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Harmonisation of criminal policy on corruption offences in the criminal justice system in Indonesia

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Abstract: Corruption in Indonesia remains entrenched due to fragmented criminal policies that separate formal criminal sanctions from informal social controls, thereby weakening comprehensive anti-corruption efforts. This paper examines the need to harmonise Criminal Policy, rooted in UNCAC ratification and legislative reform, with Non-Penal Policy, which relies on public awareness, informal sanctions, and cultural norms. Using doctrinal legal research with statutory and comparative approaches, the study analyses national legislation, UNCAC provisions, and best practices in criminalising bribery in the private sector. The findings indicate that although UNCAC ratification through Law No. 7/2006 modernised formal sanctions and introduced non-mandatory offences, gaps persist in the regulation of corporate bribery and a lack of systematic non-criminal measures, producing policy dissonance. The study demonstrates that integrating ISO 37001 standards, non-penal asset forfeiture, public integrity education, and community engagement can bridge these gaps. The researcher concludes that an integrated criminal policy incorporating clear criminal definitions, preventive education, and robust social sanctions is essential for sustainable corruption control. Accordingly, the paper recommends legislative amendments to fully criminalise private-sector bribery, institutionalise non-penal strategies, and establish coordinated oversight mechanisms to promote a cohesive, adaptive, and equitable anti-corruption framework.
Keywords: Anti-corruption; Compliance; Enforcement; Integration; Prevention.

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Introduction

Corruption in Indonesia has become a structural phenomenon that hinders national development by creating a vicious cycle of poverty and economic underdevelopment (Emmanuel & Qijun, 2019), as well as undermining democracy and public trust in state institutions. The government has ratified *the United Nations Convention Against Corruption* through Law No. 7 of 2006 to establish a modern national legal framework (Zainal Arifin Mochtar & Eddy O.S. Hiariej, 2018), but the implementation of *criminal policy* against corruption still faces overlapping regulations and sociological gaps in society. Therefore, harmonisation of *penal* and *non-penal policy* aspects are absolute prerequisites for effectively eradicating corruption comprehensively.

Criminal policy essentially encompasses two complementary approaches: *Penal Policy,* which focuses on the framework of written legal norms and the formulation of criminal sanctions through legislation and international instruments (Kenedi, 2017), and *Non-Penal Policy,* which relates to public perceptions of the law, legal cultural practices, and informal mechanisms and social sanctions that influence the effectiveness of law enforcement (Muladi & Sulistyani, 2021). In Indonesia, the development of *Penal Policy* can be seen from Law No. 3/1971 to Law No. 31/1999 jo. Law No. 20/2001 (hereinafter referred to as the Corruption Eradication Law), while *non-penal policy* is still limited to anti-corruption campaigns and informal social sanctions, creating dissonance between the formal legal framework and the socio-cultural reality that supports or tolerates corruption. Therefore, the analysis and harmonisation of these two dimensions of criminal policy are important prerequisites for creating synergy between formal norms and the legal culture of society, so that the effectiveness of combating corruption can be optimised.

Juridically, Indonesia's *penal policy* was established through the ratification of *the United Nations Convention Against Corruption* (UNCAC) in Law No. 7 of 2006, which regulates the offences

of gratification, bribery, and embezzlement of state assets in accordance with Chapter III of the UNCAC (Hiariej, 2020), However, even though this foundation has created a modern national legal framework, there are still regulatory gaps related to bribery in the private sector, even though Article 21 of the UNCAC requires the criminalisation of non-mandatory acts. This legal loophole hinders the prosecution of corporations as perpetrators of corruption (Prahassacitta, 2017). Therefore, *penal reform* theory calls for the renewal of the Criminal Procedure Code and the harmonisation of sectoral regulations to address the weaknesses in existing criminal sanctions through comprehensive systemic reformulation.

Historically, efforts to combat corruption in Indonesia began with the 1958 wartime regulations and Law No. 24 of 1960, then developed into the establishment of the Corruption Eradication Commission in 2002 (Situmorang, 2014), where the ratification of *the United Nations Convention Against Corruption* in 2006 marked the era of internationalisation with the establishment of six impacts of corruption and global eradication goals (Utomo, 2015). The national criminal justice system has also been enriched with anti-money laundering norms, whistleblower protection, and international cooperation mechanisms through *mutual legal assistance* (Zetri et al., 2022). However, overlapping regulations, a shift in focus between repressive enforcement and preventive efforts to foster a culture of anti-corruption, and a lack of coordination between law enforcement agencies have fragmented implementation and weakened the effectiveness of corruption eradication in Indonesia (Kenedi, 2017).

The main problem lies in the lack of synchronisation between *Penal Policy*, which was ratified through UNCAC and the Anti-Corruption Law, which emphasises the substance of norms and formal criminal sanctions but does not fully accommodate *the criminalisation of private sector bribery* as recommended by *the* 2025 UNC*AC Review* and *Non-Penal Policy*, which is still *ad hoc*, campaign-based, and relies on stigma and informal social sanctions without a systematic policy foundation. This conceptual difference weakens anti-corruption efforts because the formal legal culture is not integrated with public participation in shaping the stigma against corruption (Sriwidodo, 2023), so it is necessary to explore the concept *of an extra-legal system* to utilise the potential of public support and develop harmonised regulations and social practices that are simultaneous and sustainable.

To optimise corruption eradication in accordance with the objectives of UNCAC, it is necessary to harmonise and synchronise *criminal policy* covering penal and non-penal aspects simultaneously: *Penal Policy* must include comprehensive ratification of UNCAC, including criminalisation of the private sector and improvement of the corruption punishment system to close legal loopholes and strengthen criminal norms. Meanwhile, *non-penal policy* requires the harmonisation of legal culture through public education, media reform, and community empowerment as social sanctions to foster a legal perception that rejects corruption as *an extraordinary crime.* This integrated approach will create synergy between the normative framework and sociological dynamics to eradicate corruption comprehensively.

The justification for this research is based on the urgent need to map the gap between written regulations and social practices in Indonesia, as there has been no comprehensive study evaluating the harmonisation of *Penal Policy* and *Non-Penal Policy* in the context of UNCAC implementation after ratification. Furthermore, the lack of studies linking the formal regulatory dimension with the legal culture of society emphasises the urgency of using a deductive approach to analyse the concept *of criminal policy* in a comprehensive and focused manner, while enriching the theory on the integration of criminal law policy and legal sociology. The results of this research are expected to provide concrete and applicable policy recommendations for legislators, law enforcement officials, and civil society to create an effective, fair, and sustainable criminal justice system.

This study emphasises the need for comprehensive ratification of UNCAC as part of *Penal Policy*, as well as the harmonisation and synchronisation of criminal policy, including the formal legal framework and legal culture of society in *Non-Penal Policy*, in order to comprehensively reduce corruption. The distinguishing aspect of this research lies in the multidisciplinary integration of criminal law, *criminal policy,* and legal sociology, which has not been addressed in the current literature, thus contributing new insights by identifying an integrated criminal policy framework.

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Therefore, this study formulates the problem into two main focuses***. First,*** What is the level of harmonisation and synchronisation of Indonesia's *penal policy* after the ratification of UNCAC in normative and procedural aspects, and what are the legal loopholes and institutional obstacles that prevent the realisation of a single legal umbrella for eradicating corruption? ***Second,*** What is the role, effectiveness, and mechanism of non-penal policy integration in Indonesia's criminal policy reform for corruption prevention, as well as the use of administrative sanctions, and what obstacles must be overcome so that *non-criminal policy* can function complementarily and synergistically with *criminal policy?* .

Method

This research is normative legal research to examine the application of rules or norms in positive law, in the sense of collecting, presenting, systematising, analysing, interpreting, and assessing legal norms. Normative juridical legal research is conducted by examining various concepts, theories, and legal principles from literature, legislation, journals, and other relevant documents as a normative legal research method. The focus of the study is on the concept of *criminal policy,* namely penal and non-penal regulations that are used as efforts to deal with or combat criminal acts of corruption in Indonesia (Marzuki, 2017).

Results and Discussion

Theoretical Framework of Criminal Policy

Criminal policy is a rational and organised effort by society to combat crime through measured steps that systematically combine preventive and repressive dimensions (Dharma, 2022), where Marc Ancel defines it as "*the rational organisation of the control of crime by society*," emphasising the scientific and practical aspects of prevention and criminal prosecution (Ancel & Sellin, 1987). In addition, G. Peter Hoefnagels adds that *criminal policy* is *"the rational organisation of social reactions to crime,*" covering both formal and informal social reactions (Hoefnagels, 2013), while according to Barda Nawawi Arief, this policy plays an integral role in systemic community protection efforts (Arief, 2008). Thus, *criminal policy* functions as an umbrella for formal legal instruments and informal social strategies, combining criminology, criminal law, and *penal policy* studies to produce realistic, humanistic, and progressive policies.

In a narrow sense, criminal policy encompasses the principles and methods that form the basis of criminal responses to violations of the law, while in a broad sense it encompasses the entire function of law enforcement apparatus, from the drafting of laws to police and judicial operations, as well as the interaction of legislation, execution, and social policy to enforce central social norms (Sudarto, 2010). This definition is expanded upon by Hoefnagels, who emphasises four dimensions *of criminal policy:* the science of responding to crime, the science of crime prevention, the science of designing behaviour as crime, and the overall rational response to crime, opening up the possibility that criminal policy does not only focus on sanctions but also on legislative design, public education, and strategies to influence opinion through the mass media (Hoefnagels, 2013). Thus, *criminal policy* functions as a multidisciplinary framework that combines legal, sociological, and communicative aspects, as well as the implementation of social policies that are adaptive to the dynamics of society (Fithri, 2018).

This approach indicates that crime prevention is not only through criminal law instruments, but also involves non-penal preventive policies, which are intensified to achieve effectiveness in reducing crime rates (Azizah, 2021). The criminal policy approach also has implications for the formulation of careful legislative policies, ensuring that every act categorised as a crime not only has a strong legal basis but also considers the social and economic impacts that may arise from its implementation (Ali, 2008). The enforcement of criminal law as part of Indonesia's criminal justice system is a state obligation to protect its citizens and uphold the values of truth and justice. This is in line with crime prevention efforts that do not always rely solely on criminal law, but also on non-legal preventive measures (Soekorini & Hartoyo, 2022). Intense media coverage of criminal cases shows that the public demands more attention to security, order and justice, encouraging law enforcement to be responsive in addressing urgent crime issues (Ariyanti, 2019).

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Criminality, as a complex social phenomenon, cannot be addressed solely at the level of formal justice without touching on the root causes, because crime is rooted in the social processes of society itself (Sunaryo, 2017).

Criminal policy, as an integral part of social policy, is oriented towards *social defence,* the punishment of crime to protect citizens, and *social welfare,* the prevention of crime through improving quality of life as the ultimate goal, which requires a balance between individual rights and public interests, taking into account the values of justice and social benefit (Najih, 2008). In a narrow sense, this policy covers the principles and methods of criminal response, while in a broad sense it covers the entire function of law enforcement apparatus from the formulation of laws to police and judicial operations as well as the interaction between legislation and practical implementation in the field (Akbar et al., 2024). This holistic approach links criminal policy with national development and other social policies, so that the formulation of criminal strategies must consider policy alternatives and critically assess the choices facing policymakers (Pinem, 2023).

Schematically, Hoefnagels describes *criminal policy* as a branch of *law enforcement policy* that is an integral part of *social policy*, emphasising the close relationship between *penal policy* and social policy (Béla & Anikó, 2020). In practice, the formulation of norms and sanctions at the legislative stage (*legislative policy)* determines the types of offences and criminal penalties, *judicial policy* regulates the court process and the imposition of sanctions, and executive *policy* (*administrative policy)* covers the enforcement of sentences and the reintegration of offenders. All of these must be integrated for *criminal policy* to be effective in preventing and combating crime (Fadri, 2010). At the macro level, criminal policy is also oriented towards *social defence* and *social welfare* with the ultimate goal of protecting society in order to achieve social welfare. Therefore, criminal policy does not stand alone but is linked to national development and other social policies to ensure equitable justice and security (Saputra, 2021).

Barda Nawawi Arief divides the implementation *of criminal policy* into three main forms: first, *the application of criminal law*, which focuses on repressive measures after a crime has been committed; second, *prevention* without *punishment* through education, rehabilitation, social recovery, and the development of an informal system (*"extra legal* system") with the active participation of citizens; and third, efforts to influence public perceptions of crime through the mass media to instil anti-crime values in public culture. These three forms complement each other in order to achieve the goals of *social defence* and *social* welfare ; preventive approaches and media campaigns serve to balance repressive measures, so that *criminal policy* is not only about formal sanctions but also public education and social norm change for long-term effectiveness.

The dynamic development of crime requires *penal reform* as an integral part *of criminal policy* that is inseparable from *law enforcement policy* and *social policy*, including the revision of the colonial-era Criminal Code, the strengthening of norms, and the adjustment of judicial procedures, while accommodating socio-political, socio-philosophical, and socio-cultural dimensions in accordance with national needs (Arief, 2005). Two central issues in this reform, criminalisation (determining acts as offences) and penalisation (formulating appropriate sanctions for offenders), must be managed through a rational and contextual *policy-oriented* approach, guided by a vision of inclusive and progressive national legal development.

A *policy-oriented* approach requires that the criteria for criminalisation and penalisation meet the *cost-benefit* principle-*benefit*, law enforcement capacity, and relevance to national development goals, namely only including acts that truly harm the community materially and spiritually and balancing the costs of legislation, supervision, and enforcement with the benefits of creating social order and based on scientific data that integrates criminology, sociology, and criminal law studies (Kenedi, 2017). Within this framework, criminal law policy not only formulates new norms for *criminalisation* and *penalisation,* but also establishes operational mechanisms that ensure effective enforcement, from the revision of criminal provisions and prevention efforts to the implementation of investigations, prosecutions, trials, and criminal executions, as exemplified in A. Mulder's theory *of penal policy* (Arief, 2008).

The criminal policy theoretical framework emphasises that crime prevention efforts must be systematic, integral, and adaptive, with *penal policy* (Hardinata, 2008) through *penal reform* such as revisions to the Criminal Code, Criminal Procedure Code, and improvements to judicial proce-

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dures strengthening the repressive foundation, while *non-penal policy* strengthens preventive measures through non-penal prevention and changes to legal culture. all of these policies are integrated with *social policy* and *law enforcement policy* in order to achieve the objectives of *social welfare* and *social defence.* The process consists of three functional stages: the formulation of legislation (*legislative policy)* as a strategic stage of crime prevention and control, the application of norms in court (*judicial policy)*, and administrative-executive implementation (*executive policy)*, which requires close collaboration between legislators, jurists, and implementing agencies to ensure continuity between policy and criminal law enforcement practices. Thus, *criminal policy* functions as an integral public policy instrument to protect and improve the welfare of society.

Harmonisation and Synchronisation of Penal Policy: Ratification of the United Nations Convention Against Corruption in the Reform of the National Criminal Justice System

The ratification of UNCAC through Law No. 7/2006 affirms Indonesia's position in eradicating corruption by providing a single legal umbrella that requires the Police, the Attorney General's Office, and the Corruption Eradication Commission (KPK) to operate on the basis of synchronised regulations (Winarno, 2017). In order to minimize sectoral egos and creating uniform standards for handling corruption cases, as well as demanding the harmonisation of sectoral norms in each ministry and institution in accordance with UNCAC principles so that the definitions, elements of offences, and penalties for public and private corruption are integrated without overlap or legal loopholes (Hiariej, 2020). With this consistent legal framework, law enforcement agencies can work synergistically in line with policy, strengthening the effectiveness of corruption eradication and ensuring legal certainty for perpetrators and victims (Mustari et al., 2021).

Following ratification, improvements to national legislation must include all provisions of Chapter III of UNCAC, eleven *mandatory* corruption offences such as bribery of public officials, embezzlement, money laundering, and obstruction of justice, as well as six *non-mandatory* offences such as trading in influence and corruption in the private sector (Hiariej, 2019). Therefore, the provisions on the criminalisation of bribery in the private sector (Article 21 of the UNCAC) and private embezzlement (Article 22 of the UNCAC) must be adopted in the Anti-Corruption Law, the National Criminal Code, and other sectoral regulations to close legal loopholes that are often exploited in the procurement of goods and services (Prahassacitta, 2017). Unifying the framework of offences and criminal elements in various legal instruments will prevent differences in interpretation, make it easier for officials to enforce the law, and require judicial interpretation guidelines so that all anti-extortion articles are implemented consistently throughout the national jurisdiction.

The Non-Conviction Based Asset Forfeiture Bill is a strategic instrument to break the chain of corruption profits with an *in rem* mechanism that allows the seizure and confiscation of suspicious assets without a final criminal verdict, through asset freezing, announcement of seizure status, and civil proceedings (Ilma, 2024), while also harmonising procedures with the Anti-Corruption Law and the National Criminal Code so that the mechanisms of seizure, freezing, and confiscation run smoothly without conflicts of authority. This step accelerates the recovery of state finances and increases the deterrent effect because perpetrators quickly lose the proceeds of their crimes (Effendi et al., 2025). In line with this, the criminalisation of bribery in the private sector (Article 21 UNCAC) and embezzlement of private sector assets (Article 22 UNCAC) in the Anti-Corruption Bill must be clearly formulated to cover the subject, object, intent, and economic loss, as well as standardising the definitions of gratuities, bribes, and abuse of function so that *lex certa* is fulfilled, closing loopholes in complex *modes of operation* in the procurement of goods and services, and strengthening the preventive power of the law (Sudarti & Lasmadi, 2021).

The Asset Seizure Bill expands the definition of seizure objects to include movable and immovable assets, digital assets, and third-party deposits that are not commensurate with legitimate income. It also integrates an *in rem* mechanism that allows for the seizure of tainted assets without waiting for a final criminal verdict, thereby accelerating the recovery of state losses (Abdullah et al., 2021). To ensure *due process,* confiscation must be supported by verification through LHKPN data, tax returns, and financial reports, while cross-legislative harmonisation places limits on third-party objections when confiscation is announced so that the rightful owner can prove their

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rights. Furthermore, synchronising procedures between the Corruption Eradication Commission (KPK), the Attorney General's Office, and the courts through integrated *standard operating procedures,* from tracking, freezing, public announcement, to execution of confiscation will increase the effectiveness *of asset recovery,* break the chain of corrupt financing, and strengthen *the deterrent effect* for potential perpetrators. The fundamental difference between asset forfeiture and seizure lies in their purpose and legal nature. Asset forfeiture is the permanent takeover by the state of assets resulting from criminal acts based on a court decision that has permanent legal force, without the need for criminal punishment of the perpetrator. Meanwhile, seizure is temporary and is carried out during the investigation or examination of a case, with the aim of securing and proving that the assets are related to a criminal act before a court decision on confiscation is made.

The National Criminal Code should include the offences of bribery and private embezzlement as *lex specialis* in the Chapter on Special Crimes so that general judges can prosecute perpetrators of corruption in the private sector without relying on special bills that are often pending to form a single umbrella for all corruption offences in the public and private sectors, facilitating inter-agency coordination and minimise normative gaps due to the slow deliberation of sectoral regulations. The synchronisation of *the lex specialis* material of the National Criminal Code and the Anti-Corruption Law ensures consistency in definitions, elements, and sanctions to maximise the effectiveness of law enforcement and provide legal certainty for investigators, prosecutors, and courts throughout the archipelago (Arifin et al., 2024). The harmonisation *of penal policy* further requires the adoption of the principle of monism by internalising the *self-executing* norms of the UNCAC as part of positive law without the need for re-ratification so that the transformation of international provisions into the National Criminal Code and implementing regulations runs smoothly without overlap, marking a paradigm shift in legislation towards the unity of the national and international legal systems.

As a monistic state, *the raison d'être* of UNCAC ratification is to function as *a self-executing treaty* under the principle *of pacta sunt servanda*, so that the provisions of the convention directly apply as positive law without waiting for derivative legislation and facilitate the implementation of *mutual legal assistance*, extradition, and *asset recovery* in accordance with Articles 46–52 of UNCAC (Situmorang, 2014). This monistic approach strengthens international cooperation, facilitates cross-border asset tracing, and eliminates legal loopholes resulting from differences in the transformation of norms. To achieve this, amendments to the Anti-Corruption Law, the Criminal Procedure Code, and the KPK's implementing regulations must reflect all international obligations, including the expansion of the KPK's investigative powers to handle corruption in the private sector so that the harmonisation of *penal policy* also includes the alignment of international cooperation instruments in accordance with UNCAC standards (Faozi et al., 2023).

The integration of the KPK's authority to crack down on corruption in the private sector can follow the model of Singapore's CPIB without fundamental revisions to the KPK Law, provided that the National Criminal Code and the Corruption Eradication Law have accommodated private offences requiring an increase in the KPK's capacity through the addition of investigators, prosecutors, and technological resources to trace complex transactions, as well as harmonising the authorities of law enforcement agencies with integrated operational guidelines so that the KPK, the police, and the attorney general's office can work synergistically, share data, and avoid duplication of investigations (Sarbini et al., 2023). On the other hand, the implementation of *non-mandatory* UNCAC provisions such as *trading in influence* (Article 18) and *illicit enrichment* (Article 20) must be enriched through the regulation of *new delicts* in the Anti-Corruption Law with adjustments to the *lex certa* element so that the proof of guilt is not subjective, thereby making *penal policy* more pragmatic and responsive to various modes of corruption and making the implementation of UNCAC more holistic (Hiariej, 2020).

The harmonisation of *penal policy* as part of *social defence* and *social welfare* requires a balance between repressive and preventive measures in the drafting of criminal legislation, where *penal enforcement* through *the application of criminal law* is balanced with *prevention without punishment*, such as the *International Organisation for Standardisation* (ISO) 37001 certification programme in the public and private sectors in accordance with Presidential Instruction No. 10/2016 (Prahassacitta, 2017). By combining criminal sanctions and corporate anti-corruption manage-

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ment systems, this harmonisation builds a culture of compliance and transparency, strengthens *compliance culture,* and creates a *robust* legal environment to curb corrupt practices. The synergy between consistent legislation and anti-corruption education programmes will support in-depth investigations in the public sector and anti-bribery certification in corporations, so that *penal policy* does not only rely on criminal mechanisms but also on strengthening *governance* and systemic prevention (Marbun, 2018).

Harmonisation of *penal policy* following the ratification of UNCAC requires multidimensional reform through comprehensive legislation and *procedural alignment* between institutions, including revision of the Corruption Eradication Law, synchronisation of the Corruption Law and the KPK Law, and the Bill on Asset Seizure based on *non-conviction forfeiture*, thereby creating a single legal umbrella that reduces sectoral ego, strengthens institutional coordination, and maximises the recovery of state assets without a final criminal verdict. This reform unifies *criminal policy* and *social policy* within the framework of *social defence* and *social welfare*, integrating *asset recovery* mechanisms*,* ISO 37001 certification programmes, and anti-corruption education to build a culture of preventive law and increase accountability. With the implementation of *the self-executing* UNCAC *treaty* and the adoption of *non-conviction forfeiture* mechanisms*,* the national criminal justice system has become more holistic, modern, and in line with international standards, ready to respond to the challenges of *extraordinary* crime in the global era.

Non-Penal Policy as Part of Criminal Policy Reform in the Legal System to Combat Corruption in Indonesia

In the context of combating corruption in Indonesia, the non-penal approach (*non-penal policy*) holds a strategic position in the framework of criminal policy reform. This policy reform does not only focus on repressive or penal efforts, but also includes more systemic and structural preventive efforts. *Non-penal policy* is essentially an integral part of *criminal policy,* which is broadly defined as all efforts by the state through various channels, both criminal and non-criminal, to prevent and combat crime.

According to Soedjono Dirdjosisworo, in conceptual terms, crime prevention is carried out by combining various elements related to the criminal justice system and community participation (Sinaga, 2017): (1) Improvement and strengthening of law enforcement apparatus, including strengthening organisations, personnel and infrastructure for the resolution of criminal cases; (2) Legislation that can function to analyse and deter crime and has future reach; and (3) An effective criminal justice mechanism that is fast, accurate, inexpensive and simple.

Corruption is an extraordinary *crime* that has a systemic impact on social, economic and political life. As a consequence, its eradication cannot rely solely on criminal law instruments that are *ultimum remedium*, but must involve multidisciplinary and multisectoral intervention (Pratama & Januarsyah, 2020). This is in line with the view of Mardjono Reksodiputro, who emphasises that "crime prevention strategies cannot be separated from strategies for fair and equitable social development" (Reksodiputro, 1997). This means that the roots of corruption cannot be separated from corrupt social, political and economic structures.

Non-penal efforts to eradicate corruption are a form of non-penal measures targeting criminal acts of corruption. Referring to G. Peter Hoefnagel's thoughts on the scope of criminal politics, Barda Nawawi Arief includes non-penal efforts in the form of utilising the mass media to influence public perception of crime and punishment (*influencing the view of society on crime and punishment)*, and prevention without punishment (*prevention without punishment)* (Faozi et al., 2023).

The non-penal policies referred to include reforming the bureaucratic administrative system, improving the integrity of the state apparatus, transparency in budget management, optimising internal and external oversight systems, and strengthening anti-corruption values through education and public participation. For example, reforming state budget management based on the principles of accountability and transparency is a concrete form of non-penal policy that has a direct impact on preventing corruption (Atmasasmita, 2016). Such policies can be implemented by strengthening supervisory institutions such as the BPK and KPK, as well as improving public reporting mechanisms.

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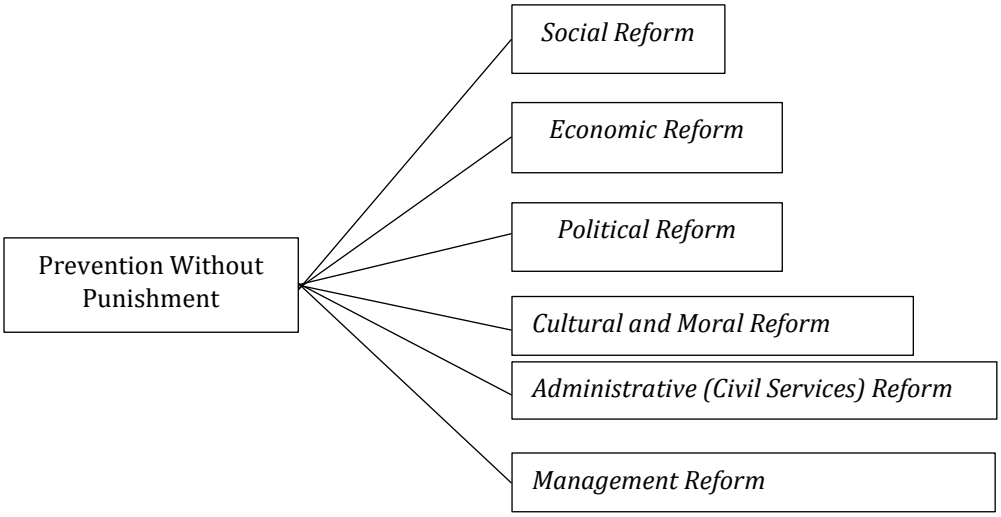


Figure 1. This approach in the form of various reforms was proposed by Dr Ibrahim Shihata, Senior Vice President and General Counsel of the World Bank and Secretary-General of the International Centre for Settlement of Investment Disputes (Washington DC).

In the context of modern criminal policy, non-penal efforts against corruption are not a symbolic complementary approach, but rather a substantive strategy that forms the basis of a systemic prevention of corruption. These non-penal efforts include a series of policies and actions that are carried out outside the criminal justice system, but have a significant impact in reducing the incentives and potential for corruption. This approach stems from the realisation that corruption is not solely the result of weak criminal law enforcement, but also the result of weak governance, fragile bureaucratic integrity, and low ethical literacy among the public (Muladi & Arief, 2010).

Conceptually, non-penal efforts in the criminal policy system can be categorised into six forms: institutional strengthening, anti-corruption education and campaigns, institutionalisation of integrity values, empowerment of social communities, utilisation of administrative and civil sanctions, and managerial approaches in government. All of these forms are designed as part of *a preventive strategy* that focuses on the formation of an anti-corruption social and legal culture.

Institutional strengthening is the starting point of non-penal policy. Rational organisational structuring, based on a vision and mission of eradicating corruption, is the initial foundation for building a system that is resilient to corrupt practices. Bureaucratic reform is aimed at creating transparent and accountable governance, supported by *a road map,* strategic plan, and internal monitoring system that promotes *a zero-tolerance* principle towards ethical violations. This step is a manifestation of the principles *of good governance* and *integrity-based management*, which are an integral part of the non-penal approach in the realm of public policy.

The second form of non-penal policy is anti-corruption education and campaigns targeting various segments of society. This is confirmed in *Presidential Instruction of the Republic of Indonesia Number 5 of 2004 concerning the Acceleration of Corruption Eradication,* which mandates the importance of developing an anti-corruption culture through formal and informal education (Presidential Instruction of the Republic of Indonesia Number 5 of 2004 concerning the Acceleration of Corruption Eradication, 2004). Here, it is evident that the prevention of corruption is not only the responsibility of law enforcement officials, but also of the wider community through the mechanisms of education and the cultivation of public ethics. For example, at Gadjah Mada University, anti-corruption education is included in the Civic Education course (2 credits), which is a compulsory course in every study programme, where there is study material on integrity enforcement and anti-corruption (as a special chapter) included in the course. In addition, the Law Study Programme (S-1) curriculum includes an Anti-Corruption Clinic course (2 credits), which is an elective course, so there is no obligation for every student in this study programme to take the Anti-Corruption Clinic course (Zhafarina & Bantam, 2021). According to the author, anti-corruption education should be made a compulsory course rather than an elective

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course in all faculties. This is because every student who later becomes a graduate will be directly involved in community life, so anti-corruption education should be made a primary provision. In addition, this education should not only be placed in formal spaces such as schools and universities, but also through non-formal and informal activities in the form of training, public festivals, film screenings, writing competitions, and the dissemination of creative content that internalises anti-corruption values. This concept is in line with the idea of *social prevention* in modern criminology, which places education as the main tool for building public awareness and resistance to a culture of corruption.

Furthermore, institutionalising integrity values through the development of a national integrity system is the third form of non-penal efforts. This system can be established through the implementation of a code of ethics, public service standards, and periodic evaluation mechanisms within ministries, state institutions, state-owned enterprises, and local governments. The aim is to mainstream the values of honesty, responsibility, and concern for public service as standards of institutional behaviour. In other words, *institutional morality* is an important part of non-penal strategies (MD, 2017).

The fourth effort, namely social community empowerment, emphasises the importance of civil society participation in eradicating corruption. Women's communities, youth, religious organisations, professional organisations, and indigenous peoples can become agents of change in spreading anti-corruption values. This approach is based on the theory *of communitarian crime prevention*, which places the community as an important actor in the social process that encourages law compliance (Shearing & Stenning, 1981). In this context, community involvement is needed in public policy formulation, budget oversight, and active reporting of violations.

Fifth, the use of administrative and civil sanctions is also an effective non-penal instrument. For example, through policies to revoke the political rights of perpetrators of corruption, confiscate assets resulting from criminal acts, and impose liability on corporations involved in corrupt practices. This approach is in line with the concept of *restorative administrative justice*, which aims to restore state losses more quickly and efficiently than conventional criminal mechanisms (Marshall, 1999). Furthermore, this approach shows that combating corruption does not always have to result in imprisonment, but can also be achieved through restitution and recovery.

The sixth form of non-penal policy is a managerial approach carried out through supervision of the implementation of action plans by state institutions, ministries, and state-owned enterprises. Strengthening the monitoring and evaluation system, providing technical assistance, and assisting the government in designing corruption-free development programmes are part of efforts to promote *clean* and *good* governance. This approach not only prevents administrative irregularities but also improves the overall efficiency of public policy (A. Rahardjo, 2018).

Table 1. Forms of Non-Penal Policies in Corruption Prevention.

Non-Penal Efforts Category	Form of Activity/Policy	Strategic Objectives
Institutional Strengthening	Organisational restructuring, internal oversight systems	Building a robust and accountable bureaucratic structure
Education & Anti-Corruption Campaigns	Festivals, training, creative media, formal education	Fostering an anti-corruption culture from an early age
Institutionalising Integrity Values	Code of ethics, national integrity system, performance evaluation	Making integrity a core institutional value
Empowering social communities	Involvement of community organisations, youth, women, indigenous peoples	Promoting social resistance to corruption
Administrative and civil sanctions	Asset forfeiture, revocation of political rights, corporate accountability	Rapid and effective recovery of state losses
Managerial approach to governance	Programme oversight, policy assistance, participatory auditing	Realising *clean and good governance*

Public policy instruments aimed at reforming the system also play an important role in preventing corruption by creating a cleaner and more transparent social environment. This

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approach is also in line with Roscoe Pound's doctrine of *law as a tool of social engineering*, which views law as a means of engineering society for the better (Pound, 1967). In other words, non-penal policies in the field of anti-corruption are not merely complementary, but are just as important as penal policies. In the context of the modern criminal justice system, harmonisation between *penal* and *non-penal policies* is essential to ensure that corruption eradication is not partial and reactive.

This paradigm also corrects the conventional approach, which places too much emphasis on *the deterrence effect* through harsh punishment, but often fails to address the structural roots of corruption, such as a culture of patronage in the bureaucracy, weak institutional accountability, and low public participation in government oversight. Criminal policy reform through non-penal channels is an important bridge for improving the legal ecosystem and governance as a whole (S. Rahardjo, 2009).

In such a way, *non-penal policy* must be placed within the framework of a holistic and progressive criminal policy. It is not merely a complement to penal policy, but rather a long-term strategy in shaping a social structure that is resistant to the temptations of corruption. It is this combination of penal and non-penal policies that is at the heart of *an integrated criminal policy* that must continue to be developed progressively within the framework of the criminal justice system in Indonesia. In this regard, criminal law will only function effectively if it goes hand in hand with social and administrative reforms that encourage the creation of a law-abiding and integrity-driven society.

Conclusion

Based on the discussion, it can be concluded that efforts to harmonise and synchronise anti-corruption policies in Indonesia still face serious problems, both in terms of legal substance and in practice. Existing regulations, such as the Corruption Eradication Law, the National Criminal Code, and draft laws related to asset forfeiture, are not yet fully in line with the principles and provisions set out in the United Nations Convention against Corruption (UNCAC). As a result, there is a discrepancy between international norms and national law implementation, which has an impact on the weak effectiveness of law enforcement and the suboptimal recovery of state losses due to corruption. On the other hand, law enforcement by agencies such as the Corruption Eradication Commission (KPK), the police, and the attorney general's office is still partial and not fully coordinated. Differences in legal interpretation, systemic limitations, and the absence of an integrated working mechanism often result in the handling of corruption cases being slow, inconsistent, and inefficient. This situation indicates that existing policies have not been fully capable of establishing a criminal justice system that is responsive, integrated, and effective in combating corruption.

In this context, the success of eradicating corruption cannot depend solely on criminal law enforcement (*penal policy*), but must also be supported by strong non-penal policies, such as bureaucratic reform, anti-corruption education, and increased public transparency. Therefore, it is necessary to review and update all anti-corruption regulations to be in line with the mandate of the UNCAC and developments in international law. The government and legislators must ensure that all forms of corruption, including those occurring in the private sector, are regulated explicitly and clearly to close any legal loopholes that have been exploited by perpetrators. In addition, a more effective coordination mechanism is needed between law enforcement agencies by establishing joint work guidelines and an integrated data sharing system, so that synergy between agencies can be realized concretely without overlapping authority.

Furthermore, non-penal policies must be developed sustainably through measurable preventive measures, such as the implementation of anti-corruption education in educational institutions, the development of integrity systems in government agencies and corporations, and the empowerment of the community in public oversight. The author also emphasises that the reform of criminal law in Indonesia should not stop at the normative level, but must be followed by changes in legal culture, increased professionalism among law enforcement officials, and the enforcement of principles of transparency and accountability in justice. With these measures, it is

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hoped that the national legal system will be able to realise modern, professional and fair criminal law enforcement, so that the eradication of corruption in Indonesia is not only reactive and symptomatic, but truly touches on the root of the problem and builds a sustainable foundation of integrity for the nation.

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Harmonisasi kebijakan kriminal terhadap tindak pidana korupsi dalam sistem peradilan pidana di Indonesia

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Abstrak: Korupsi di Indonesia masih mengakar akibat kebijakan pidana yang terfragmentasi yang memisahkan sanksi pidana formal dari kontrol sosial informal, sehingga melemahkan upaya antikorupsi yang komprehensif. Makalah ini mengkaji perlunya menyelaraskan Kebijakan Pidana, yang berakar pada ratifikasi UNCAC dan reformasi perundang-undangan dan Kebijakan Non-Pidana, yang bertumpu pada kesadaran publik, sanksi informal, dan norma-norma budaya. Dengan menggunakan penelitian hukum doktrinal dengan pendekatan perundang-undangan dan perbandingan, studi ini menganalisis legislasi nasional, ketentuan UNCAC, dan praktik terbaik dalam kriminalisasi suap di sektor swasta. Berdasarkan hasil penelitian bahwa meskipun ratifikasi UNCAC melalui Undang-Undang No. 7/2006 telah memodernisasi sanksi formal dan memperkenalkan pelanggaran non-wajib, masih terdapat kesenjangan dalam regulasi suap korporasi dan ketiadaan langkah-langkah non-pidana yang sistematis, yang menyebabkan disonansi kebijakan. Penelitian ini menunjukkan bahwa integrasi standar ISO 37001, perampasan aset non-penal, pendidikan integritas publik, dan pelibatan masyarakat dapat menjembatani kesenjangan ini. Peneliti menyimpulkan bahwa kebijakan pidana terpadu yang mencakup definisi pidana yang jelas, pendidikan preventif, dan sanksi sosial yang kuat, sangat penting bagi pengendalian korupsi yang berkelanjutan. Untuk itu, kami merekomendasikan amandemen legislatif untuk mengkriminalisasi suap di sektor swasta sepenuhnya, melembagakan strategi non-penal, dan membangun mekanisme pengawasan terkoordinasi guna mendorong kerangka kerja antikorupsi yang kohesif, adaptif, dan adil.
Kata Kunci: Antikorupsi; Integrasi; Kepatuhan; Pencegahan; Penegakan.

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Pendahuluan

Korupsi di Indonesia telah menjadi fenomena struktural yang menghambat pembangunan nasional dengan menciptakan lingkaran setan kemiskinan dan ketertinggalan ekonomi (Emmanuel & Qijun, 2019), serta merusak tatanan demokrasi dan kepercayaan publik terhadap lembaga negara. Pemerintah telah meratifikasi *United Nations Convention Against Corruption* melalui Undang-Undang No. 7 Tahun 2006 untuk membentuk kerangka hukum nasional yang modern (Mochtar & Hiariej, 2018), namun implementasi kebijakan *criminal policy* terhadap tindak pidana korupsi masih menghadapi tumpang tindih regulasi dan kesenjangan sosiologis di masyarakat. Oleh karena itu, harmonisasi dan sinkronisasi aspek *penal* dan *non-penal policy* menjadi prasyarat mutlak untuk mengefektifkan upaya pemberantasan korupsi secara menyeluruh.

Criminal policy pada hakikatnya mencakup dua pendekatan saling melengkapi: *Penal Policy*, yang berfokus pada kerangka norma hukum tertulis dan perumusan sanksi pidana melalui undang-undang serta instrumen internasional (Kenedi, 2017), dan *Non-Penal Policy*, yang berkaitan dengan persepsi hukum masyarakat, praktik budaya hukum, serta mekanisme informal dan sanksi sosial yang memengaruhi efektivitas penegakan hukum (Muladi & Sulistyani, 2021). Di Indonesia, perkembangan *Penal Policy* terlihat sejak UU No. 3/1971 hingga UU No. 31/1999 jo. UU No. 20/2001 (selanjutnya disebut UU Pemberantasan Tipikor), sedangkan *Non-Penal Policy* masih terbatas pada kampanye antikorupsi dan sanksi sosial informal, menimbulkan disonansi antara kerangka hukum formal dan realitas sosial budaya yang mendukung atau menoleransi korupsi. Oleh karena itu, analisis dan harmonisasi kedua dimensi kebijakan kriminal ini menjadi

prasyarat penting untuk menciptakan sinergi antara norma formal dan budaya hukum masyarakat, sehingga efektivitas pemberantasan tindak pidana korupsi dapat lebih optimal.

Secara yuridis, *penal policy* Indonesia dibangun melalui ratifikasi *United Nations Convention Against Corruption* (UNCAC) dalam Undang-Undang No. 7 Tahun 2006 yang mengatur delik gratifikasi, suap, dan penggelapan aset negara sesuai Bab III UNCAC (Hiariej, 2020), namun meski landasan ini menjadikan kerangka hukum nasional modern, masih terdapat kekosongan regulasi terkait penyuapan di sektor swasta padahal UNCAC Pasal 21 mewajibkan kriminalisasi non-mandatori tersebut sehingga celah hukum ini menghambat penindakan korporasi sebagai pelaku korupsi (Prahassacitta, 2017). Oleh karena itu, teori *penal reform* menuntut pembaruan KUHAP dan harmonisasi peraturan sektoral untuk menutup kelemahan sanksi pidana yang ada melalui reformulasi sistemik yang menyeluruh.

Secara historis, upaya penanggulangan korupsi di Indonesia bermula dari peraturan perang era 1958 dan Undang-Undang No. 24 Tahun 1960, kemudian berkembang hingga pembentukan Komisi Pemberantasan Korupsi pada 2002 (Situmorang, 2014), di mana ratifikasi *United Nations Convention Against Corruption* pada 2006 menandai era internasionalisasi dengan penetapan enam dampak korupsi dan tujuan pemberantasan global (Utomo, 2015). Sistem peradilan pidana nasional pun diperkaya norma anti pencucian uang, perlindungan pelapor, dan mekanisme kerja sama internasional melalui *mutual legal assistance* (Zetri et al., 2022). Namun, tumpang tindih regulasi, geseran fokus antara penegakan represif dan upaya preventif pembinaan budaya antikorupsi, serta kurangnya koordinasi antar lembaga penegak hukum telah memfragmentasi implementasi dan melemahkan efektivitas pemberantasan korupsi di Indonesia (Kenedi, 2017).

Identifikasi masalah utama terletak pada ketidaksinkronan antara *Penal Policy* yang melalui ratifikasi UNCAC dan UU Pemberantasan Tipikor menitikberatkan pada substansi norma dan sanksi pidana formal namun belum sepenuhnya mengakomodasi *criminalization of private sector bribery* sesuai rekomendasi tinjauan UNCAC *Review* 2025 dan *Non-Penal Policy* yang masih bersifat *ad hoc*, berbasis kampanye, serta mengandalkan stigma dan sanksi sosial informal tanpa landasan kebijakan sistematis. Perbedaan konseptual ini melemahkan upaya antikorupsi karena budaya hukum formal tidak terintegrasi dengan partisipasi masyarakat dalam membentuk stigma antikorupsi (Sriwidodo, 2023), sehingga perlu digali konsep *extra legal system* untuk memanfaatkan potensi dukungan publik dan menyusun harmonisasi regulasi serta praktik sosial yang berjalan simultan dan berkelanjutan.

Untuk mengoptimalkan pemberantasan korupsi sesuai tujuan UNCAC, diperlukan harmonisasi dan sinkronisasi *criminal policy* yang mencakup aspek penal dan non-penal secara simultan: *Penal Policy* harus mencakup ratifikasi UNCAC secara menyeluruh termasuk kriminalisasi sektor privat dan penyempurnaan sistem pemidanaan korupsi guna menutup celah hukum dan menguatkan norma pidana. Sementara itu, *Non-Penal Policy* menuntut harmonisasi budaya hukum melalui pendidikan publik, reformasi media, dan pemberdayaan masyarakat sebagai sanksi sosial guna menumbuhkan persepsi hukum yang menolak korupsi sebagai *extra ordinary crime*. Pendekatan terpadu ini akan menciptakan sinergi antara kerangka normatif dan dinamika sosiologis untuk memberantas korupsi secara menyeluruh.

Justifikasi penelitian ini didasarkan pada kebutuhan mendesak memetakan kesenjangan antara regulasi tertulis dan praktik sosial di Indonesia, karena hingga saat ini belum ada kajian komprehensif yang mengevaluasi harmonisasi *Penal Policy* dan *Non-Penal Policy* dalam konteks penerapan UNCAC pasca-ratifikasi. Selain itu, minimnya studi yang menghubungkan dimensi regulasi formal dengan budaya hukum masyarakat menegaskan urgensi penggunaan pendekatan deduktif untuk mengurai konsepsi *criminal policy* secara menyeluruh dan terarah, sekaligus memperkaya teori tentang integrasi kebijakan hukum pidana dan sosiologi hukum. Hasil penelitian diharapkan memberikan rekomendasi kebijakan konkret dan aplikatif bagi pembuat undang-undang, aparat penegak hukum, dan masyarakat sipil guna menciptakan sistem peradilan pidana yang efektif, adil, dan berkelanjutan.

Fokus studi ini menegaskan perlunya ratifikasi UNCAC secara menyeluruh sebagai bagian dari *Penal Policy* sekaligus harmonisasi dan sinkronisasi kebijakan kriminal meliputi kerangka hukum formal dan budaya hukum masyarakat dalam *Non-Penal Policy* untuk menekan angka korupsi secara komprehensif. Aspek pembeda penelitian ini terletak pada integrasi multidisipliner antara

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hukum pidana, *criminal policy*, dan sosiologi hukum yang belum diangkat secara aktual, sehingga memberikan kontribusi baru dalam literatur dengan mengidentifikasi kerangka kebijakan kriminal yang terintegrasi. Oleh sebab itu, penelitian ini merumuskan masalah dalam 2 (dua) fokus utama, ***Pertama***. Bagaimana tingkat harmonisasi dan sinkronisasi *penal policy* Indonesia pasca-ratifikasi UNCAC dalam aspek normatif dan prosedural, serta apa saja celah hukum dan hambatan institusional yang menghalangi terwujudnya payung hukum tunggal untuk pemberantasan korupsi? ***Kedua*.** Bagaimana peran, efektivitas, dan mekanisme integrasi kebijakan non-penal dalam reformasi kebijakan kriminal Indonesia untuk pencegahan korupsi, serta pemanfaatan sanksi administratif, dan hambatan apa yang harus diatasi agar *non-penal policy* dapat berfungsi komplementer dan sinergis dengan *penal policy*?.

Metode

Penelitian ini merupakan penelitian hukum normatif untuk mengkaji penerapan kaidah-kaidah atau norma-norma dalam hukum positif, dalam artian menghimpun, memaparkan, mensistematisasi, menganalisis, menafsirkan, dan menilai norma-norma hukum. Penelitian hukum yuridis normatif dilakukan dengan cara menelaah berbagai konsep, teori, maupun asas hukum dari literatur, peraturan perundang-undangan, jurnal dan dokumen lainnya yang berkaitan sebagai metode penelitian hukum yang bersifat normatif. Adapun yang menjadi fokus kajian yaitu terhadap konsep kebijakan kriminal (*criminal policy*) yaitu peraturan-peraturan baik penal dan non-penal yang dijadikan upaya untuk menghadapi atau menanggulangi tindak pidana korupsi di Indonesia (Marzuki, 2017).

Hasil dan Pembahasan

Kerangka Teori Kebijakan Kriminal (*Criminal Policy*)

Kebijakan kriminal atau *criminal policy* merupakan usaha rasional dan terorganisasi masyarakat untuk menanggulangi kejahatan melalui langkah-langkah terukur yang menggabungkan dimensi preventif dan represif secara sistematis (Dharma, 2022), di mana Marc Ancel mendefinisikannya sebagai "*the rational organization of the control of crime by society*" yang menekankan aspek ilmiah dan praktis pencegahan serta penindakan pidana (Ancel & Sellin, 1987). Selain itu, G. Peter Hoefnagels menambahkan bahwa *criminal policy* adalah "*the rational organization of the social reactions to crime,*" mencakup reaksi sosial formal maupun informal (Hoefnagels, 2013), sementara menurut Barda Nawawi Arief kebijakan ini berperan sebagai bagian integral dari upaya perlindungan masyarakat yang bersifat sistemik (Arief, 2008). Dengan demikian, *criminal policy* berfungsi sebagai payung bagi instrumen hukum formal dan strategi sosial informal, memadukan studi kriminologi, hukum pidana, dan *penal policy* untuk menghasilkan kebijakan yang realistis, humanis, dan progresif.

Dalam arti sempit, kebijakan kriminal meliputi asas dan metode sebagai dasar reaksi pidana terhadap pelanggaran hukum, sedangkan dalam arti luas mencakup keseluruhan fungsi aparatur penegak hukum mulai penyusunan undang-undang hingga operasi kepolisian dan peradilan serta interaksi legislasi, eksekusi, dan kebijakan sosial untuk menegakkan norma sentral masyarakat (Sudarto, 2010); pengertian ini diperluas oleh Hoefnagels yang menegaskan empat dimensi *criminal policy*: ilmu respons terhadap kejahatan, ilmu pencegahan kejahatan, ilmu merancang perilaku sebagai kejahatan, dan keseluruhan respons rasional atas kejahatan, membuka ruang bahwa kebijakan kriminal tidak hanya berfokus pada sanksi tetapi juga pada desain legislasi, edukasi publik, dan strategi mempengaruhi opini melalui media massa (Hoefnagels, 2013). Dengan demikian, *criminal policy* berfungsi sebagai kerangka multidisipliner yang menggabungkan aspek legal, sosiologis, dan komunikatif, serta implementasi kebijakan sosial yang adaptif terhadap dinamika masyarakat (Fithri, 2018).

Pendekatan ini mengindikasikan bahwa penanggulangan kejahatan tidak hanya melalui instrumen hukum pidana, tetapi juga melibatkan kebijakan preventif yang bersifat non-penal, yang diintensifkan untuk mencapai efektivitas dalam menekan tingkat kriminalitas (Azizah, 2021). Pendekatan kebijakan kriminal juga berimplikasi pada perumusan kebijakan legislatif yang cermat, memastikan bahwa setiap tindakan yang dikategorikan sebagai kejahatan tidak

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hanya memiliki dasar hukum yang kuat, tetapi juga mempertimbangkan dampak sosial dan ekonomi yang mungkin timbul dari implementasinya (Ali, 2008). Penegakan hukum pidana sebagai bagian dari sistem peradilan pidana Indonesia, merupakan suatu keharusan negara dalam melindungi warganya dan menegakkan nilai kebenaran serta keadilan. Hal ini sejalan dengan upaya penanggulangan kejahatan yang tidak selalu mengandalkan sarana hukum pidana semata, melainkan juga tindakan preventif yang non-hukum (Soekorini & Hartoyo, 2022). Pemberitaan media massa yang intens mengenai kasus-kasus tindak pidana menunjukkan bahwa masyarakat menuntut perhatian lebih terhadap keamanan, ketertiban, dan keadilan, mendorong penegak hukum untuk responsif dalam mengatasi permasalahan kejahatan yang mendesak (Ariyanti, 2019). Kriminalitas sebagai fenomena sosial yang kompleks tidak dapat ditanggapi hanya pada tingkat keadilan formal tanpa menyentuh akar masalahnya, karena kejahatan berakar pada proses-proses sosial masyarakat itu sendiri (Sunaryo, 2017).

Criminal policy, sebagai bagian integral politik sosial, berorientasi pada *social defence* penindakan kejahatan untuk melindungi warga dan *social welfare* pencegahan kejahatan melalui peningkatan kualitas hidup sebagai tujuan akhir yang menuntut keseimbangan antara hak individu dan kepentingan publik dengan memperhatikan nilai keadilan dan kemanfaatan sosial (Najih, 2008); dalam arti sempit, kebijakan ini meliputi asas dan metode reaksi pidana, sementara dalam arti luas mencakup keseluruhan fungsi aparatur penegak hukum dari perumusan undang-undang hingga operasi kepolisian dan peradilan serta interaksi antara legislasi dan implementasi praktis di lapangan (Akbar et al., 2024). Pendekatan holistik ini menghubungkan kebijakan pidana dengan pembangunan nasional dan kebijakan sosial lainnya, sehingga perumusan strategi kriminal harus mempertimbangkan alternatif kebijakan serta menilai secara kritis pilihan-pilihan yang dihadapi pembuat kebijakan (Pinem, 2023).

Secara skematis, Hoefnagels menggambarkan *criminal policy* sebagai cabang dari *law enforcement policy* yang menjadi bagian integral *social policy*, menegaskan hubungan erat antara *penal policy* dan kebijakan sosial (Béla & Anikó, 2020); dalam praktiknya, formulasi norma dan sanksi pada tahap legislasi (*legislative police*) menentukan jenis delik dan ancaman pidana, *judicial policy* mengatur proses pengadilan dan penetapan sanksi, serta eksekutif *policy* (*administrative policy*) meliputi pelaksanaan hukuman dan reintegrasi pelaku semua ini harus terintegrasi agar *criminal policy* efektif dalam mencegah dan menanggulangi kejahatan (Fadri, 2010). Pada kerangka makro, politik kriminal juga berorientasi pada *social defence* dan *social welfare* dengan tujuan akhir melindungi masyarakat demi tercapainya kesejahteraan sosial, sehingga kebijakan pidana tidak berdiri sendiri melainkan terhubung dengan kebijakan pembangunan nasional dan kebijakan sosial lainnya untuk memastikan keadilan dan keamanan merata (Saputra, 2021).

Barda Nawawi Arief membagi implementasi *criminal policy* menjadi tiga bentuk utama: pertama, penerapan hukum pidana (*criminal law application*) yang menitikberatkan pada upaya represif setelah kejahatan terjadi; kedua, pencegahan tanpa pidana (*prevention without punishment*) melalui edukasi, rehabilitasi, pemulihan sosial, dan pengembangan sistem informal ("*extra legal system*") dengan partisipasi aktif warga; dan ketiga, upaya mempengaruhi pandangan masyarakat tentang kejahatan melalui media massa untuk menanamkan nilai antikejahatan dalam kultur publik ketiga bentuk ini saling melengkapi dalam rangka mencapai tujuan *social defence* dan *social welfare* (Sacco & Silverman, 1982); pendekatan preventif dan kampanye media berfungsi mengimbangi langkah represif, sehingga *criminal policy* tidak hanya tentang sanksi formal tetapi juga pendidikan publik dan perubahan norma sosial untuk efektivitas jangka panjang.

Perkembangan kejahatan yang dinamis menuntut pembaruan hukum pidana (*penal reform*) sebagai bagian integral *criminal policy* yang tak terpisahkan dari *law enforcement policy* dan *social policy*, meliputi revisi KUHP warisan kolonial, penguatan norma, dan penyesuaian prosedur peradilan, sekaligus mengakomodasi dimensi sosio-politikal, sosio-filosofik, dan sosio-kultural sesuai kebutuhan nasional (Arief, 2005). Dua masalah sentral dalam reformasi ini kriminalisasi (menentukan perbuatan sebagai delik) dan penalisasi (merumuskan sanksi tepat bagi pelanggar)—harus dikelola melalui pendekatan *policy-oriented* yang rasional dan kontekstual, dipandu visi pembangunan hukum nasional yang inklusif dan progresif.

Pendekatan *policy-oriented* mengharuskan kriteria kriminalisasi dan penalisasi memenuhi prinsip *cost-benefit*, kapasitas penegak hukum, dan relevansi dengan tujuan pembangunan

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nasional yakni hanya memasukkan perbuatan yang benar-benar merugikan materiel maupun spiritual masyarakat dan menyeimbangkan biaya legislasi, pengawasan, serta penegakan dengan manfaat terciptanya ketertiban sosial serta didasarkan pada data ilmiah yang mengintegrasikan kajian kriminologi, sosiologi, dan hukum pidana (Kenedi, 2017). Dalam kerangka ini, politik hukum pidana tidak hanya merumuskan norma baru untuk *criminalization* dan *penalization*, tetapi juga menetapkan mekanisme operasional yang menjamin efektivitas penegakan mulai revisi ketentuan pidana, upaya pencegahan, hingga pelaksanaan penyidikan, penuntutan, peradilan, dan eksekusi pidana sebagaimana dicontohkan dalam teori *penal policy* A. Mulder (Arief, 2008).

Kerangka teori *criminal policy* menegaskan bahwa upaya penanggulangan kejahatan harus sistematis, integral, dan adaptif, dengan *penal policy* (Hardinata, 2008) melalui *penal reform* seperti revisi KUHP, KUHAP, dan perbaikan prosedur yudisial mengokohkan fondasi represif, sementara *non-penal policy* memperkuat pencegahan preventif melalui pencegahan tanpa pidana dan perubahan budaya hukum; keseluruhan kebijakan ini terintegrasi dengan *social policy* dan *law enforcement policy* guna mencapai tujuan *social welfare* dan *social defence*. Prosesnya terdiri dari tiga tahap fungsional formulasi undang-undang (*legislative policy*) sebagai tahap strategis pencegahan dan pengendalian kejahatan, penerapan norma di pengadilan (*judicial policy*), serta pelaksanaan administratif-eksekutif (*executive policy*) yang mengharuskan kolaborasi erat antara pembuat undang-undang, yuris, dan aparat pelaksana untuk memastikan kesinambungan antara kebijakan dan praktik penegakan hukum pidana. Dengan demikian, *criminal policy* berfungsi sebagai instrumen kebijakan publik yang integral untuk melindungi dan mensejahterakan masyarakat.

Harmonisasi dan Sinkronisasi *Penal Policy*: Ratifikasi *United Nations Convention Against Corruption* dalam Pembaharuan Sistem Hukum Pidana Nasional

Ratifikasi UNCAC melalui UU No. 7/2006 menegaskan posisi Indonesia dalam pemberantasan korupsi dengan menghadirkan payung hukum tunggal yang mewajibkan Kepolisian, Kejaksaan, dan KPK beroperasi di atas dasar peraturan yang sinkron (Winarno, 2017), meminimalkan ego sektoral dan menciptakan keseragaman standar prosedur penanganan kasus korupsi serta menuntut harmonisasi norma sektoral di tiap kementerian dan lembaga sesuai prinsip UNCAC agar definisi, unsur delik, dan ancaman sanksi untuk korupsi publik maupun privat terintegrasi tanpa tumpang tindih atau kekosongan hukum (Hiariej, 2020). Dengan kerangka yuridis yang konsisten ini, penegak hukum dapat bekerja sinergis dalam satu irama kebijakan, memperkuat efektivitas pemberantasan korupsi dan menjamin kepastian hukum bagi pelaku maupun korban (Mustari et al., 2021).

Pasca-ratifikasi, penyempurnaan legislasi nasional wajib mencakup seluruh ketentuan Bab III UNCAC sebelas tindak pidana korupsi *mandatory* seperti penyuapan pejabat publik, penggelapan, pencucian uang, dan penghalangan keadilan serta enam delik *non-mandatory* seperti perdagangan pengaruh dan korupsi di sektor swasta (Eddy O.S. Hiariej, 2019). Oleh karena itu, ketentuan kriminalisasi penyuapan di sektor privat (Pasal 21 UNCAC) dan penggelapan swasta (Pasal 22 UNCAC) harus diadopsi dalam UU Pemberantasan Tipikor, KUHP Nasional, serta peraturan sektoral lain untuk menutup celah hukum yang kerap dimanfaatkan dalam praktik pengadaan barang dan jasa (Prahassacitta, 2017). Menyatukan kerangka delik dan unsur pidana dalam berbagai instrumen hukum akan mencegah perbedaan tafsir, mempermudah aparat menegakkan undang-undang, dan memerlukan pedoman interpretasi yudisial agar seluruh pasal antipemerasan dijalankan secara konsisten di seluruh wilayah hukum nasional.

RUU Perampasan Aset berbasis *Non-Conviction Based Asset Forfeiture* menjadi instrumen strategis untuk memutus rantai keuntungan korupsi dengan mekanisme *in rem* yang memungkinkan penyitaan dan perampasan aset mencurigakan tanpa putusan pidana final, melalui pembekuan aset, pengumuman status sita, dan sidang perdata (Ilma, 2024), sekaligus harmonisasi prosedural dengan UU Pemberantasan Tipikor dan KUHP Nasional agar mekanisme penyitaan, pembekuan, dan perampasan berjalan mulus tanpa benturan kewenangan langkah ini mempercepat pemulihan keuangan negara dan meningkatkan efek jera karena pelaku kehilangan hasil kejahatan secara cepat (Effendi et al., 2025). Sejalan dengan itu, penegasan kriminalisasi penyuapan di sektor swasta (Pasal 21 UNCAC) dan penggelapan aset sektor privat (Pasal 22

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UNCAC) dalam RUU Pemberantasan Tipikor harus dirumuskan dengan jelas mencakup subjek, objek, kesengajaan, dan kerugian ekonomi, serta standardisasi definisi gratifikasi, suap, dan penyalahgunaan fungsi agar *lex certa* terpenuhi, menutup celah *modus operandi* kompleks dalam pengadaan barang dan jasa, dan memperkuat daya cegah undang-undang (Sudarti & Lasmadi, 2021).

RUU Perampasan Aset memperluas definisi objek perampasan meliputi aset bergerak dan tidak bergerak, aset digital, hingga titipan pihak ketiga yang tidak seimbang dengan penghasilan sah serta mengintegrasikan mekanisme *in rem* yang memungkinkan penyitaan aset tercemar tanpa menunggu vonis pidana final, sehingga mempercepat pemulihan kerugian negara (Abdullah et al., 2021). Untuk menjamin *due process*, penyitaan harus didukung verifikasi melalui data LHKPN, SPT, dan laporan keuangan, sementara harmonisasi lintas perundang-undangan menempatkan batas keberatan pihak ketiga saat pengumuman sita agar pemilik sah dapat membuktikan haknya. Selanjutnya, sinkronisasi prosedur di antara KPK, Kejaksaan, dan Pengadilan melalui *standard operating procedure* terpadu mulai pelacakan, pembekuan, pengumuman publik, hingga eksekusi perampasan akan meningkatkan efektivitas *asset recovery*, memutus rantai permodalan koruptif, dan memperkuat *deterrent effect* bagi calon pelaku. Adapun perbedaan mendasar antara perampasan aset dan penyitaan terletak pada tujuan dan sifat yuridisnya. Perampasan aset merupakan tindakan pengambilalihan secara permanen oleh negara terhadap aset hasil tindak pidana berdasarkan putusan pengadilan yang telah berkekuatan hukum tetap, tanpa harus disertai pemidanaan terhadap pelakunya. Sedangkan penyitaan bersifat sementara dan dilakukan dalam tahap penyidikan atau pemeriksaan perkara, dengan tujuan mengamankan dan membuktikan bahwa aset tersebut terkait dengan tindak pidana sebelum adanya putusan perampasan dari pengadilan.

KUHP Nasional seyogyanya perlu memasukkan delik penyuapan dan penggelapan swasta sebagai *lex specialis* dalam Bab Tindak Pidana Khusus sehingga hakim umum dapat menjerat pelaku korupsi sektor privat tanpa bergantung pada RUU khusus yang kerap terkatung membentuk payung tunggal untuk semua delik korupsi di sektor publik dan privat, memudahkan koordinasi antarlembaga, serta meminimalkan kekosongan norma akibat lambatnya pembahasan peraturan sektoral; sinkronisasi materi *lex specialis* KUHP Nasional dan UU Tipikor menjamin konsistensi definisi, unsur, dan ancaman sanksi untuk memaksimalkan efektivitas penindakan dan memberikan kepastian hukum bagi penyidik, penuntut, dan pengadilan di seluruh nusantara (Arifin et al., 2024). Harmonisasi *penal policy* selanjutnya menuntut adopsi prinsip monisme dengan menginternalisasi norma UNCAC yang *self-executing* sebagai bagian dari hukum positif tanpa perlu ratifikasi ulang sehingga transformasi ketentuan internasional ke dalam KUHP Nasional dan peraturan pelaksana berjalan mulus tanpa tumpang tindih, menandai perubahan paradigma legislasi menuju kesatuan sistem hukum nasional dan internasional.

Sebagai negara monistik, *Raison d'être* ratifikasi UNCAC berfungsi sebagai *self-executing treaty* di bawah asas *pacta sunt servanda*, sehingga ketentuan konvensi langsung berlaku sebagai hukum positif tanpa menunggu perundang-undangan turunan dan mempermudah implementasi *mutual legal assistance*, ekstradisi, dan *asset recovery* sesuai Pasal 46–52 UNCAC (Situmorang, 2014). Pendekatan monistik ini memperkuat kerja sama internasional, memudahkan pelacakan aset lintas batas, serta menghilangkan celah yuridis akibat perbedaan transformasi norma. Untuk mewujudkan hal tersebut, penyesuaian UU Pemberantasan Tipikor, KUHAP, dan peraturan pelaksana KPK harus mencerminkan seluruh kewajiban internasional termasuk perluasan wewenang penyidik KPK untuk menangani korupsi sektor privat sehingga harmonisasi *penal policy* mencakup pula penyelarasan instrumen kerja sama internasional sesuai standar UNCAC (Faozi et al., 2023).

Integrasi kewenangan KPK untuk menindak korupsi sektor privat dapat mencontoh model CPIB Singapura tanpa revisi mendasar UU KPK, asalkan KUHP Nasional dan UU Tipikor telah mengakomodasi delik privat memerlukan peningkatan kapasitas KPK melalui penambahan penyidik, penuntut, dan sumber daya teknologi untuk menelusuri transaksi kompleks, serta harmonisasi wewenang antarpenegak dengan pedoman operasional terpadu agar KPK, Kepolisian, dan Kejaksaan dapat bekerja sinergis, berbagi data, dan menghindari duplikasi penyidikan (Sarbini et al., 2023). Di sisi lain, implementasi ketentuan *non-mandatory* UNCAC seperti *trading*

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in influence (Pasal 18) dan *illicit enrichment* (Pasal 20) harus diperkaya melalui pengaturan *new delicts* dalam UU Pemberantasan Tipikor dengan penyesuaian unsur *lex certa* agar pembuktian kesalahan tidak subjektif, sehingga *penal policy* menjadi lebih pragmatis dan responsif terhadap berbagai modus korupsi serta menjadikan implementasi UNCAC lebih holistik (Hiariej, 2020).

Harmonisasi *penal policy* sebagai bagian dari *social defence* dan *social welfare* menuntut keseimbangan antara langkah represif dan preventif dalam rancangan legislasi pidana di mana *penal enforcement* melalui *criminal law application* diimbangi *prevention without punishment*, seperti program sertifikasi *International Organization for Standarization* (ISO) 37001 di sektor publik dan privat sesuai Instruksi Presiden No. 10/2016 (Prahassacitta, 2017). Dengan memadukan sanksi pidana dan sistem manajemen anti-korupsi korporat, harmonisasi ini membangun budaya kepatuhan dan transparansi, memperkuat *compliance culture*, serta menciptakan lingkungan hukum yang *robust* untuk menjinakkan praktik koruptif. Sinergi antara legislasi konsisten dan program edukasi anti-korupsi akan mendukung upaya investigasi mendalam di sektor publik dan sertifikasi antisuap di korporasi, sehingga *penal policy* tidak hanya bergantung pada mekanisme pidana tetapi juga pada penguatan *governance* dan pencegahan sistemik (Marbun, 2018).

Harmonisasi *penal policy* pasca-ratifikasi UNCAC menuntut reformasi multidimensional melalui legislasi komprehensif dan *procedural alignment* antarlembaga termasuk revisi UU Pemberantasan Tipikor, sinkronisasi UU Tipikor dan UU KPK, serta RUU Perampasan Aset berbasis *non-conviction forfeiture* sehingga tercipta payung hukum tunggal yang mengurangi ego sektoral, memperkuat koordinasi institusional, dan memaksimalkan pemulihan aset negara tanpa putusan pidana final. Reformasi ini menyatukan *criminal policy* dan *social policy* dalam kerangka *social defence* dan *social welfare* (Widyawati et al., 2022), mengintegrasikan mekanisme *asset recovery*, program sertifikasi ISO 37001, dan edukasi anti-korupsi untuk membangun budaya hukum preventif serta meningkatkan akuntabilitas. Dengan penerapan *self-executing treaty* UNCAC dan adopsi mekanisme *non-conviction forfeiture*, sistem peradilan pidana nasional menjadi lebih holistik, modern, dan selaras standar internasional, siap menjawab tantangan kejahatan *ekstra-ordinary* di era global.

Non-Penal Policy sebagai Bagian Reformasi Kebijakan Kriminal dalam Sistem Hukum guna Menanggulangi Korupsi di Indonesia

Dalam konteks penanggulangan tindak pidana korupsi di Indonesia, pendekatan non-penal (*non-penal policy*) memegang posisi strategis dalam kerangka reformasi kebijakan kriminal. Reformasi kebijakan ini tidak hanya menitikberatkan pada upaya represif atau penal semata, melainkan juga mencakup upaya preventif yang lebih sistemik dan struktural. *Non-penal policy* pada hakikatnya merupakan bagian integral dari kebijakan kriminal (*criminal policy*) yang secara luas diartikan sebagai keseluruhan upaya negara melalui berbagai jalur, baik hukum pidana maupun non-hukum pidana, dalam rangka pencegahan dan penanggulangan kejahatan.

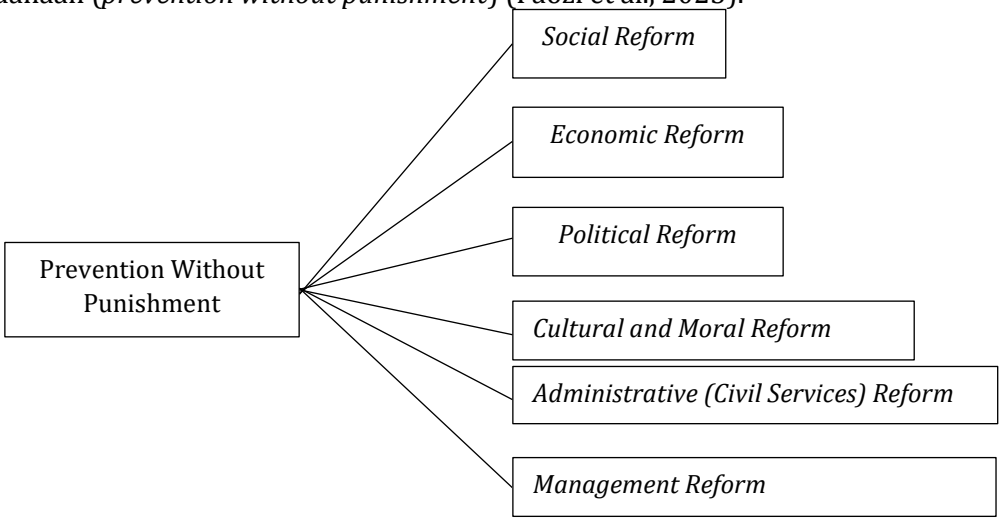
Menurut Soedjono Dirdjosisworo, dalam usaha penanggulangan kejahatan cara umum yang konsepsional, dilakukan dengan memadukan berbagai unsur yang berhubungan dengan mekanisme peradilan pidana serta partisipasi masyarakat (Sinaga, 2017): (1) Peningkatan dan pemantapan aparatur penegak hukum, meliputi pemantapan organisasi, personel dan sarana prasarana untuk penyelesaian perkara pidana; (2) Perundang-undangan yang dapat berfungsi menganalisir dan membendung kejahatan dan mempunyai jangkauan ke masa depan; dan (3) Mekanisme peradilan pidana yang efektif yang syarat-syarat cepat, tepat, murah dan sederhana.

Korupsi adalah kejahatan luar biasa (*extra ordinary crime*) yang memiliki dampak sistemik terhadap kehidupan sosial, ekonomi, dan politik. Oleh karena itu, penanggulangannya tidak bisa hanya mengandalkan instrumen hukum pidana yang bersifat *ultimum remedium*, tetapi harus melibatkan intervensi multidisipliner dan multisektor (Pratama & Januarsyah, 2020). Hal ini sejalan dengan pandangan Mardjono Reksodiputro yang menegaskan bahwa "strategi pencegahan kejahatan tidak dapat dipisahkan dari strategi pembangunan sosial yang adil dan merata" (Reksodiputro, 1997). Artinya, akar kejahatan korupsi tidak dapat dilepaskan dari struktur sosial, politik, dan ekonomi yang koruptif.

Upaya non penal pemberantasan korupsi merupakan bentuk dari penerapan upaya non penal dengan objek pada tindak pidana korupsi. Dengan merujuk pada pemikiran G. Peter Hoefnagel

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tentang cakupan politik kriminal, Barda Nawawi Arief memasukkan upaya non penal berupa pemanfaatan media massa untuk mempengaruhi persepsi masyarakat tentang kejahatan dan pemidanaan (*influencing view of society on crime and punishment*), dan pencegahan tanpa pemidanaan (*prevention without punishment*) (Faozi et al., 2023).



Gambar 1. This approach in the form of various reforms was proposed by Dr Ibrahim Shihata, Senior Vice President and General Counsel of the World Bank and Secretary-General of the International Centre for Settlement of Investment Disputes (Washington DC).

Kebijakan non-penal yang dimaksud mencakup reformasi sistem administrasi birokrasi, peningkatan integritas aparatur negara, transparansi dalam pengelolaan anggaran, optimalisasi sistem pengawasan internal dan eksternal, serta penguatan nilai-nilai antikorupsi melalui pendidikan dan partisipasi publik. Misalnya, reformasi tata kelola anggaran negara yang berbasis pada prinsip akuntabilitas dan transparansi merupakan bentuk nyata dari kebijakan non-penal yang berdampak langsung terhadap pencegahan praktik korupsi (Atmasasmita, 2016). Kebijakan semacam ini dapat dilakukan melalui penguatan lembaga pengawasan seperti BPK dan KPK, serta penyempurnaan mekanisme pelaporan publik.

Dalam konteks kebijakan kriminal modern, upaya non-penal terhadap tindak pidana korupsi bukanlah pendekatan pelengkap yang bersifat simbolik, melainkan sebuah strategi substantif yang menjadi fondasi preventif sistemik dalam menutup peluang terjadinya korupsi. Upaya non-penal ini mencakup serangkaian kebijakan dan tindakan yang dilakukan di luar sistem peradilan pidana, namun memiliki dampak yang signifikan dalam mengurangi insentif maupun potensi kejahatan korupsi. Pendekatan ini tumbuh dari kesadaran bahwa korupsi tidak semata-mata akibat lemahnya penegakan hukum pidana, melainkan akibat dari lemahnya tata kelola, rapuhnya integritas birokrasi, dan rendahnya literasi etik masyarakat (Muladi & Arief, 2010).

Secara konseptual, upaya non-penal dalam sistem kebijakan kriminal dapat dikategorikan dalam 6 (enam) bentuk: penguatan institusional, pendidikan dan kampanye antikorupsi, pelembagaan nilai integritas, pemberdayaan komunitas sosial, pemanfaatan sanksi administratif dan keperdataan, serta pendekatan manajerial dalam pemerintahan. Seluruh bentuk ini dirancang sebagai bagian dari *preventive strategy* yang menitikberatkan pada pembentukan struktur sosial dan budaya hukum yang antikorupsi.

Penguatan institusional menjadi titik mula dari kebijakan non-penal. Penataan organisasi yang rasional, berlandaskan visi dan misi pemberantasan korupsi, menjadi fondasi awal untuk membangun sistem yang tangguh terhadap praktik korupsi. Reformasi birokrasi diarahkan untuk menciptakan tata kelola yang transparan dan akuntabel, dengan dukungan *road map*, rencana strategis, serta sistem pengawasan internal yang mengedepankan prinsip *zero tolerance* terhadap pelanggaran etik. Langkah ini merupakan manifestasi dari prinsip *good governance* dan *integrity based management* yang merupakan bagian tak terpisahkan dari pendekatan non-penal dalam ranah kebijakan publik.

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Bentuk kedua dari kebijakan non-penal adalah pendidikan dan kampanye antikorupsi yang menyasar berbagai lapisan masyarakat. Hal ini ditegaskan dalam *Instruksi Presiden Republik Indonesia Nomor 5 Tahun 2004 tentang Percepatan Pemberantasan Korupsi*, yang mengamanatkan pentingnya pengembangan budaya antikorupsi melalui jalur pendidikan formal dan informal (Instruksi Presiden Republik Indonesia Nomor 5 Tahun 2004 Tentang Percepatan Pemberantasan Korupsi, 2004). Di sini tampak bahwa pencegahan korupsi tidak hanya menjadi tanggung jawab aparat penegak hukum, tetapi juga masyarakat luas melalui mekanisme pendidikan dan pembudayaan etika publik. Misalnya pada Universitas Gadjah Mada, pendidikan Antikorupsi tersisip dalam mata kuliah Pendidikan Kewarganegaraan (2 SKS) yang merupakan mata kuliah wajib di setiap program studi, yang mana terdapat bahan kajian mengenai penegakan integritas dan antikorupsi (sebagai bab khusus) yang disisipkan ke dalam mata kuliah tersebut. Selain itu, pada Kurikulum Program Studi Hukum (S-1) terdapat mata kuliah Klinik Antikorupsi (2 SKS) yang merupakan mata kuliah pilihan, sehingga tidak ada kewajiban bagi setiap mahasiswa program studi tersebut untuk mengambil mata kuliah Klinik Antikorupsi (Zhafarina & Bantam, 2021). Menurut Penulis, seharusnya pendidikan antikorupsi ini dijadikan sebagai mata kuliah utama bukan mata kuliah pilihan di seluruh fakultas. Sebab, setiap Mahasiswa yang kemudian nanti menjadi Wisudawan akan terjun langsung pada kehidupan bermasyarakat, sehingga pendidikan antikorupsi ini sepatutnya dijadikan sebagai bekal utama. Selain itu, pendidikan ini seharusnya tidak hanya ditempatkan dalam ruang formal seperti sekolah dan perguruan tinggi, tetapi juga melalui kegiatan nonformal dan informal dalam bentuk pelatihan, festival publik, penayangan film, lomba penulisan, serta penyebaran konten kreatif yang menginternalisasi nilai antikorupsi. Konsep ini sejalan dengan gagasan *social prevention* dalam kriminologi modern, yang menempatkan pendidikan sebagai alat utama membangun kesadaran dan resistansi masyarakat terhadap budaya koruptif.

Selanjutnya, pelembagaan nilai integritas melalui pembangunan sistem integritas nasional merupakan bentuk ketiga dari upaya non-penal. Sistem ini dapat dibentuk melalui penerapan kode etik, standar pelayanan publik, dan mekanisme evaluasi berkala di lingkungan kementerian, lembaga negara, BUMN, serta pemerintahan daerah. Tujuannya adalah untuk mengarusutamakan nilai-nilai kejujuran, tanggung jawab, dan kepedulian terhadap pelayanan publik sebagai standar perilaku kelembagaan. Dengan kata lain, *institutional morality* menjadi bagian penting dari strategi non-penal (MD, 2017).

Upaya keempat, yaitu pemberdayaan komunitas sosial, mengedepankan pentingnya partisipasi masyarakat sipil dalam pemberantasan korupsi. Komunitas perempuan, pemuda, organisasi keagamaan, profesi, hingga masyarakat adat dapat menjadi agen perubahan dalam menyebarluaskan nilai antikorupsi. Pendekatan ini berangkat dari teori *communitarian crime prevention* yang menempatkan komunitas sebagai aktor penting dalam proses sosial yang mendorong kepatuhan hukum (Shearing & Stenning, 1981). Dalam konteks ini, dibutuhkan pelibatan komunitas dalam penyusunan kebijakan publik, pengawasan anggaran, serta pelaporan pelanggaran secara aktif.

Kelima, pemanfaatan sanksi administratif dan keperdataan juga menjadi instrumen non-penal yang efektif. Misalnya melalui kebijakan pencabutan hak politik terhadap pelaku korupsi, perampasan aset hasil tindak pidana, serta pengenaan pertanggungjawaban terhadap korporasi yang terlibat dalam praktik korupsi. Pendekatan ini sejalan dengan konsep *restorative administrative justice* yang bertujuan mengembalikan kerugian negara secara lebih cepat dan efisien dibandingkan mekanisme pidana konvensional (Marshall, 1999). Lebih lanjut, pendekatan ini menunjukkan bahwa penanggulangan korupsi tidak harus selalu berujung pada pemenjaraan, melainkan dapat melalui restitusi dan pemulihan.

Bentuk keenam dari kebijakan non-penal adalah pendekatan manajerial yang dilakukan melalui pengawasan atas implementasi rencana aksi lembaga negara, kementerian, dan BUMN. Penguatan sistem monitoring dan evaluasi, pendampingan teknis, hingga pemberian asistensi kepada pemerintah dalam merancang program-program pembangunan yang bebas korupsi merupakan bagian dari upaya mendorong pemerintahan yang bersih (*clean government*) dan berwibawa (*good government*). Pendekatan ini bukan hanya mencegah penyimpangan administratif, tetapi juga meningkatkan efisiensi kebijakan publik secara keseluruhan (A. Rahardjo, 2018).

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Tabel 1. Bentuk-Bentuk Kebijakan Non-Penal dalam Penanggulangan Korupsi.

Kategori Upaya Non-Penal	Bentuk Kegiatan/Kebijakan	Tujuan Strategis
Penguatan Institusional	Penataan organisasi, sistem pengawasan internal	Membangun struktur birokrasi yang tangguh dan akuntabel
Pendidikan & Kampanye Antikorupsi	Festival, pelatihan, media kreatif, pendidikan formal	Menumbuhkan budaya antikorupsi sejak dini
Pelembagaan Nilai Integritas	Kode etik, sistem integritas nasional, evaluasi kinerja	Menjadikan integritas sebagai nilai utama kelembagaan
Pemberdayaan Komunitas Sosial	Pelibatan ormas, pemuda, perempuan, adat	Mendorong resistansi sosial terhadap korupsi
Sanksi Administratif dan Keperdataan	Perampasan aset, pencabutan hak politik, pertanggungjawaban korporasi	Pemulihan kerugian negara secara cepat dan efektif
Pendekatan Manajerial Pemerintahan	Pengawasan program, asistensi kebijakan, audit partisipatif	Mewujudkan *clean and good governance*

Instrumen-instrumen kebijakan publik yang diarahkan pada pembenahan sistem juga memainkan peranan penting dalam mencegah terjadinya korupsi melalui penciptaan lingkungan sosial yang lebih bersih dan transparan. Pendekatan ini juga bersesuaian dengan doktrin *law as a tool of social engineering* dari Roscoe Pound yang melihat hukum sebagai sarana untuk merekayasa masyarakat ke arah yang lebih baik (Pound, 1967). Dengan kata lain, kebijakan non-penal dalam bidang antikorupsi bukan hanya bersifat pelengkap, melainkan memiliki posisi yang sama pentingnya dengan kebijakan penal. Justru dalam konteks sistem peradilan pidana modern, harmonisasi antara *penal policy* dan *non-penal policy* menjadi keharusan agar penanggulangan korupsi tidak berjalan secara parsial dan reaktif.

Paradigma ini sekaligus mengoreksi pendekatan konvensional yang terlalu menitikberatkan pada efek jera (*deterrence effect*) melalui pemidanaan yang keras, namun seringkali gagal dalam menyentuh akar struktural korupsi, seperti kultur birokrasi patronase, lemahnya akuntabilitas kelembagaan, dan rendahnya partisipasi publik dalam pengawasan pemerintahan. Reformasi kebijakan kriminal melalui jalur non-penal menjadi jembatan penting untuk memperbaiki ekosistem hukum dan tata kelola pemerintahan secara menyeluruh (S. Rahardjo, 2009).

Dengan demikian, *non-penal policy* harus ditempatkan dalam kerangka kebijakan kriminal yang holistik dan progresif. Ia bukan semata-mata pelengkap terhadap kebijakan penal, tetapi justru sebagai strategi jangka panjang dalam membentuk struktur sosial yang tahan terhadap godaan korupsi. Perpaduan antara kebijakan penal dan non-penal inilah yang menjadi jantung dari *integrated criminal policy* yang harus terus dikembangkan secara progresif dalam kerangka sistem peradilan pidana di Indonesia. Dalam hal ini, hukum pidana hanya akan berfungsi efektif bila berjalan beriringan dengan reformasi sosial dan administratif yang mendorong terwujudnya masyarakat yang sadar hukum dan berintegritas.

Simpulan

Berdasarkan pembahasan, dapat disimpulkan bahwa upaya harmonisasi dan sinkronisasi kebijakan pemberantasan korupsi di Indonesia masih menghadapi persoalan serius, baik pada tataran substansi hukum maupun dalam praktik penegakannya. Regulasi yang ada, seperti Undang-Undang Pemberantasan Tindak Pidana Korupsi, KUHP Nasional, serta rancangan undang-undang terkait perampasan aset, belum sepenuhnya sejalan dengan prinsip dan ketentuan yang diatur dalam Konvensi PBB Antikorupsi (UNCAC). Akibatnya, terjadi ketidaksinkronan antara norma internasional dan implementasi hukum nasional, yang berdampak pada lemahnya efektivitas penegakan hukum dan belum optimalnya pemulihan kerugian negara akibat tindak pidana korupsi. Di sisi lain, pelaksanaan penegakan hukum oleh aparat seperti KPK, Kepolisian, dan Kejaksaan masih berjalan secara parsial dan belum sepenuhnya terkoordinasi. Perbedaan tafsir hukum, keterbatasan sistem, serta belum adanya mekanisme kerja terpadu menyebabkan penanganan kasus korupsi sering kali lamban, tidak konsisten, dan kurang efisien. Kondisi ini menunjukkan bahwa kebijakan yang ada belum sepenuhnya mampu membentuk sistem peradilan pidana yang responsif, integratif, dan efektif dalam memberantas korupsi.

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Dalam konteks tersebut, keberhasilan pemberantasan korupsi tidak dapat hanya bergantung pada penegakan hukum pidana (*penal policy*) semata, tetapi juga harus didukung oleh kebijakan non-penal yang kuat, seperti reformasi birokrasi, pendidikan antikorupsi, dan peningkatan transparansi publik. Oleh karena itu, perlu dilakukan peninjauan dan pembaruan terhadap seluruh regulasi antikorupsi agar sejalan dengan amanat UNCAC dan perkembangan hukum internasional. Pemerintah bersama pembentuk undang-undang harus memastikan bahwa semua bentuk tindak pidana korupsi, termasuk yang terjadi di sektor privat, diatur secara tegas dan jelas untuk menutup setiap celah hukum yang selama ini dimanfaatkan oleh pelaku. Selain itu, dibutuhkan mekanisme koordinasi yang lebih efektif antarpenegak hukum dengan membentuk pedoman kerja bersama dan sistem berbagi data terpadu, sehingga sinergi antarinstansi dapat terwujud secara konkret tanpa tumpang tindih kewenangan.

Lebih jauh, kebijakan non-penal harus dikembangkan secara berkelanjutan melalui langkah-langkah pencegahan yang terukur, seperti penerapan pendidikan antikorupsi di lembaga pendidikan, pembangunan sistem integritas di instansi pemerintahan dan korporasi, serta pemberdayaan masyarakat dalam pengawasan publik. Penulis juga menekankan bahwa pembaruan hukum pidana di Indonesia tidak boleh berhenti pada tataran normatif, melainkan harus diikuti dengan perubahan kultur hukum, peningkatan profesionalitas aparat penegak hukum, serta penegakan prinsip keadilan yang transparan dan akuntabel. Dengan langkah-langkah tersebut, diharapkan sistem hukum nasional mampu mewujudkan penegakan hukum pidana yang modern, profesional, dan berkeadilan, sehingga pemberantasan korupsi di Indonesia tidak hanya bersifat reaktif dan simptomatik, tetapi benar-benar menyentuh akar persoalan dan membangun fondasi integritas bangsa secara berkelanjutan.

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