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Legal Review of Corruption Law Enforcement in The Disaster Management and Social Assistance Sectors During States of Emergency

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Abstract

This research examines the misappropriation of disaster funds and social assistance, which deprives vulnerable communities of basic rights and may constitute a crime against humanity. It analyzes the legal qualification of disaster fund corruption, the application of criminal sanctions, and obstacles to effective law enforcement. This normative legal research uses statutory, case, and conceptual approaches. Data were collected through library research on primary, secondary, and tertiary legal materials and analyzed qualitatively using deductive reasoning. The findings identify three principal issues. First, corruption involving disaster funds may be classified as an extraordinary crime because it exploits emergencies and harms vulnerable communities. Second, a gap exists between statutory provisions permitting the death penalty in certain circumstances and judicial decisions imposing comparatively lenient sentences. Third, law enforcement faces juridical and practical obstacles. The juridical obstacle is ambiguity in interpreting "certain circumstances" required for maximum sanctions, while the practical obstacle is inadequate supervision after disaster-related funds and activities have been implemented. These challenges are compounded by concerns that strict enforcement may criminalize administrative discretion exercised during emergencies. This study concludes that legal uncertainty and the absence of objective criteria for determining emergency conditions weaken the deterrent effect of criminal sanctions and may undermine public trust in the management of state budgets and disaster-relief funds. It recommends reforming anti-corruption legislation to clarify emergency criteria, strengthening integrated and participatory preventive oversight, and prioritizing asset seizure and recovery mechanisms. These measures aim to restore state financial losses, improve accountability, and protect the fundamental rights of disaster-affected communities.

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INTRODUCTION

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Responding to emergencies caused by disasters or social crises requires prompt government action to protect public safety and ensure the continuity of people's lives.[1] The Constitution requires the state to act swiftly by allocating emergency funds and providing social assistance. Accordingly, the protection of citizens' fundamental rights during critical situations must take priority and should not be obstructed by excessive bureaucratic rigidity.[2]

Efforts to accelerate disaster response through broader administrative discretion and simplified bureaucratic procedures, however, may create legal loopholes vulnerable to abuse.[3] Public procurement during emergencies often bypasses the stringent oversight procedures applied under normal circumstances. Wahyudi observes that such regulatory flexibility may create opportunities for private actors and public officials to pursue personal or group interests.[4] Comparative research points in the same direction: crises create new corruption opportunities in public procurement, and emergency procurement becomes more prone to corruption when rules and transparency are relaxed, depending on the institutional and social conditions that existed beforehand.

Corruption schemes in disaster response and social-assistance programmes are often highly structured and complex.[5] Common practices include falsifying beneficiary data, inflating procurement prices, withholding or reducing victims' entitlements, misdirecting assistance, and bribing officials to secure contracts for particular vendors.[6] These practices have immediate consequences: emergency response becomes less effective, while assistance intended for disaster victims is diverted or diminished.

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[1] Faisal Abdaud, Ming-Hsi Sung, and Wahyudi Umar, "Corruption during Non-Natural Disaster: Is Death Penalty Necessary?," *Jurnal Media Hukum* 29, no. 1 (2022): 54–64, https://doi.org/10.18196/jmh.v29i1.14247.

[2] Tom Ginsburg and Mila Versteeg, "The Bound Executive: Emergency Powers during the Pandemic," *International Journal of Constitutional Law* 19, no. 5 (2021): 1498–1535, https://doi.org/10.1093/icon/moab059.

[3] J Azila, S Assaori, and S Efendi, "Analisis Yuridis Terhadap Penjatuhan Sanksi Pidana Pencurian Dengan Pemberatan (Studi Putusan Nomor 43/Pid.B/2025/PN Mjy)," *SENTRI: Jurnal Riset Ilmiah* 5, no. 9 (2026): 4595–4608, https://doi.org/10.55681/sentri.v5i9.7252.

[4] dan Wahyudi Umar Anhar Sengge, Sudirman, "Pengawasan Dan Penegakan Hukum E-Commerce Oleh KPPU Dalam Mengatasi Persaingan Usaha Tidak Sehat Supervision and Enforcement of E-Commerce Law By ICC in Overcoming Unfair Bussines Competition," *Jurnal Hukum Lex Generalis* 5, no. 4 (2024): 1–12.

[5] Minh Tuan Dang and Thi Ai Quynh Hoang, "The Challenges for the Rule of Law in the State of Emergency and the Case of Vietnam during the COVID-19 Pandemic," *Journal of Infrastructure, Policy and Development* 8, no. 9 (2024): 7497, https://doi.org/10.24294/jipd.v8i9.7497.

[6] Claire Rankin, "Reforming Emergency Procurement to Protect against Corrupt Decision-Making While Ensuring Swift and Unencumbered Procurement," *African Public Procurement Law Journal* 8, no. 2 (2021), https://doi.org/10.14803/8-2-46.

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Corruption involving disaster-management budgets should therefore not be viewed solely as an offence causing state financial losses; it may also constitute a serious violation of humanity.[7] The misuse of funds intended to save lives increases the burden on victims, raises the risk of preventable deaths, and delays the economic and social recovery of affected communities.[8]

Indonesian positive law has long recognised the heightened seriousness of corruption committed in emergency situations.[9] This recognition is reflected in Article 2 paragraph (2) of Law No. 31 of 1999, as amended by Law No. 20 of 2001 on the Eradication of Criminal Acts of Corruption (the Anti-Corruption Law). The provision allows the imposition of the death penalty where corruption is committed under certain circumstances, including a national natural disaster or an economic crisis.

Despite this express statutory provision, actual law-enforcement practice presents a contrasting picture.[10] In cases involving the misuse of emergency funds and social assistance handled by law-enforcement agencies and adjudicated by corruption courts, the maximum penalty has rarely been imposed. Courts have generally handed down sentences ranging from relatively lenient to moderate.[11]

The discrepancy between the normative legal framework (*das sollen*) and law-enforcement practice (*das sein*), which often fails to generate a sufficient deterrent effect, indicates fundamental problems in both the substance and structure of anti-corruption criminal law.[12] A central issue is the lack of clarity in the legal meaning and parameters of "certain circumstances" under the applicable legislation. This ambiguity gives rise to competing interpretations and may cause prosecutors and judges to hesitate before applying the most severe sanction.[13]

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[7] Rani Oslina Nainggolan, Alvi Syahrin, and Mahmud Mulyadi, "The Position of the Principle of Legality in Law No. 1 of 2023 for the Development of Criminal Law in Indonesia," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (2024): 408–19, https://doi.org/10.32505/jurisprudensi.v16i2.8765.

[8] Michela Gnaldi and Simone Del Sarto, "Measuring Corruption Risk in Public Procurement over Emergency Periods," *Social Indicators Research* 172 (2024): 859–77, https://doi.org/10.1007/s11205-024-03331-w.

[9] Mihály Fazekas, István János Tóth, and Lawrence Peter King, "Anatomy of Grand Corruption: A Composite Corruption Risk Index Based on Objective Data," *Political Research Quarterly*, 2016, https://doi.org/10.1177/106591291663913 ﻫﺪ.

[10] Amrullah Bustamam, "Pidana Mati Bagi Koruptor Dana Bencana Non Alam (Studi Terhadap Konsekuensi Kepres No. 12 Tahun 2020)," *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 9, no. 2 (2020), https://doi.org/10.22373/legitimasi.v9i2.8515.

[11] M R Ramadhan, M Kamal, and M A W W Mamonto, "Omnibus Law in Indonesia: Legal Protection of Workers in Employment Contracts," *Golden Ratio of Law and Social Policy Review* 1, no. 1 (2021): 7–16, https://doi.org/10.52970/grlspr.v1i1.151.

[12] Rodes Ober Adi Guna Pardosi and Yuliana Primawardani, "The Legitimacy Death Penalty Application of Certain Conditions in the Anti-Corruption Law," *Jurnal Konstitusi* 19, no. 3 (2022): 673–92, https://doi.org/10.31078/jk1938.

[13] J Wiwoho, U K Pati, and A M Pratama, "Enabling Data Portability and Interoperability under Indonesia's Data Protection Law," *Masalah-Masalah Hukum* 53, no. 3 (2024): 271–82, https://doi.org/10.14710/mmh.53.3.2024.271-282.

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Enforcement challenges are not limited to legal uncertainty. They also concern the difficulty of proving *mens rea*, or criminal intent. Karso explains that investigators may struggle to distinguish administrative errors caused by the urgency and pressure of a crisis from deliberate fraudulent conduct intended to obtain unlawful personal gain through budgetary misappropriation.[14]
Preventive enforcement is further constrained by inadequate internal supervision and the absence of an integrated system of community participation in monitoring social-assistance distribution. Weak preventive and repressive measures not only cause state financial losses but also erode public trust in the government's commitment to law enforcement and the transparent and accountable management of public funds.[15]

The problem is also one of legal theory. Scholars of emergency law observe that an emergency can justify exceptional powers only if it is itself a legal concept, interpreted in harmony with constitutional principles such as the rule of law.[16] Comparative work on the pandemic likewise argues that emergency governance should be bound by legal constraints rather than left to unchecked executive discretion,[17] and the tension between emergency powers, supervision of power, and the rule of law has been documented in other jurisdictions as well.[18] Indonesia's "certain circumstances" clause sits precisely at this intersection, because it makes the severity of criminal punishment depend on how an emergency is legally defined.

Unlike earlier studies, which primarily focus on the controversy surrounding the death penalty, the uncertain boundaries of national disasters, and the protection of administrative discretion during crises,[19] this study adopts a broader perspective. It examines practical and legal obstacles to emergency oversight and connects these issues with the reconstruction of state asset recovery mechanisms to promote legal certainty and justice.

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[14] Marisa Kurnianingsih and M Zaki Attirmidzi, "The Effectiveness of Imposing the Death Penalty for Corruption Perpetrators as a Solution for Handling Corruption during the Covid-19 Pandemic," *Law and Justice* 6, no. 1 (2021): 80–95, https://doi.org/10.23917/laj.v6i1.14048.

[15] Rosa Pijar Cahya Devi and Yanhizbar Rotanza, "Efektivitas Ancaman Pidana Mati Bagi Pelaku Tindak Pidana Korupsi Di Indonesia Dari Sudut Pandang Hukum, HAM, Dan Psikologi," *Jurnal Kertha Wicaksana* 17, no. 2 (2023): 147–55, https://doi.org/10.22225/kw.17.2.2023.147-155.

[16] Sigit Sapto Nugroho, Ahadiati Rohmatiah, and Mutmainah, "Judge Considerations of the Corruption Decision of Social Aid for Covid-19 Disaster Mitigation from the Perspective of Anti-Corruption Principles," *Jurnal Jurisprudence* 12, no. 1 (2022): 30–45, https://doi.org/10.23917/jurisprudence.v12i1.771.

[17] Ginsburg and Versteeg, "The Bound Executive: Emergency Powers during the Pandemic."

[18] Dang and Hoang, "The Challenges for the Rule of Law in the State of Emergency and the Case of Vietnam during the COVID-19 Pandemic."

[19] Abrar Jatnika Putra and Sadino, "The Crime of Corruption in Social Assistance Funds (Bansos) Amid the Pandemic Era in Indonesia (Case Study of the Central Jakarta District Court Decision No. 29/Pid.Sus-TPK/2021/PN.JKT.PST)," *Daengku: Journal of Humanities and Social Sciences Innovation* 4, no. 5 (2024): 820–28, https://doi.org/10.35877/454RI.daengku2833.

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Accordingly, this study analyses the legal classification of corruption involving disaster-management budgets, the obstacles encountered in law enforcement, and the applicable sanctions and criminal liability mechanisms. The discussion indicates that enforcement against this extraordinary crime is impeded by the ambiguity of "certain circumstances" and inadequate post-disbursement auditing. These conditions contribute to relatively lenient sentencing and demonstrate the need for regulatory reform and effective recovery of state financial losses to restore public trust.

Research Questions

Based on the foregoing discussion, this study focuses on a juridical review of law enforcement against corruption in the disaster management and social assistance sectors during states of emergency. The research questions are formulated as follows:

1. What are the legal qualifications and legal frameworks of corruption offences in the management of disaster funds and social assistance during states of emergency under Indonesia's anti-corruption regulations?
2. What are the juridical and practical challenges in law enforcement and the oversight of emergency disaster funds?
3. How are criminal sanctions and legal accountability applied to perpetrators of misappropriation of disaster funds and social assistance to ensure legal certainty?

METHODS

This study adopts a normative or doctrinal legal research method, focusing on legal principles, legal systematics, regulatory harmonisation, and comparative analysis relating to the enforcement of corruption law in cases involving emergency funds and social assistance.[20] The analysis employs three approaches. The statutory approach examines the applicable positive law; the case approach considers judicial decisions and disparities in sentencing; and the conceptual approach connects the legal issues with criminal-law theory and crime-control policy.

The legal materials are divided into three categories: primary, secondary, and tertiary legal materials. Primary materials include legislation such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code, the Disaster Management Law, the Anti-Corruption Law, and selected court decisions.[21] Secondary materials comprise academic literature, accredited scholarly journal articles, academic papers, and relevant previous studies. Tertiary materials, including legal dictionaries and encyclopaedias, are used to provide supplementary explanations and references.

[20] Wafda Vivid Izziyana and Rahmat Dwi Putranto, *METODE PENELITIAN SOCIO-LEGAL DI INDONESIA*, n.d.

[21] Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif*, Edisi revisi, cetakan ketujuh (Malang: Bayumedia Publishing, 2013).

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Legal materials were collected through library research and document review, involving the identification, recording, selection, and classification of relevant literature.[22] The materials were then analysed qualitatively through deductive reasoning. The analysis consisted of three stages: inventorying and interpreting relevant legal norms; critically evaluating existing law-enforcement practices; and developing legal arguments to formulate recommendations for responsive criminal-law reform.[23]

To broaden the doctrinal analysis, the study also draws on peer-reviewed journal scholarship published between 2016 and 2026 that addresses emergency procurement, emergency powers, sentencing disparity, and asset recovery in Indonesian and comparative settings. These sources are used to test the statutory reading against the way courts and scholars have actually interpreted the emergency clause. The scope is limited to published legal doctrine and reported decisions; the study does not rely on interviews or an audit of case files, so its observations on sentencing patterns should be read as indicative rather than statistically representative.

RESULTS AND DISCUSSION

A. Legal Classification and Construction of Corruption Offences in the Management of Disaster Funds and Social Assistance during Emergencies under Indonesian Anti-Corruption Regulations

Corruption involving disaster-management budgets and the distribution of social assistance during emergencies constitutes a form of public financial crime commonly classified as an extraordinary crime. Within the framework of Indonesian criminal-law doctrine, such misappropriation causes not only financial losses to the state but also infringes the fundamental rights of affected people who are already in vulnerable circumstances.[24] Since emergency funds allocated through the State Budget (APBN) and Regional Budget (APBD) are subject to the principles of fiscal transparency and good governance, practices such as price inflation, the reduction of assistance, embezzlement, and abuse of authority may satisfy the substantive elements of corruption offences.[25] Law enforcement in relation to corruption involving disaster-emergency budgets is primarily based on Law No. 31 of 1999, as amended by Law No. 20 of 2001 (the Anti-Corruption Law). Article 2 paragraph (1) and Article 3 provide the principal legal basis for prosecuting individuals or public officials who are proven to have committed unlawful acts or abused their authority in manipulating

[22] Rajeev K Goel, Michael A Nelson, and Viraat Y Goel, "COVID-19 Vaccine Rollout—Scale and Speed Carry Different Implications for Corruption," *Journal of Policy Modeling* 43, no. 3 (2021): 503–20, https://doi.org/10.1016/j.jpolmod.2021.04.003.

[23] Yoomin Won, "Emergency Powers and COVID-19 Derogations," *International Journal of Constitutional Law* 23, no. 1 (2025): 113–47, https://doi.org/10.1093/icon/moaf010.

[24] N Alfiyah, "Pertanggungjawaban Pidana Pelaku Korupsi Bantuan Sosial Di Masa Kedaruratan Pandemi Covid-19," *Jurnal Education and Development* 9, no. 2 (2021): 378–82, https://doi.org/10.37081/ed.v9i2.2539.

[25] Dominikus Jawa, Parningotan Malau, and Ciptono, "Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia," *Jurnal USM Law Review* 7, no. 2 (2024): 1006–17, https://doi.org/10.26623/julr.v7i2.9507.

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budget allocations.[26] Oversight and enforcement are also supported by Law No. 24 of 2007 on Disaster Management, which provides specific sanctions for the misuse of disaster-assistance allocations.

Within the legal framework for prosecuting corruption involving emergency funds, the classification of "certain circumstances" under Article 2 paragraph (2) of the Anti-Corruption Law is a key element. The provision allows the imposition of the most severe sanction, namely the death penalty, where corruption is committed during an economic crisis, a national-scale natural disaster, or the handling of a social crisis. The *ratio legis* underlying this maximum penalty is based on the heightened degree of moral culpability and the destructive impact of the offence. Misappropriating assistance intended for disaster victims not only disrupts the distribution of essential supplies but also prolongs humanitarian crises and damages public confidence in the integrity of the state.[27]

Although the law expressly provides for the death penalty, its application in practice is frequently hindered by uncertainty in interpreting the element of "certain circumstances". Prosecutors must establish convincingly that the corruption occurred when an emergency or disaster status had been formally declared by the government.[28] Courts must also examine the relationship between *mens rea* and *actus reus*, including whether the accused deliberately exploited emergency procurement mechanisms, such as direct appointments, as instruments of criminal conduct. Such procedural flexibility may be abused by public officials and vendors to engage in extortion, gratification, or bribery.[29]y

The interpretive difficulty is sharpest in relation to the Covid-19 pandemic. The elucidation of Article 2 paragraph (2) refers to a national natural disaster, whereas the pandemic was designated by Presidential Decree No. 12 of 2020 as a non-natural national disaster. On that reading, Bustamam concludes that the death penalty cannot be imposed on those who misappropriate pandemic aid funds.[30] Abdaud, Sung, and Umar reach a similar conclusion by virtue of the principle of legality, while calling for "certain circumstances" to be reinterpreted so as to include national non-natural disasters.[31] Pardosi and Primawardani go further, arguing that the clause cannot satisfy the juridical

[26] Muhammad Indra Jaya, M Said Karim, and Syamsuddin Muchtar, "Disparitas Pemidanaan Dalam Tindak Pidana Korupsi," *Al-Mizan* 20, no. 1 (2024): 1–24, https://doi.org/10.30603/am.v20i1.3943.

[27] Meiryani, Sani Muhamad Isa, and Johan Muliadi Kerta, "Money Laundering in Corruption Cases in Indonesia," *Journal of Money Laundering Control* 27, no. 1 (2024): 127–38, https://doi.org/10.1108/JMLC-05-2022-0069.

[28] Yosep Martua Ganda Pangaribuan, Sandro Marihot Marpaung, and Reza Ferdiansyah, "Efektivitas Pembuktian Mengenai TPPU Ditinjau Dari UU No. 8 Tahun 2010 Tentang TPPU," *UNES Law Review* 6, no. 2 (2023): 6226–32, https://doi.org/10.31933/unesrev.v6i2.1451.

[29] Yoserwan and Fausto Soares Dias, "Implementing the Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases in Indonesia," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 227–50, https://doi.org/10.25216/jhp.13.2.2024.227-250.

[30] Bustamam, "Pidana Mati Bagi Koruptor Dana Bencana Non Alam (Studi Terhadap Konsekuensi Kepres No. 12 Tahun 2020)."

[31] Abdaud, Sung, and Umar, "Corruption during Non-Natural Disaster: Is Death Penalty Necessary?"

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requirements for prosecuting social-assistance corruption and that it sits uneasily with the constitutional protection of the right to life.[32] The classification of the offence is therefore contested not only at the level of facts but at the level of the norm itself.

A further layer of classification concerns the boundary between administrative wrongdoing and corruption. Sihotang, Pujiyono, and Sa'adah show that policies adopted under emergency discretion are increasingly prosecuted under the Anti-Corruption Law, which has produced a polemic over whether a policy can attract criminal liability and where the limits of the unlawful act lie between administrative and criminal law.[33] The classification of emergency-fund corruption thus cannot rest on the existence of an emergency alone. It depends on the combination of unlawfulness or abuse of authority, a link to state financial loss or personal enrichment, and the requisite criminal intent, which together distinguish an offence from a mistaken but good-faith decision.

Within the framework of Indonesian criminal-law reform, classifying corruption involving emergency funds and social assistance as a serious offence places the protection of emergency-budget integrity among the state's priorities. Social-assistance allocations serve as a vital social safety net and must therefore be protected. Consistent, firm, and targeted enforcement is necessary to create a deterrent effect, maintain accountability in the management of assistance, and uphold the rule of law and justice during crises.[34]

An assessment of the criminal-liability framework must also address weaknesses in Article 2 paragraph (2) of the Anti-Corruption Law. The death penalty stipulated in this provision tends to function as symbolic law rather than as a concrete enforcement instrument. In the context of combating impunity, the "certain circumstances" clause is difficult for law-enforcement authorities to apply because of the complexity of proving the formal requirements for disaster status and the ambiguity surrounding the parameters of a national economic crisis.[35] Consequently, indictments may revert to ordinary corruption offences under Article 2 paragraph (1) or Article 3 of the Anti-Corruption Law, potentially resulting in sanctions that are disproportionate to the seriousness of the conduct and insufficient to generate an adequate deterrent effect.

Another important dimension is the involvement of corporations and money-laundering practices in the allocation of emergency funds. Private companies working with the government may

[32] Pardosi and Primawardani, "The Legitimacy Death Penalty Application of Certain Conditions in the Anti-Corruption Law."

[33] Tinuk Dwi Cahyani and Yohana Puspitasari Wardoyo, "Efforts of Apparatus Law Enforcement in Realizing Restorative Justice in Asset Recovery Results of Corruption," *AMCA Journal of Community Development* 2, no. 1 (2022): 15–21, https://doi.org/10.51773/ajcd.v2i1.109.

[34] Devi and Rotanza, "Efektivitas Ancaman Pidana Mati Bagi Pelaku Tindak Pidana Korupsi Di Indonesia Dari Sudut Pandang Hukum, HAM, Dan Psikologi."

[35] Marsa et al., "Asas Lex Favor Reo Dan Batas Penerapan Hukum Pidana Yang Lebih Menguntungkan Dalam KUHP Nasional," *Journal of Exploratory Dynamic Problems* 3, no. 4 (2026): 2707–24, https://doi.org/10.31004/edp.v3i4.552.

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be used to conceal or launder criminal proceeds through fabricated procurement contracts. To address these complex schemes, prosecutions involving corruption of social-assistance funds should consider the combined application of the Anti-Corruption Law and Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering. This integrated approach enables law enforcement to pursue both the perpetrators (*follow the suspect*) and the proceeds of crime (*follow the money*).[36] Research on money laundering in corruption cases in Indonesia treats the two phenomena as closely connected, which supports pairing the statutes at the investigation stage rather than treating laundering as an afterthought.[37]

The classification problem is not unique to Indonesia. The Kenyan experience of graft during Covid-19 governance[38] and analyses of how the scale and speed of emergency programmes shape corruption incentives[39] suggest that what matters for classification is not only the label attached to the emergency but also the design of the programme through which public money is channelled. Indonesian court practice on pandemic social assistance has already been examined from the standpoint of anti-corruption principles,[40] and the same lens can be extended to disaster-fund cases: the question is whether the reasoning of the court gives effect to the protective purpose of the emergency clause or confines it to a literal reading.

B. Legal and Practical Obstacles to Law Enforcement and Oversight of Disaster Emergency Funds

The complexity of enforcing corruption law in relation to disaster funds and social assistance arises from the intersection of deficiencies in legal norms and practical realities. The urgent need to respond rapidly to crises requires the government to apply special procedures. However, administrative discretion intended to accelerate emergency responses may be misused as a legal loophole by public officials and private vendors seeking personal gain.[41] This creates a difficult tension between the need for rapid emergency action and the effectiveness of law-enforcement controls.

[36] Pangaribuan, Marpaung, and Ferdiansyah, "Efektivitas Pembuktian Mengenai TPPU Ditinjau Dari UU No. 8 Tahun 2010 Tentang TPPU."

[37] Meiryani, Isa, and Kerta, "Money Laundering in Corruption Cases in Indonesia."

[38] Wulandari et al., "Asset Forfeiture of Corruption Proceeds Using the Non-Conviction Based Asset Forfeiture Method: A Review of Human Rights," *Indonesia Law Reform Journal* 3, no. 1 (2023): 15–25, https://doi.org/10.22219/ilrej.v3i1.24496.

[39] Goel, Nelson, and Goel, "COVID-19 Vaccine Rollout—Scale and Speed Carry Different Implications for Corruption."

[40] Nugroho, Rohmatiah, and Mutmainah, "Judge Considerations of the Corruption Decision of Social Aid for Covid-19 Disaster Mitigation from the Perspective of Anti-Corruption Principles."

[41] Ramadhan, Kamal, and Mamonto, "Omnibus Law in Indonesia: Legal Protection of Workers in Employment Contracts."

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The principal legal problem lies in the absence of clear interpretive standards for the phrase "certain circumstances" in Article 2 paragraph (2) of the Anti-Corruption Law.[42] Although the provision expressly allows the death penalty for the misappropriation of funds during a crisis or national disaster, the absence of clear boundaries and objective benchmarks has impeded its implementation. This ambiguity produces divergent interpretations among law-enforcement officials and may cause public prosecutors and judges to hesitate before seeking or imposing the maximum penalty.

Another legal challenge concerns the difficulty of proving *mens rea* during emergencies. Procurement procedures may be adjusted or expedited to ensure a prompt response, often through the exercise of immediate administrative discretion.[43] Investigators may therefore find it difficult to distinguish legitimate administrative errors made under crisis conditions from unlawful conduct deliberately designed to enrich an individual or corporation. The blurred boundary between administrative law and criminal law can consequently obstruct the evidentiary process in corruption cases.[44]

Government internal oversight of social-assistance allocations and emergency budgets remains relatively weak and insufficiently integrated. Existing supervision often becomes a mere formality and focuses excessively on post-activity evaluation (post-audit), rather than immediate preventive controls operating in real time.[45] Weaknesses in distribution channels and procurement processes may be exploited through price manipulation, fictitious procurement, reductions in assistance, and the trading of influence through gratification in vendor appointments. Comparative procurement research reinforces the point: relaxed rules and reduced transparency are the conditions under which corrupt practices emerge in emergency procurement,[46] and these are precisely the conditions that a purely retrospective audit cannot prevent.

Limited community participation in oversight further reduces the effectiveness of corruption prevention. Public complaint mechanisms and whistleblowing systems, as well as transparency concerning beneficiary data, often do not operate optimally at the regional level. Restricted access to information about budget allocations and beneficiary lists limits the public's ability to monitor distribution and report suspected irregularities accurately. The involvement of private suppliers

[42] Saleh et al., "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases," *Journal of International Legal Communication* 9, no. 2 (2023): 46–55, https://doi.org/10.32612/uw.27201643.2023.9.2.pp.46-55.

[43] Ricci, Mella Ismelina Farma Rahayu, and Ade Adhari, "Legal Implementation of Compensation Policies in Recovering State Losses from Corruption," *Indonesian Journal of Criminal Law Studies* 11, no. 1 (2026), https://doi.org/10.15294/ijcls.v11i1.45051.

[44] Ade Mahmud and et al., "Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi," *Jurnal Suara Hukum* 3, no. 2 (2021): 227–50, https://doi.org/10.26740/jsh.v3n2.p227-250.

[45] Rosita Miladmahesi, "Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi Di Indonesia," *Journal of Judicial Review* 22, no. 1 (2020): 14–31, https://doi.org/10.37253/jjr.v22i1.720.

[46] Alfiyah, "Pertanggungjawaban Pidana Pelaku Korupsi Bantuan Sosial Di Masa Kedaruratan Pandemi Covid-19."

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makes the situation more complex, as collusive practices may take place beyond the reach of effective supervision.

These obstacles are consistent with broader assessments of corruption enforcement in Indonesia, which locate the challenges both in the design of the norms and in the conduct of enforcement institutions. From the standpoint of legal theory, the oversight problem is a problem of bounded discretion. If emergency powers are exercised without effective constraint, the executive is left to police itself; the pandemic experience has therefore been read as an argument for binding the executive through legal limits and the supervision of power.[47] In the Indonesian setting, constraint has to operate on two fronts at once. It must reassure officials acting in good faith that urgent decisions will not be criminalised retrospectively, and it must deny bad-faith actors the cover of urgency.

Preventive design matters as much as repression. Teichmann and Falker argue that emergency procurement should combine faithful implementation of existing anti-corruption and procurement rules with self-monitoring measures in the form of whistleblowing incentives. Indonesian research on corruption in the management of pandemic social assistance likewise points to the importance of public complaint and reporting mechanisms and of efforts to minimise corrupt behaviour among the officials who manage assistance. The weakness of regional complaint systems noted above should therefore be treated as a structural vulnerability, not a peripheral defect.

Taken together, these legal and operational obstacles have a dual impact. In addition to damaging state finances, misappropriation violates the fundamental rights of disaster victims and undermines social justice. The absence of a sufficient deterrent effect, partly resulting from lenient sentences, may erode public confidence in the government's commitment to safeguarding emergency budgets transparently. Substantive legal reform and the consolidation of an integrated oversight system are therefore urgent requirements for achieving legal certainty and justice.

CONCLUSION

Corruption involving disaster-management funds and social assistance during emergencies is not merely an extraordinary crime; because it deprives vulnerable groups of their fundamental rights, it may also take on the character of a crime against humanity. Although Article 2 paragraph (2) of the Anti-Corruption Law provides for the possibility of the most severe sanction, namely the death penalty, judicial practice has generally fallen short of this standard and has tended towards relatively lenient sentences. The principal causes include legal obstacles, particularly the ambiguity surrounding "certain circumstances" and the difficulty of proving *mens rea* where emergency administrative discretion is exercised, as well as practical weaknesses such as delayed post-audits and limited public transparency. Accordingly, legal reform should establish transparent and objective criteria for emergency circumstances, consolidate integrated preventive oversight, and strengthen an

[47] Ginsburg and Versteeg, "The Bound Executive: Emergency Powers during the Pandemic."

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asset-recovery-oriented approach to sanctions. These measures are necessary to promote legal certainty, restore public trust, and achieve a genuine deterrent effect.

The study contributes an integrated reading in which the definition of the emergency, the standard of proof for intent, the design of oversight, and the recovery of assets are treated as parts of a single problem of legal certainty. Its limitations are those of doctrinal research: it relies on legislation, published decisions, and scholarship rather than on case files or interviews. Future research could examine a systematic sample of disaster-fund verdicts across regions, test whether documentation duties and real-time oversight reduce corruption risk in practice, and assess how proposals for non-conviction-based forfeiture can be reconciled with the protection of third parties and property rights.

REFERENCES

Abdaud, Faisal, Ming-Hsi Sung, and Wahyudi Umar. "Corruption during Non-Natural Disaster: Is Death Penalty Necessary?" *Jurnal Media Hukum* 29, no. 1 (2022): 54–64. https://doi.org/10.18196/jmh.v29i1.14247.

Alfiyah, N. "Pertanggungjawaban Pidana Pelaku Korupsi Bantuan Sosial Di Masa Kedaruratan Pandemi Covid-19." *Jurnal Education and Development* 9, no. 2 (2021): 378–82. https://doi.org/10.37081/ed.v9i2.2539.

Anhar Sengge, Sudirman, dan Wahyudi Umar. "Pengawasan Dan Penegakan Hukum E-Commerce Oleh KPPU Dalam Mengatasi Persaingan Usaha Tidak Sehat Supervision and Enforcement of E-Commerce Law By ICC in Overcoming Unfair Bussines Competition." *Jurnal Hukum Lex Generalis* 5, no. 4 (2024): 1–12.

Azila, J, S Assaori, and S Efendi. "Analisis Yuridis Terhadap Penjatuhan Sanksi Pidana Pencurian Dengan Pemberatan (Studi Putusan Nomor 43/Pid.B/2025/PN Mjy)." *SENTRI: Jurnal Riset Ilmiah* 5, no. 9 (2026): 4595–4608. https://doi.org/10.55681/sentri.v5i9.7252.

Bustamam, Amrullah. "Pidana Mati Bagi Koruptor Dana Bencana Non Alam (Studi Terhadap Konsekuensi Kepres No. 12 Tahun 2020)." *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 9, no. 2 (2020). https://doi.org/10.22373/legitimasi.v9i2.8515.

Cahyani, Tinuk Dwi, and Yohana Puspitasari Wardoyo. "Efforts of Apparatus Law Enforcement in Realizing Restorative Justice in Asset Recovery Results of Corruption." *AMCA Journal of Community Development* 2, no. 1 (2022): 15–21. https://doi.org/10.51773/ajcd.v2i1.109.

Dang, Minh Tuan, and Thi Ai Quynh Hoang. "The Challenges for the Rule of Law in the State of Emergency and the Case of Vietnam during the COVID-19 Pandemic." *Journal of Infrastructure, Policy and Development* 8, no. 9 (2024): 7497. https://doi.org/10.24294/jipd.v8i9.7497.

Devi, Rosa Pijar Cahya, and Yanhizbar Rotanza. "Efektivitas Ancaman Pidana Mati Bagi Pelaku Tindak Pidana Korupsi Di Indonesia Dari Sudut Pandang Hukum, HAM, Dan Psikologi." *Jurnal Kertha Wicaksana* 17, no. 2 (2023): 147–55. https://doi.org/10.22225/kw.17.2.2023.147-155.

Fazekas, Mihály, István János Tóth, and Lawrence Peter King. "Anatomy of Grand Corruption: A Composite Corruption Risk Index Based on Objective Data." *Political Research Quarterly*, 2016. https://doi.org/10.1177/106591291663913 ৸৫.

Ginsburg, Tom, and Mila Versteeg. "The Bound Executive: Emergency Powers during the Pandemic." *International Journal of Constitutional Law* 19, no. 5 (2021): 1498–1535. https://doi.org/10.1093/icon/moab059.

Gnaldi, Michela, and Simone Del Sarto. "Measuring Corruption Risk in Public Procurement over Emergency Periods." *Social Indicators Research* 172 (2024): 859–77. https://doi.org/10.1007/s11205-024-03331-w.

Goel, Rajeev K, Michael A Nelson, and Viraat Y Goel. "COVID-19 Vaccine Rollout—Scale and Speed Carry Different Implications for Corruption." *Journal of Policy Modeling* 43, no. 3 (2021): 503–20.

Journal of Legal Theory and Society
https://journals.usm.ac.id/index.php/jlts

https://doi.org/10.1016/j.jpolmod.2021.04.003.

Ibrahim, Johnny. *Teori Dan Metodologi Penelitian Hukum Normatif*. Edisi revisi, Cetakan ketujuh. Malang: Bayumedia Publishing, 2013.

Izziyana, Wafda Vivid, and Rahmat Dwi Putranto. *METODE PENELITIAN SOCIO-LEGAL DI INDONESIA*, n.d.

Jawa, Dominikus, Parningotan Malau, and Ciptono. "Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia." *Jurnal USM Law Review* 7, no. 2 (2024): 1006–17. https://doi.org/10.26623/julr.v7i2.9507.

Jaya, Muhammad Indra, M Said Karim, and Syamsuddin Muchtar. "Disparitas Pemidanaan Dalam Tindak Pidana Korupsi." *Al-Mizan* 20, no. 1 (2024): 1–24. https://doi.org/10.30603/am.v20i1.3943.

Kurnianingsih, Marisa, and M Zaki Attirmidzi. "The Effectiveness of Imposing the Death Penalty for Corruption Perpetrators as a Solution for Handling Corruption during the Covid-19 Pandemic." *Law and Justice* 6, no. 1 (2021): 80–95. https://doi.org/10.23917/laj.v6i1.14048.

Mahmud, Ade, and et al. "Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi." *Jurnal Suara Hukum* 3, no. 2 (2021): 227–50. https://doi.org/10.26740/jsh.v3n2.p227-250.

Marsa, Rizki Setyobowo Sangalang, Satriya Nugraha, and Andika Wijaya. "Asas Lex Favor Reo Dan Batas Penerapan Hukum Pidana Yang Lebih Menguntungkan Dalam KUHP Nasional." *Journal of Exploratory Dynamic Problems* 3, no. 4 (2026): 2707–24. https://doi.org/10.31004/edp.v3i4.552.

Meiryani, Sani Muhamad Isa, and Johan Muliadi Kerta. "Money Laundering in Corruption Cases in Indonesia." *Journal of Money Laundering Control* 27, no. 1 (2024): 127–38. https://doi.org/10.1108/JMLC-05-2022-0069.

Miladmahesi, Rosita. "Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi Di Indonesia." *Journal of Judicial Review* 22, no. 1 (2020): 14–31. https://doi.org/10.37253/jjr.v22i1.720.

Nainggolan, Rani Oslina, Alvi Syahrin, and Mahmud Mulyadi. "The Position of the Principle of Legality in Law No. 1 of 2023 for the Development of Criminal Law in Indonesia." *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (2024): 408–19. https://doi.org/10.32505/jurisprudensi.v16i2.8765.

Nugroho, Sigit Sapto, Ahadiati Rohmatiah, and Mutmainah. "Judge Considerations of the Corruption Decision of Social Aid for Covid-19 Disaster Mitigation from the Perspective of Anti-Corruption Principles." *Jurnal Jurisprudence* 12, no. 1 (2022): 30–45. https://doi.org/10.23917/jurisprudence.v12i1.771.

Pangaribuan, Yosep Martua Ganda, Sandro Marihot Marpaung, and Reza Ferdiansyah. "Efektivitas Pembuktian Mengenai TPPU Ditinjau Dari UU No. 8 Tahun 2010 Tentang TPPU." *UNES Law Review* 6, no. 2 (2023): 6226–32. https://doi.org/10.31933/unesrev.v6i2.1451.

Pardosi, Rodes Ober Adi Guna, and Yuliana Primawardani. "The Legitimacy Death Penalty Application of Certain Conditions in the Anti-Corruption Law." *Jurnal Konstitusi* 19, no. 3 (2022): 673–92. https://doi.org/10.31078/jk1938.

Putra, Abrar Jatnika, and Sadino. "The Crime of Corruption in Social Assistance Funds (Bansos) Amid the Pandemic Era in Indonesia (Case Study of the Central Jakarta District Court Decision No. 29/Pid.Sus-TPK/2021/PN.JKT.PST)." *Daengku: Journal of Humanities and Social Sciences Innovation* 4, no. 5 (2024): 820–28. https://doi.org/10.35877/454RI.daengku2833.

Ramadhan, M R, M Kamal, and M A W W Mamonto. "Omnibus Law in Indonesia: Legal Protection of Workers in Employment Contracts." *Golden Ratio of Law and Social Policy Review* 1, no. 1 (2021): 7–16. https://doi.org/10.52970/grlspr.v1i1.151.

Rankin, Claire. "Reforming Emergency Procurement to Protect against Corrupt Decision-Making While Ensuring Swift and Unencumbered Procurement." *African Public Procurement Law Journal* 8, no. 2 (2021). https://doi.org/10.14803/8-2-46.

Ricci, Mella Ismelina Farma Rahayu, and Ade Adhari. "Legal Implementation of Compensation Policies in Recovering

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November 2026
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Journal of Legal Theory and Society
https://journals.usm.ac.id/index.php/jlts

State Losses from Corruption." *Indonesian Journal of Criminal Law Studies* 11, no. 1 (2026). https://doi.org/10.15294/ijcls.v11i1.45051.

Saleh, I Nyoman Nurjaya, Herman Suryokumoro, Setiawan Noerdjasakti, and Zana Zerlina. "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases." *Journal of International Legal Communication* 9, no. 2 (2023): 46–55. https://doi.org/10.32612/uw.27201643.2023.9.2.pp.46-55.

Wiwoho, J, U K Pati, and A M Pratama. "Enabling Data Portability and Interoperability under Indonesia's Data Protection Law." *Masalah-Masalah Hukum* 53, no. 3 (2024): 271–82. https://doi.org/10.14710/mmh.53.3.2024.271-282.

Won, Yoomin. "Emergency Powers and COVID-19 Derogations." *International Journal of Constitutional Law* 23, no. 1 (2025): 113–47. https://doi.org/10.1093/icon/moaf010.

Wulandari, Wasis Suprayitno, Kukuh Dwi Kurniawan, and Merve Özkan Borsa. "Asset Forfeiture of Corruption Proceeds Using the Non-Conviction Based Asset Forfeiture Method: A Review of Human Rights." *Indonesia Law Reform Journal* 3, no. 1 (2023): 15–25. https://doi.org/10.22219/ilrej.v3i1.24496.

Yoserwan, and Fausto Soares Dias. "Implementing the Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases in Indonesia." *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 227–50. https://doi.org/10.25216/jhp.13.2.2024.227-250.