of human rights in South East Europe* [Paper presentation]. International Summer School Sarajevo Alumni Conference Transitional Justice and Democracy Transition, Sarajevo, Bosnia and Herzegovina.
2. Al-Jurf, S. (1990). Good governance and transparency: Their impact on development. *Transnational Law & Contemporary Problems, 9*(1), 193–216.
3. Barnes, W. J., Jr. (1999). Revenge on utilitarianism: Renouncing a comprehensive economic theory of crime and punishment. *Indiana Law Journal, 74*(2), 627–656.
4. Bellinger, N., & Sullivan, R. (2022). A judicial duty: Interpreting and enforcing Montanans' inalienable right to a clean and healthful environment. *Public Land & Resources Law Review, 45*, 1–34.
5. Besson, S. (2012). Evolutions in non-discrimination law within the ECHR and the ESC systems: It takes two to tango in the Council of Europe. *American Journal of Comparative Law, 60*(1), 147–180. https://doi.org/10.5131/AJCL.2011.0004
6. Bostan, A. D. (2004). The right to a fair trial: Balancing safety and civil liberties. *Cardozo Journal of International and Comparative Law, 12*(2), 301–319.
7. Bratspies, R. (2018). Corrupt at its core: How law failed the victims of waste dumping in Côte d'Ivoire. *Columbia Journal of Environmental Law, 43*(2), 455–490.
8. Burgess, J. (2010). Let them eat cake: Constitutional rights to food. *Willamette Journal of International Law and Dispute Resolution, 18*(2), 257–279.
9. Černič, J. L. (2011). Corporate obligations under the human right to water. *Denver Journal of International Law and Policy, 39*(2), 303–322.
10. Cicchini, M. D. (2010). An economics perspective on the exclusionary rule and deterrence. *Missouri Law Review, 75*(2), 459–487.
11. Davis, K. E., Jorge, G., & Machado, M. R. (2015). Transnational anticorruption law in action: Cases from Argentina and Brazil. *Law and Social Inquiry, 40*(3), 664–699. https://doi.org/10.1111/lsi.12117
12. Delaney, P. X. (2007). Transnational corruption: Regulation across borders. *Virginia Journal of International Law, 47*(2), 413–451.
13. Elsaman, M. (2020). The nexus of access to information, good governance, and investment negotiation. *Washington International Law Journal, 29*(2), 381–404.
14. Ersan, P. (2018). Human rights and criminal process in combating corruption. *International Journal of Liberal Arts and Social Science, 6*(3), 51–56.
15. Farida, Q. A. S. (2022). Implementation of assets confiscation in the corruption crime in Indonesia as additional criminals based on human rights perspective. *International Journal of Social Science and Human Research, 5*(8), 3486–3488. https://doi.org/10.47191/ijsshr/v5-i8-05
16. Fuhr, D. M. (2013). Of thieves and repressors: The interplay between corruption and human rights violations. *Elon Law Review, 5*(2), 271–299.
17. Gani, B., & Rahaditya, R. (2020). Juridical analysis of letter forgery crimes committed by intermediary services brokering. *Advances in Social Science, Education and Humanities Research, 478*, 960–964. https://doi.org/10.2991/assehr.k.201209.153

18. Gebeye, B. A. (2012). *Corruption and human rights: Exploring the relationships* (Working Paper No. 70). University of Denver, Human Rights & Human Welfare.
19. Goh, J. (2013). Proportionality—An unattainable ideal in the criminal justice system. *Manchester Student Law Review, 2*(1), 41–59.
20. Gruenberg, C., & Biscay, P. (2007). *A comparative assessment of the compliance with human rights standards of anti-corruption legislations*. International Council on Human Rights Policy.
21. Hadiprayitno, I. (2010). Defensive enforcement: Human rights in Indonesia. *Human Rights Review, 11*(3), 373–399. https://doi.org/10.1007/s12142-009-0143-1
22. Hermann, K., & Warhurst, A. (2009). *Corruption: A human rights and business dilemmas*. Maplecroft.
23. Huck, A. (2012). UNESCO's proposed voluntary guidelines on comprehensive sex education and their role in advancing children's and parents' rights. *Transnational Law & Contemporary Problems, 21*(3), 825–846.
24. Hudson, B. A. (1996). *Understanding justice: An introduction to ideas, perspectives and controversies in modern penal theory*. Open University Press.
25. Husak, D. (2011). Lifting the cloak: Preventive detention as punishment. *San Diego Law Review, 48*(4), 1173–1204.
26. Husak, D. (2020). Criminal law at the margins. *Criminal Law and Philosophy, 14*(3), 381–393. https://doi.org/10.1007/s11572-020-09543-8
27. International Council on Human Rights. (2009). *Corruption and human rights: Making the connection*. Transparency International.
28. Jankovic, S. (2021). Conceptual problems of the right to breathe clean air. *German Law Journal, 22*(2), 171–188. https://doi.org/10.1017/glj.2021.3
29. Jennett, V. (2007). *The relationship between human rights and corruption: The impact of corruption on the rights to equal access to justice and effective remedy*. International Council on Human Rights Policy.
30. Juwita, R. (2017). Corruption as a violation of the right to education in Indonesia: A constructivist approach. *Jurnal Hukum & Pembangunan, 47*(3), 350–370. https://doi.org/10.21143/jhp.vol47.no3.147
31. Kansman, H. C. (2020). Constitutional teeth: Sharpening Montana's clean and healthful environment provision. *Montana Law Review, 81*(2), 247–270.
32. Kiai, M. (2007). *The role of national human rights institutions in combating corruption*. International Council on Human Rights Policy.
33. Koechlin, L. (2007). *An evaluation of national integrity systems (NIS) from a human rights perspective*. International Council on Human Rights Policy.
34. Kong, K. (2009). The right to food for all: A right-based approach to hunger and social inequality. *Suffolk Transnational Law Review, 32*(2), 525–538.
35. Kumar, C. R. (2003). Corruption and human rights: Promoting transparency in governance and the fundamental right to corruption-free service in India. *Columbia Journal of Asian Law, 17*(1), 31–72.
36. Kumar, C. R. (2004). Human rights approaches of corruption control mechanisms—Enhancing the Hong Kong experience of corruption prevention strategies. *San Diego International Law Journal, 5*(1), 323–351.

37. Kumar, C. R. (2008). Corruption, development and good governance: Challenges for promoting access to justice in Asia. *Michigan State Journal of International Law, 16*(3), 475–510.
38. Kututwa, N. (2007). *How to combat corruption while respecting human rights*. International Council on Human Rights Policy.
39. Lawler, N. (2018). The right to education in the United States and abroad: A comparative analysis of constitutional language and academic achievement. *Federal Lawyer, 65*(6), 34–37.
40. Lister, M. (2012). There is no human right to democracy, but may we promote it anyway? *Stanford Journal of International Law, 48*(2), 257–276.
41. Luna, E. (2003). Punishment theory, holism, and the procedural conception of restorative justice. *Utah Law Review, 2003*(1), 205–227.
42. Margerin, M. G. (2010). The right to education: A multi-faceted strategy for litigating before the Inter-American Commission on Human Rights. *Human Rights Brief, 17*(3), 19–25.
43. Marzen, C. G. (2020). A constitutional right to public information. *Boston University Public Interest Law Journal, 29*(2), 223–255.
44. May, J. R. (2021). The case for environmental human rights: Recognition, implementation, and outcomes. *Cardozo Law Review, 42*(3), 983–1034.
45. McDermott, M. J. (2012). Constitutionalizing an enforceable right to food: A new tool for combating hunger. *Boston College International and Comparative Law Review, 35*(2), 543–566.
46. Ndeunyema, N. (2020). Unmuddying the waters: Evaluating the legal basis of the human right to water under treaty law, customary international law, and the general principles of law. *Michigan Journal of International Law, 41*(3), 459–496. https://doi.org/10.36642/mjil.41.3.unmuddying
47. Nemeth, A. O. (2022). Privatizing the provisions of water: The human right to water in investment-treaty arbitration. *New York University Law Review, 97*(3), 749–785.
48. Ngugi, J. M. (2010). Making the link between corruption and human rights: Promises and perils. *American Society of International Law Proceedings, 104*, 243–246. https://doi.org/10.1017/S0272503700036931
49. Nichols, P. M. (2012). The psychic costs of violating corruption laws. *Vanderbilt Journal of Transnational Law, 45*(1), 145–178.
50. Okaru-Bisant, V. (2011). Proposals to combat the Multilateral Investment Guarantee Agency's deficiencies: Promoting private water investments and preventing corruption and consumer risks. *Sustainable Development Law Journal, 14*(1), 1–16.
51. Pengadilan Negeri Jakarta Pusat. (2006). Court Decision: 11/Pid.B/TPK/2006/PN.Jkt.Pst.
52. Pengadilan Negeri Jakarta Pusat. (2012). Court Decision: 54/Pid.B/TPK/2012/P.Jkt.Pst.
53. Prabowo, H. Y. (2014). To be corrupt or not to be corrupt: Understanding the behavioral side of corruption in Indonesia. *Journal of Money Laundering Control, 17*(3), 306–326. https://doi.org/10.1108/JMLC-11-2013-0045
54. Qureshi, W. A. (2018). The emerging human right to water in international and domestic law. *University of Denver Water Law Review, 21*(1), 155–178.

55. Rajagopal, B. (1999). Corruption, legitimacy and human rights: The dialectic of the relationship. *Connecticut Journal of International Law, 14*(2), 495–511.
56. Reyes, J. (2019). State capture through corruption: Can human rights help? *AJIL Unbound, 113*, 331–335. https://doi.org/10.1017/aju.2019.61
57. Roht-Arriaza, N. (2021). Empowering victims of grand corruption: An emerging trend. *Connecticut Journal of International Law, 37*(1), 27–44.
58. Rose, C. (2011). The application of human rights law to private sector complicity in governmental corruption. *Leiden Journal of International Law, 24*(3), 715–736. https://doi.org/10.1017/S0922156511000277
59. Rusydianta, M. (2020). Reformulating fraud crimes under Article 378 of the Criminal Code based on restorative justice values. *Prophetic Law Review, 3*(2), 229–245. https://doi.org/10.20885/PLR.vol3.iss2.art5
60. Sadoff, D. A. (2017). How law enforcement cooperation abroad is pivotal to sustainable development at home. *Boston University International Law Journal, 35*(2), 339–381.
61. Sarma, B. (2017). Using deterrence theory to promote prosecutorial accountability. *Lewis & Clark Law Review, 21*(2), 573–607.
62. Satterthwaite, M. L. (2021). Assessing the right to water and sanitation: Between institutionalization and radicalization. *Georgetown Journal of International Law, 52*(2), 315–346.
63. Sekalala, S., Masud, H., & Bosco, R. T. (2020). Human rights mechanisms for anti-corruption, transparency, and accountability: Enabling the right to health. *Global Health Action, 13*(Suppl 1), 1–8. https://doi.org/10.1080/16549716.2020.1699343
64. Shams, H. (2001). The fight against extraterritorial corruption and the use of money laundering control. *Law and Business Review of the Americas, 7*(1), 85–134.
65. Sherman, J. (2017). The right to an interpreter under customary international law. *Columbia Human Rights Law Review, 48*(3), 271–297.
66. Spahn, E. K. (2009). International bribery: The moral imperialism critiques. *Minnesota Journal of International Law, 18*(1), 155–188.
67. Spalding, A. B. (2014). Corruption, corporations, and new human rights. *Washington University Law Review, 91*(6), 1365–1409.
68. Spyromitros, E., & Panagiotidis, M. (2022). The impact of corruption on economic growth in developing countries and a comparative analysis of corruption measurement indicators. *Cogent Economics & Finance, 10*(1), 1–22. https://doi.org/10.1080/23322039.2022.2079366
69. Strayer, A. L. (2019). Protecting rights 'in small places': Why depriving girls of the right to education is gender-based persecution and a crime against humanity. *Georgetown Journal of International Law, 50*(4), 975–1008.
70. Tahzib, B. G. (1996). *Freedom of religion or belief: Ensuring effective international legal protection*. Kluwer Law International.
71. Terracino, J. B. (2007). *Hard law connection between corruption and human rights*. International Council on Human Rights Policy.
72. Terracino, J. B. (2008). *Corruption as a violation of human rights*. Social Science Research Network. https://ssrn.com/abstract=1107918
73. Terracino, J. B. (2012). *The international legal framework against corruption: State's obligations to prevent and repress corruption*. Intersentia Publishing Ltd.

74. Toebes, B. (2007). *The impact of acts of corruption on the enjoyment of the right to health*. International Council on Human Rights Policy.
75. Tonry, M. (2006). Purposes and functions of sentencing. *Crime and Justice, 34*(1), 1–53. https://doi.org/10.1086/500628
76. Trechsel, S. (2000). Comparative observations on human rights law and criminal law. *Saint Louis-Warsaw Transatlantic Law Journal, 2000*, 1–11. https://heinonline.org/HOL/P?h=hein.journals/slwtlj2000&i=5
77. Truelove, A. M. (2003). Oil, diamonds, and sunlight: Fostering human rights through transparency in revenues from natural resources. *Georgetown Journal of International Law, 35*(1), 207–228.
78. Ugaz Sanchez-Moreno, J. C. (2007). *The politicisation of anti-corruption campaigns*. International Council on Human Rights Policy.
79. Underkuffler, L. S. (2013). *Captured by evil: The idea of corruption in law*. Yale University Press.
80. United Nations Development Programme. (2004). *The impact of corruption on the human rights based approach to development*. Oslo Governance Centre.
81. Vlasic, M. V., & Cooper, G. (2011). Beyond the Duvalier legacy: What new 'Arab Spring' governments can learn from Haiti and the benefits of stolen asset recovery. *Northwestern University Journal of International Human Rights, 10*(1), 19–36.
82. Webb, P. (2005). The United Nations Convention Against Corruption: Global achievement or missed opportunity? *Journal of International Economic Law, 8*(1), 191–229. https://doi.org/10.1093/jielaw/jgi013
83. World Commission on Environment and Development. (1987). *Our common future: The Brundtland report*. Oxford University Press.
84. Yalincak, O. H. (2013). Freedom of movement rights of Turkish nationals in the European Union. *Columbia Journal of European Law, 19*(3), 389–414.