THE DYNAMICS OF JUDICIAL INDEPENDENCE IN CORRUPTION SENTENCING: BETWEEN JUDICIAL DISCRETION AND THE PRINCIPLE OF LEGAL CERTAINTY

Moh Syaiful Adhim
Faculty of Law
Brawijaya University Malang
65145, 10-11 Jl. Veteran Str., Malang, Indonesia
e-mail: adhim13900442@student.ub.ac.id
https://orcid.org/0009-0000-5425-9139

Abdul Madjid
Faculty of Law
Brawijaya University Malang
65145, 10-11 Jl. Veteran Str., Malang, Indonesia
e-mail: majid@ub.ac.id
https://orcid.org/0009-0009-9918-8405

Fachrizal Afandi
Faculty of Law
Brawijaya University Malang
65145, 10-11 Jl. Veteran Str., Malang, Indonesia
e-mail: fachrizal@ub.ac.id
https://orcid.org/0000-0001-9213-8637

Abstract

Corruption remains a fundamental issue in Indonesia, particularly regarding disparities in sentencing for corruption cases under Articles 2 and 3 of the Corruption Law. To address this issue, the Supreme Court issued Regulation No. 1 of 2020 (PERMA 1/2020) as a guideline for sentencing corruption offenders. This study aims to analyze the legal consequences of PERMA 1/2020 and its impact on judicial independence in corruption cases. Using a normative juridical method, the research examines legal principles, statutory regulations, and case studies. The findings indicate that while PERMA 1/2020 provides structured sentencing guidelines, disparities still occur due to judicial discretion. The case analysis of Decision No. 16/Pid.Sus-TPK/2023/PN.Smg reveals that the sentencing aligns with the imprisonment guidelines but deviates from the prescribed financial penalties. This study concludes that although PERMA 1/2020 enhances legal certainty, its application remains subject to judicial interpretation, raising questions about its consistency in corruption sentencing.

Keywords: judicial independence; corruption crimes; sentencing guidelines; state financial losses; bribery.

1. Introduction

Corruption has long been a fundamental issue in Indonesia's legal system, significantly impacting various sectors, particularly the economy and governance. Corruption undermines the principles of justice, hampers economic growth, and diminishes public trust in state institutions. Transparency International, through the Corruption Perception Index (CPI), indicates that Indonesia continues to face serious challenges in combating corruption, as reflected in its score, which highlights negative public perceptions of the integrity of the public sector. On an international scale,

DOI: https://doi.org/10.54477/LH.25192353.2025.1.pp.63-72

the United Nations Convention Against Corruption (UNCAC) asserts that corruption is a systemic threat that can erode democracy, the rule of law, and human rights. Consequently, combating corruption has become a primary priority for various countries, including Indonesia, which has implemented numerous regulations and legal policies to control corrupt practices (Butt et al., 2024).

In the national legal context, corruption is comprehensively regulated under Law of the Republic of Indonesia No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001. Articles 2 and 3 of the Corruption Law (UU Tipikor) are the most frequently applied provisions in prosecuting corruption cases, as they define state financial losses as the primary element of corruption offenses. However, the substance of these provisions underwent a fundamental shift following Constitutional Court Decision No. 25/PUU-XIV/2016, which transformed these articles from formal offenses to material offenses by removing the word “potential” from their wording. As a result, proving actual state financial losses became a mandatory requirement in corruption cases (Yunan et al., 2023).

In practice, judges often face dilemmas when delivering verdicts in corruption cases. Differences in interpreting Articles 2 and 3 of UU Tipikor have frequently led to significant sentencing disparities. To address these inconsistencies and provide standardized sentencing guidelines, the Supreme Court issued Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) on Sentencing Guidelines for Articles 2 and 3 of the Corruption Law. This regulation aims to standardize sentencing in corruption cases by requiring judges to consider three main aspects: guilt, impact, and benefits obtained by the defendant (Husma et al., 2018). However, debates have emerged regarding the existence of judicial independence in determining verdicts based on substantive justice considerations. According to Article 24(1) of the 1945 Constitution and Article 3(1) of the Judicial Authority Law, judges possess independence in enforcing the law and delivering justice without external intervention.

Previous studies have examined the role of PERMA 1/2020 in reducing sentencing disparities in corruption cases. Some research highlights that the regulation provides a more predictable legal framework, while others criticize it for restricting judicial discretion in evaluating the specific circumstances of each case. This study seeks to fill the research gap by analyzing five court decisions that have become legally binding (inkracht) to assess the extent to which PERMA 1/2020 affects judicial independence in sentencing corruption cases. Thus, this research not only evaluates the effectiveness of PERMA 1/2020 but also examines the broader issue of judicial independence in the enforcement of corruption laws in Indonesia.

The urgency of this research lies in the need to balance the application of sentencing guidelines with the principle of judicial independence. On the one hand, PERMA 1/2020 aims to eliminate sentencing disparities in corruption cases, yet on the other, its enforcement may potentially restrict judges’ authority in exercising substantive justice. Therefore, this research is relevant in assessing whether PERMA 1/2020 serves as a binding guideline or merely a reference for judges in sentencing corruption cases.

Based on the background described above, this study aims to address the following legal question: To what extent does PERMA 1/2020 influence judicial independence in sentencing corruption cases under Articles 2 and 3 of UU Tipikor? By analyzing five different court rulings, this research will assess the degree of PERMA 1/2020’s implementation, the extent to which judges maintain their judicial independence in delivering sentences, and whether this regulation contributes to sentencing standardization or creates new challenges in enforcing corruption laws in Indonesia.

2. Material and Methods

This research adopts a normative juridical approach, which focuses on examining the application of legal norms and principles within the framework of positive law

(Irwansyah, 2020). This approach aims to analyze existing legal regulations and how these legal norms are implemented in specific contexts. To achieve its objectives, this study employs several research approaches, namely the statute approach, conceptual approach, and case approach. The statute approach involves analyzing relevant legal regulations to understand the legal foundation applied in sentencing corruption cases (Marzuki, 2011). The conceptual approach is used to explore legal theories related to judicial independence and sentencing standards, while the case approach examines the application of the law in court decisions that have attained final and binding status.

This study utilizes three types of legal materials: primary, secondary, and tertiary legal sources (Zuhdi et al., 2025). Primary legal sources serve as the main authoritative references in the legal system, as defined by Peter Mahmud, including statutory regulations and jurisprudence related to corruption sentencing. Secondary legal sources support the understanding and analysis of legal aspects under study. These sources consist of various academic works, such as theses, dissertations, journal articles, and books on criminal procedural law and pre-trial procedures. Additionally, this research refers to tertiary legal sources, such as legal dictionaries, the Great Dictionary of the Indonesian Language (KBBI), and Black's Law Dictionary, which are used to clarify legal terminology and deepen the conceptual understanding relevant to this study. By incorporating a comprehensive set of legal sources, this research aims to provide an in-depth analysis of judicial independence in sentencing corruption cases based on Supreme Court Regulation No. 1 of 2020.

3. Results and Discussion

3.1. Supreme court regulations in the legal system

Legal sources have various meanings depending on the perspective from which they are viewed. In general, legal sources refer to anything that gives rise to binding and enforceable rules. According to Van Apeldoorn, legal sources can be categorized into four types: historical, sociological, philosophical, and formal (Katz & Katz, 1975). Historical legal sources refer to places where laws can be found throughout history, whether in the form of ancient documents or legal records used by lawmakers. Sociological legal sources relate to social factors that influence the substance of positive law, such as religious values, culture, and social conditions (Damian & Hornick, 1972). Philosophical legal sources discuss the origins of law and the reasons why laws have binding force. Meanwhile, formal legal sources include legally binding forms of law, such as statutes and other regulations. The difference between laws and legal regulations lies in their formation process, where laws are made by the House of Representatives (DPR) with the approval of the President, whereas legal regulations are issued by various institutions with authority, such as the government and the Supreme Court (Katz & Katz, 1975).

Historical legal sources refer to documents, records, and artifacts that provide insight into the development of legal systems over time. These sources include ancient legal codes, customary laws, judicial precedents, and legislative archives that have shaped modern legal principles. They serve as references for contemporary lawmakers and legal scholars seeking to understand the origins of legal doctrines and their adaptation over different historical periods. Sociological legal sources, on the other hand, emphasize the role of societal factors in shaping laws. These include cultural traditions, religious beliefs, economic structures, and political ideologies that influence legal norms and their application. The dynamic relationship between law and society highlights how legal norms evolve in response to changing social conditions, demonstrating that law is not a static institution but an adaptive mechanism that reflects societal values and expectations.

Philosophical legal sources delve into the fundamental questions of why laws exist and what justifies their authority. These sources examine legal theories, moral philosophies, and ethical frameworks that underpin legal systems. Concepts such as

DOI: https://doi.org/10.54477/LH.25192353.2025.1.pp.63-72

natural law, positivism, and legal realism fall within this category, providing different perspectives on the legitimacy and purpose of legal rules. Meanwhile, formal legal sources constitute the legally binding instruments that establish enforceable norms, such as constitutions, statutes, government regulations, and judicial decisions. The key distinction between laws and legal regulations lies in their legislative process; while laws are enacted by the House of Representatives (DPR) with presidential approval, legal regulations are issued by various governmental and judicial institutions with delegated authority. Together, these legal sources form a comprehensive structure that ensures the stability, adaptability, and legitimacy of a functioning legal

The development of the national legal system requires strengthening in three main aspects: legal substance, legal structure, and legal culture. To establish an effective legal system, a systematic and comprehensive study is needed on the formulation of legal regulations that align with the objectives of a country's legal framework. In the context of the hierarchy of legal regulations, the theories of Hans Kelsen and Hans Nawiasky form the foundation of Indonesia's legal hierarchy model. Nawiasky's theory, known as Theorie von Stufenaufbau der Rechtsordnung, structures legal norms into several levels, namely fundamental state norms that serve as the foundation for the constitution, basic state rules contained in the constitution, formal laws that are legally binding, and implementation regulations and autonomous regulations that have a more technical nature.

Law No. 12 of 2011 on the Formation of Legislative Regulations, as amended by Law No. 15 of 2019 and Law No. 13 of 2022, establishes the hierarchy of legal regulations, which consists of the 1945 Constitution of the Republic of Indonesia, People's Consultative Assembly Decrees, Laws or Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/Municipal Regional Regulations (Hadi & Michael, 2022). Additionally, Article 8 of the Law on the Formation of Legislative Regulations states that other types of legal regulations, including those issued by the Supreme Court, have binding legal force as long as they are mandated by a higher regulation or established based on legitimate authority.

As a judicial institution, the Supreme Court plays a crucial role in addressing various legal issues, including legal loopholes and procedural law reform. In carrying out its duties, the Supreme Court has the authority to issue regulations in the form of Supreme Court Regulations (PERMA) and Supreme Court Circular Letters (SEMA). Initially, SEMA functioned as a supervisory instrument, but over time, its role has expanded to include administrative regulations and other legal aspects. Meanwhile, PERMA holds stronger legal authority, particularly in setting guidelines for judicial institutions and other law enforcement bodies such as the police and prosecutors. A notable example of a widely applicable PERMA is PERMA No. 13 of 2016 on Procedures for Handling Criminal Cases Involving Corporations, which mandates law enforcement agencies to adhere to the guidelines set by the Supreme Court (Suhariyanto, 2018).

The issuance of PERMA each year demonstrates its effectiveness in meeting the needs of Indonesia's judiciary. These regulations must align with the principles of legal certainty and substantive justice and be published in the State Gazette of the Republic of Indonesia to ensure public accessibility and awareness of their implications. The principle of presumptio iures de iure asserts that every individual is presumed to know the law once it is promulgated, making ignorance of the law an unacceptable excuse for avoiding legal consequences.

The Supreme Court bears a significant responsibility in maintaining the balance between justice and legal certainty. Although many reforms have been undertaken, several challenges remain, including improving efficiency, strengthening integrity, and ensuring consistency in legal implementation. To reinforce its role as the guardian of legal supremacy, the Supreme Court must ensure that each regulation it issues not only fulfills procedural aspects but also prioritizes substantive justice for society. With continuous reforms and a strong commitment to just legal principles, the Supreme Court can continue to play a strategic role in establishing a transparent and responsive legal system that meets the evolving needs of the public.

3.2. Supreme court regulations and their implementation

The classification of legal regulations, as outlined in Article 8(1) of the Law on the Formation of Legislative Regulations, includes regulations issued by the People's Consultative Assembly (MPR), House of Representatives (DPR), Regional Representative Council (DPD), Supreme Court (MA), Constitutional Court (MK), Supreme Audit Agency (BPK), Judicial Commission (KY), Bank Indonesia (BI), and other relevant institutions (Hidayat et al., 2022). One of the regulations established under this provision is the Supreme Court Regulation (PERMA), which is derived from Article 79 of Law No. 14 of 1985 on the Supreme Court (hereinafter referred to as the Supreme Court Law). This article grants the Supreme Court the authority to issue regulations to fill legal gaps encountered in judicial proceedings. This regulatory function allows the Supreme Court to establish procedural guidelines for issues not yet regulated under existing legislation.

According to Article 8(1) of the Law on the Formation of Legislative Regulations, PERMA is categorized as a type of legislative regulation. Based on its substantive content, there are two main types of PERMA. The first type consists of regulations that do not constitute binding legal norms, such as PERMA No. 7 of 2003 on the Organization and Work Procedures of Court Clerks and Secretariat and PERMA No. 5 of 2016 on the Certification of Islamic Economic Judges. The second type includes PERMA that legally binds the public, such as PERMA No. 13 of 2016 on the Procedures for Handling Criminal Cases Involving Corporations, PERMA No. 2 of 2015 on Small Claims Court Procedures, PERMA No. 3 of 2012 on Court Fees, PERMA No. 1 of 1999 on Judicial Review, and PERMA No. 1 of 2011 on the Judicial Review of Regulations (Saraswati, 2020).

The application of PERMA is governed by the principle of legal hierarchy, which ensures a structured system of legal norms. This principle follows the pyramidal structure of legislative regulations. As noted by Eric Barendt, a constitution serves as the fundamental legal framework that delineates the authority of legislative, executive, and judicial institutions. Hans Kelsen's theory on the hierarchy of legal norms further illustrates this concept:

«Law regulates its own creation inasmuch as one legal norm determines the way in which another norm is created, and also, to some extent, the contents of that norm. Since a legal norm is valid because it is created in a way determined by another legal norm, the latter is the reason of validity of the former. The relationship between the norm regulating the creation of another norm and this other norm may be presented as a relationship of super- and sub-ordination. The norm determining the creation of another norm is superior, while the norm created according to this regulation is inferior.»

Every legislative regulation must conform to its position within the legal hierarchy. Lower regulations derive their authority from higher laws, and any contradiction between them should lead to the revocation of the inferior regulation. This hierarchical order ensures consistency and prevents conflicts among different legal instruments (Siwu, 2021). Moreover, it allows judicial bodies to conduct material review (judicial review) of legislation that contradicts superior norms.

PERMA exhibits several distinct characteristics. First, it is issued under delegated legislative authority, meaning it is not a primary legislative act but derives its legitimacy from existing laws. Second, it is created within the framework of rule-making, rather than law-making. Third, its function is complementary, filling legal gaps rather than overriding or modifying statutory provisions. Fourth, it is designed to regulate judicial

DOI: https://doi.org/10.54477/LH.25192353.2025.1.pp.63-72

procedures rather than defining substantive rights and obligations for citizens. Lastly, it is formulated specifically for judicial implementation, ensuring procedural clarity within court proceedings.

Although PERMA is not explicitly included in the formal hierarchy of legislative regulations, its legal force derives from its delegated legislative authority. This delegation occurs when legislative bodies, such as the DPR and the President, transfer certain law-making powers to the judiciary. In Indonesian constitutional practice, two state institutions are entrusted with such delegated legislative power to fill legal gaps: the President and the Supreme Court. While the President enacts Government Regulations (PP) to execute laws, the Supreme Court issues PERMA to regulate judicial matters not explicitly covered in statutory law.

This distinction is crucial because the phrase "executing the law as intended" refers to the necessity of implementing statutory mandates in a concrete and enforceable manner, which is the role of Government Regulations. In contrast, the phrase "regulating matters not covered by law" applies to PERMA, which is designed to establish legal norms where gaps exist. Unlike Government Regulations, PERMA creates new procedural rules necessary to ensure the effective administration of justice.

One of the most significant PERMA regulations is PERMA No. 1 of 2020, which was enacted to standardize sentencing in corruption cases and prevent sentencing disparities in similar cases. This regulation primarily applies to cases adjudicated under Articles 2 and 3 of the Corruption Eradication Law (UU Tipikor). Article 3 of PERMA No. 1 of 2020 establishes the following objectives:

1. Facilitating judicial decision-making in corruption cases involving Articles 2 and 3 of the Corruption Eradication Law.
2. Preventing significant disparities in sentencing for cases with similar characteristics, ensuring that sentencing discrepancies are justified by adequate legal reasoning, while maintaining judicial independence.
3. Mandating judges to consider all relevant factors before determining the severity of the sentence in corruption cases.
4. Promoting legal certainty, justice, and proportionality in sentencing corruption-related offenses.

The mandatory nature of PERMA No. 1 of 2020 underscores its role in guiding judicial discretion while maintaining consistency in sentencing. By requiring judges to adhere to predetermined sentencing criteria, this regulation aims to eliminate arbitrary judicial decisions that lead to unjustified sentencing disparities.

3.3. Indonesia supreme court regulation no. 1 of 2020 on sentencing under articles 2 and 3 of the corruption law in corruption crime decisions

Corruption crimes are defined based on the elements contained in the provisions of the Corruption Law (Undang-Undang Tipikor). These crimes can be attributed to both individuals and corporate entities, as explicitly stated in Article 1(3) of the Corruption Law, which defines "every person" as referring to both natural persons and corporations. This provision establishes that corporate entities can be held criminally liable under the Corruption Law, allowing for broader legal accountability beyond just individual actors. The inclusion of corporate criminal liability ensures that businesses and organizations engaging in corrupt practices—such as misuse of public funds, bribery, and illicit procurement processes can be subject to criminal sanctions, financial penalties, and reputational consequences (Ali et al., 2023).

The Corruption Law, as codified in Law No. 31 of 1999 jo. Law No. 20 of 2001, classifies corruption into seven main types, each with distinct legal implications, evidentiary standards, and sentencing guidelines. These corruption offenses encompass various forms of illicit activities that undermine state integrity, governance, and public trust. The seven primary categories of corruption offenses under the Corruption Law are:

1. State Financial Losses: State financial losses refer to illegal acts that cause direct or indirect economic harm to the government. This includes embezzlement of public funds, misappropriation of state assets, and unauthorized expenditures that reduce the state's financial capacity. Articles 2 and 3 of the Corruption Law explicitly regulate these offenses by distinguishing between intentional and unintentional mismanagement of public finances. Intentional acts of corruption involve clear mens rea (criminal intent), where perpetrators knowingly manipulate government resources for personal or corporate gain. Conversely, unintentional financial mismanagement can also result in criminal liability, particularly when gross negligence leads to substantial losses in state funds. An important legal development in this category occurred through An important legal development in this category occurred through Constitutional Court Decision No. 25/PUU-XIV/2016, which clarified that actual financial loss to the state must be proven for a conviction, eliminating ambiguities that previously allowed for speculative prosecution. However, the law maintains that officials responsible for state losses may face administrative, civil, or criminal liability depending on the severity of their actions.
2. Bribery: Bribery is one of the most prevalent forms of corruption and involves the exchange of undue advantages to influence the decisions of public officials, law enforcement officers, or corporate executives. This can take various forms, including cash payments, gifts, luxurious trips, expensive accommodations, or business opportunities. Bribery disrupts the integrity of governance by enabling unlawful favoritism, biased judicial rulings, and policy manipulation.
3. Embezzlement in Office: Embezzlement in office occurs when public officials or corporate executives misuse entrusted funds, assets, or property for personal gain. Unlike general embezzlement, which may involve private entities, this offense specifically targets individuals in positions of fiduciary responsibility. Common examples include the misuse of public procurement funds, fraudulent salary payments, and diversion of government resources for personal projects.
4. Fraudulent Acts: Fraudulent acts under the Corruption Law include manipulating procurement processes, falsifying documents, engaging in deceptive financial reporting, and misrepresenting state expenditures. These acts often involve collusion between public officials and private sector actors, leading to overpricing, ghost projects, and substandard public infrastructure.
5. Extortion: Extortion refers to the act of coercing individuals, businesses, or institutions to provide financial or material benefits under threats of legal, administrative, or financial repercussions. Public officials who abuse their positions to demand bribes or favors fall under this category of corruption.
6. Conflicts of Interest in Procurement: This type of corruption occurs when public officials or decision-makers engage in biased or self-serving decision-making in government contracts, licensing, or state asset management. This can lead to nepotism, favoritism, and inefficiencies in public service delivery.
7. Gratuities: Gratuities refer to unsolicited financial or material benefits provided to public officials in exchange for favorable treatment or policy decisions. Unlike bribery, where the transaction involves a clear quid pro quo, gratuities are often presented as gifts, donations, or incentives that may or may not have immediate consequences. However, the law treats undisclosed or excessive gratuities as presumed bribes, unless proven otherwise.

Each category of corruption offense under the Corruption Law carries distinct legal consequences based on the severity, intent, and financial impact of the crime. The judicial framework governing corruption cases incorporates strict liability principles, burden of proof considerations, and judicial discretion in sentencing. The legal distinction between formal offenses and material offenses is particularly relevant in Articles 2 and 3,

DOI: https://doi.org/10.54477/LH.25192353.2025.1.pp.63-72

where the proven existence of financial harm to the state serves as a critical element in determining criminal culpability (Sasmita et al., 2023).

The broad scope of corruption offenses outlined in the Corruption Law reflects Indonesia's commitment to combating systemic corruption and ensuring transparency, accountability, and good governance. The expansion of corporate liability further reinforces the legal system's capacity to pursue both individual and institutional actors engaged in corrupt practices. As corruption continues to evolve in complexity, legal interpretations and judicial practices must remain adaptable and responsive to emerging threats and new forms of economic crime.

Legal consequences refer to the implications imposed by the law on a legal event or act committed by a legal subject. According to the Indonesian Dictionary (Kamus Besar Bahasa Indonesia), the term akibat (consequence) denotes the outcome or result of an event, condition, or preceding action. Jazim Hamidi further elaborates that the term legal impact (akibat hukum) signifies a direct, strong, and explicit legal effect arising from a legal action or occurrence. In legal studies, legal consequences emerge when a specific legal status changes, when a legal relationship is created, modified, or terminated, or when sanctions are imposed as a legal repercussion for unlawful conduct.

These consequences are particularly relevant in corruption cases under Articles 2 and 3 of the Corruption Law (UU Tipikor), as the application of these provisions has resulted in significant disparities in sentencing outcomes. The enactment of Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) sought to address these inconsistencies by providing sentencing guidelines for corruption cases. However, despite the existence of this regulation, judges retain their judicial independence, allowing them to exercise discretion in sentencing based on the principle of judicial freedom.

The application of PERMA No. 1 of 2020 can be observed in Case No. 16/Pid. Sus-TPK/2023/PN.Smg, concerning the defendant Agus Hartono. In this case, the court rendered a verdict that sentenced the defendant to 10 years and 6 months of imprisonment, along with a fine of IDR 400,000,000 (four hundred million rupiah). In the event of non-payment, the fine would be replaced by an additional three-month prison term. The court also ordered the defendant to pay restitution amounting to IDR 14,706,746,943 (fourteen billion seven hundred six million seven hundred forty-six thousand nine hundred forty-three rupiah) (Manihuruk et al., 2022). Failure to comply within one month of the final ruling would result in asset seizure and auctioning by the public prosecutor. If the defendant lacked sufficient assets, an additional four-year prison sentence would be imposed in lieu of repayment.

Upon analyzing the judgment in light of PERMA No. 1 of 2020, the sentencing court applied Article 10 of the regulation, which classifies offenses based on culpability, impact, and benefit. Culpability was evident in the defendant's role as President Commissioner of his company, where he fraudulently secured a credit facility. Although the credit application was approved, the funds were misused rather than allocated for the stated purpose. The impact of the crime resulted in financial losses at a provincial level, with misappropriated credit disbursed from Bank BJB Semarang Branch. The defendant's fraudulent scheme led to an unjust enrichment of IDR 25,143,549,410.33 (twenty-five billion one hundred forty-three million five hundred forty-nine thousand four hundred ten rupiah and thirty-three cents), which directly contributed to state financial losses (Voigt & Gutmann, 2015).

According to PERMA No. 1 of 2020, cases involving severe financial losses fall under Category VII of sentencing severity. Under this classification, the recommended sentencing range is imprisonment between 10 and 13 years, with a minimum fine of IDR 500,000,000 (five hundred million rupiah) and a maximum fine of IDR 650,000,000 (six hundred fifty million rupiah). The imposed prison sentence of 10 years and 6 months aligns with the PERMA guidelines, but the fine of IDR 400,000,000 falls below the prescribed minimum of IDR 500,000,000. This discrepancy indicates that while the judicial panel considered PERMA 1/2020 in determining the prison term, they did not fully adhere to its recommended financial penalties.

The legal consequences of PERMA No. 1 of 2020 have introduced a more structured approach to sentencing in corruption cases under Articles 2 and 3 of the Corruption Law. However, the case analysis highlights an ongoing judicial discretion in its application. While PERMA 1/2020 aims to standardize sentencing and reduce disparities, courts retain the authority to issue individualized judgments based on case-specific considerations. The partial adherence to PERMA 1/2020 in the analyzed case underscores the complex balance between judicial independence and regulatory consistency in the adjudication of corruption cases in Indonesia.

4. Conclusions

This study examines the legal implications of Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) in the context of sentencing for corruption offenses, particularly in the application of Articles 2 and 3 of the Corruption Law. The findings indicate that while PERMA 1/2020 aims to reduce sentencing disparities and enhance legal certainty, its implementation does not entirely eliminate variations in judicial decisions, especially in the imposition of fines and restitution. The analysis of Decision No. 16/Pid.Sus-TPK/2023/PN.Smg reveals that although the prison sentence imposed aligns with the PERMA guidelines, the fine imposed remains below the prescribed standard in the regulation.

These findings confirm that although PERMA 1/2020 provides clearer sentencing guidelines, judges retain their discretion in interpreting and applying them, allowing for continued sentencing disparities. This highlights the tension between efforts to standardize sentencing and the principle of judicial independence in delivering justice based on substantive fairness. From a legal policy perspective, this study demonstrates that the implementation of PERMA 1/2020 requires further evaluation to ensure a balance between legal certainty and justice in the prosecution of corruption cases. The urgency of this research lies in the need to harmonize sentencing regulations with judicial independence principles to achieve the primary objectives of criminal law: deterring offenders and effectively recovering state losses.

References

Ali, M., Muliyono, A., & Nurhidayat, S. (2023). The application of a human rights approach toward crimes of corruption: Analyzing Anti-corruption regulations and judicial decisions. *Laws, 12*(4), 68. https://doi.org/10.3390/laws12040068

Butt, S., Crockett, A., & Lindsey, T. (2024). Corruption and illegality In *Asian investment disputes: Indonesia. In Corruption and Illegality in Asian Investment Arbitration* (pp. 259–284). Singapore: Springer Nature.

Damian, E., & Hornick, R. N. (1972). Indonesia's formal legal system: An introduction. *The American Journal of Comparative Law, 20*(3), 492–530. https://doi.org/10.2307/839317

Hadi, S., & Michael, T. (2022). Hans Kelsen's Thoughts about the law and its relevance to current legal developments. *Technium Social Sciences Journal, 38*, 220.

Hidayat, T., Luthviati, R. D., & Jenvitchuwong, S. (2022). Disharmonization of supreme court regulations in material judicial rights. J*ournal of Human Rights, Culture and Legal System, 2*(3), 149–166. https://doi.org/10.53955/jhcls.v2i3.34

Husma, N. M., A.Rani, F., & Hasyim, S. (2018). Kewenangan pengaturan mahkamah agung (Kajian yuridis terhadap peraturan mahkamah agung nomor 4 tahun 2016 tentang larangan peninjauan kembali putusan praperadilan). *Syiah Kuala Law Journal, 1*(1), 1–16. https://doi.org/10.24815/sklj.v1i1.12233

Irwansyah, I. (2020). *Penelitian hukum: Pilihan Metode & praktik penulisan artikel.* Yogyakarta: Mirra Buana Media, 8.

Katz, J.S., & Katz, R.S. (1975). The new Indonesian marriage law: A mirror of Indonesia's

Political, cultural, and legal systems. *American Journal of Comparative Law, 23*, 653.

Manihuruk, T.N.S., Daeng, Y., & Johar, O. A. (2022). Penerapan peraturan mahkamah agung nomor 1 tahun 2020 tentang pedoman pemidanaan pasal 2 dan pasal 3 undang-undang pemberantasan tindak pidana korupsi di pengadilan negeri pekanbaru. *Jurnal Ilmiah Penegakan Hukum, 9*(2), 162–169. https://doi.org/10.31289/jiph.v9i2.7568

Marzuki, M. (2011). *Penelitian Hukum*. Prenada Media.

Saraswati, R. (2020). Gender bias in Indonesian courts: Is Perma no. 3 of 2017 the solution for gender-based violence cases? *Laws, 10*(1), 2. https://doi.org/10.3390/laws10010002

Sasmita, R.P.R., Suseno, S., & Jaya, P. Y. (2023). The concept of reasons for eliminating corporate crime in criminal law in Indonesia. *Heliyon, 9*(11). https://doi.org/10.1016/j.heliyon.2023.e21602

Siwu, S. C. (2021). Ratio legis rights material test of the supreme court in perma number 1 Of 2011. *Awang Long Law Review, 4*(1), 99–102.

Suhariyanto, B. (2018). The role of regulation of the supreme court number 13 year 2016 in overcoming obstacles of corporate criminal infringement. Negara *Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan, 9*(1), 101–120.

Voigt, S., & Gutmann, J. (2015). On the wrong side of the law – Causes and consequences of a corrupt judiciary. *International Review of Law and Economics, 43,* 156–166. https://doi.org/10.1016/j.irle.2014.04.005

Yunan, Z.Y., Freyens, B., Vidyattama, Y., & Mohanty, I. (2023). Spread of corruption in Indonesia after decentralisation: A spatiotemporal analysis. *Oxford Development Studies, 51*(2), 198–215. https://doi.org/10.1080/13600818.2022.2162493

Zuhdi, A., Ablamskyi, S., & Anggara, A. (2025). Constitutional Injury dynamics in judicial review of presidential threshold decisions. *Kosmik Hukum, 25*(1). https://jurnalnasional.ump.ac.id/index.php/KOSMIK/article/view/24476