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Reconstruction of Collusion and Nepotism in Corruption Policy

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Abstract

The ineffectiveness of the criminal system in addressing collusion and nepotism in Indonesia stem form from normative inequality, multiple interpretations of the law, and a repressive approach that does not address the complexity of power crimes. This research aims to reconstruct the national legal system to combat the lack of norms and weak regulations related to collusion and nepotism as an operational criminal offense. It employs a normative approach with a statute analysis and a comparative study of the United States legal system to enhance normative recommendations. This research shows, *first,* that there are fundamental differences in legal policies regarding the criminalisation of collusion and nepotism. The United States addresses these issues implicitly through various criminal statutes, while Indonesia integrates them into its anti-corruption regime as a historical response to the abuse of power. *Second,* normative imbalances in Indonesia, such as the non-operational formulation of the crime of collusion and limited sanctions against nepotism, have led to weak enforcement and created loopholes for the abuse of authority. Therefore, *third,* it is imperative to reconstruct the law to encompass the aspects of substance, structure, and legal culture, thereby strengthening the effectiveness of criminalisation and addressing collusion and nepotism.

Keywords: Collusion; Corruption; Nepotism; Policy; Reconstruction;

Introduction

The reconstruction of Law No. 28 of 1999 reflects the urgent need to address misconceptions surrounding its legal substance and application in eradicating collusion and nepotism.[1] The law's original administrative title did not accurately reflect the criminal substance it regulated, potentially leading to misunderstandings in its application.[2] The indecisive formulation of criminal penalties, the weak definition of the elements of criminal acts, and the absence of procedural legal powers such as wiretapping and absentia trials demonstrate the state's lack of commitment to effectively criminalising

[1] Srividya Jandhyala and Fernando S. Oliveira, 'The Role of International Anti-Corruption Regulations in Promoting Socially Responsible Practices', *Journal of Economic Behavior & Organization*, 190 (2021), 15–32 https://doi.org/10.1016/j.jebo.2021.07.017
[2] Bambang SLamet Riyadi, 'The Sociology Law: Corruption and Abuse of Power in Indonesia', *International Journal of Religion*, 5.7 (2024), 599–613 https://doi.org/10.61707/64fp5z33

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collusion and nepotism.[3] While refinements to the concept of '*public official*', the definition of '*crony*', and the element of '*causing loss to state finances*' clarify the perpetrators and the legal consequences, they expose the fundamental problem that vague and abstract laws have become merely symbolic tools, not instruments for upholding justice.[4]

The lack of differentiation between extraordinary and minor crimes in the current legal system exacerbates the slow pace of prosecution and widens the gaps of impunity. Within the context of legal culture, weak public literacy and a permissive attitude towards collusion and nepotism pose significant obstacles to the effectiveness of legal reform.[5] Therefore, a comprehensive reconstruction of the substance, procedural legal structure, and social paradigm shift is essential to realising a criminal justice system that is just, firm, and truly in the public interest.[6] The following trends in corruption case handling data reflect a lack of robust law enforcement against these extraordinary crimes:

Table 1 Handling of corruption crime cases throughout Indonesia 2017-2020

Years	Preliminary Investigation	Investigation	Prosecution			Execution
			Prosecutor	Police	Total	
2017	1331	1364	1044	874	1918	1672
2018	1506	1060	927	876	1803	1762
2019	1195	838	759	837	1596	1418
2020	1209	878	478	521	999	804

Source: Report and Assessment of the Deputy Attorney General for Special Crimes, Attorney General's Office, 2020

Table 1 shows the handling of corruption cases in Indonesia from 2017 to 2020, indicating a significant downward trend in both prosecutions and executions, despite a consistently high number of investigations. In 2017, prosecutions reached 1,918 cases, while executions totalled 1,672. However, by 2020, these cases had decreased to 999 prosecutions and 804 executions. This demonstrates a lack of consistency in comprehensive eradication of corruption and reflects that law enforcement has not substantially addressed the structural roots of the issue, specifically collusion and nepotism. Corruption, collusion, and nepotism collectively constitute a single, mutually

[3] Petter Gottschalk, 'Economic Crime in the Courtroom: A Case Study of Defense Lawyers' Arguments against Prosecution Evidence', *Journal of Economic Criminology*, 5.March (2024), 100085 https://doi.org/10.1016/j.jeconc.2024.100085

[4] Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 https://doi.org/10.53955/jhcls.v4i3.396

[5] Hartati and others, 'Authority for Calculating State Economic Losses in Criminal Acts of Corruption in Indonesia', *Jurnal IUS Kajian Hukum Dan Keadilan*, 12.3 (2024), 530–41 https://doi.org/10.29303/ius.v12i3.1480

[6] Leonard Hoeft and Wladislaw Mill, 'Abuse of Power: An Experimental Investigation of the Effects of Power and Transparency on Centralized Punishment', *Journal of Economic Behavior and Organization*, 220.October 2022 (2024), 305–24 https://doi.org/10.1016/j.jebo.2024.02.003

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reinforcing systemic problem. Therefore, addressing the issue solely in terms of corruption, as stipulated in the Corruption Eradication Law, will always be imbalanced. This data also reinforces the criticism that without an integral and sustainable legal approach to corruption, collusion, and nepotism. The legal policy of eradicating corruption in Indonesia remains stagnant at the symbolic level, rather than being transformative.

The post-reform regional autonomy implementation, initially intended to strengthen regional participation in development, has instead expanded the scope of collusion and nepotism.[7] The mining sector serves as a notable example. After the authority to issue mining business permits was delegated to regional governments, the number of permits skyrocketed from 750 in 2001 to over 10,000 in 2010. This case is inextricably linked to the practice of permit buying and selling, as well as the abuse of authority by regional heads, who utilise mining permits as political commodities to fund campaigns and maintain their power.[8] Many permits are granted to parties with family ties or political ties to regional officials, thus perpetuating patronage politics that undermine the integrity of natural resource governance and give rise to agrarian conflicts and massive environmental damage.[9]

At the central level, the practice of nepotism remains deeply rooted. It is documented in mass media, such as the *Kaka's Footsteps in Merdeka Selatan* by Tempo Magazine. This case illustrates how strategic positions in state-owned enterprises, particularly commissioner positions, are being contested by individuals with family or friendship ties to the political elite. The placement of commissioners, not based on competence but on personal or political affiliations, not only worsens state-owned enterprise governance but also erodes public trust in the governments commitment to creating a clean. This reality is reflected in the decline in Indonesia's corruption perception index from 40 (ranking 85) in 2019 to 37 (ranking 102) in 2020, indicating a worsening public and international perception of efforts to eradicate corruption, collusion, and nepotism in Indonesia.[10]

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[7] Soeleman Djaiz Baranyanan, Nilam Firmandayu, and Ravi Danendra, 'The Compliance of Regional Autonomy with State Administrative Court Decisions', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 35–52 https://doi.org/10.53955/jsderi.v2i1.25

[8] Hilaire Tegnan and others, 'Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues', *Bestuur*, 9.2 (2021), 90–100 https://doi.org/10.20961/bestuur.v9i2.55219

[9] Andrielly Nascimento Santos and others, 'Lobbying and Environmental Crimes: An Analysis Based on the Brazilian Mining Sector', *The Extractive Industries and Society*, 17 (2024), 101419 https://doi.org/10.1016/j.exis.2024.101419

[10] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 299–330 https://doi.org/10.53955/jhcls.v4i2.259

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Therefore, the urgency of this research is evident. *First,* it is important to compare the legal politics of criminalising collusion and nepotism between the United States and Indonesia due to the fundamental differences in the normative approaches and sanctions applied in each country's legal system. The United States, with its common law tradition, does not categorise collusion and nepotism as separate crimes; instead, it regulates them implicitly through various articles, such as conspiracy, bribery, fraud, and administrative violations, with an emphasis on legal certainty and the strict formulation of offences.[11] In contrast, Indonesia adopts a more repressive approach by making collusion and nepotism integral to the crime of corruption, as a response to the history of power abuse during the New Order era. This distinction reflects the difference in *ratio legis*, while in the United States, the focus is on maintaining ethical governance and institutional integrity; in Indonesia, the aim is to restore social justice and public morality that have been damaged by corruption, collusion, and nepotism. This comparison is crucial for understanding how the socio-political context influences criminal policy and can serve as a reference for more effective and contextually informed national legal reform.[12]

Second, the urgency of reforming Indonesia's criminal law policy against collusion and nepotism lies in the normative imbalance that has led to weak enforcement against these structural crimes. Although collusion and nepotism have been politically recognised as common enemies in post-New Order bureaucratic reform, they have not been fully accommodated in positive criminal law instruments, especially collusion, which is still positioned as a moral and administrative violation without an operational formulation of the offence.[13] While nepotism has been criminalised in Law No. 28 of 1999, available sanctions are still limited and ineffective in ensnaring the practice of cronyism in power. This inequality is exacerbated by a repressive approach that focuses solely on corruption in the Corruption Eradication Law, without addressing corruption, collusion, and nepotism as mandated by the Decree Number XI/MPR/1998. This legal vacuum risks multiple interpretations of articles and abuse of authority by law enforcement.[14] Therefore, the reconstruction of legal politics is crucial to creating a just, proportional, and effective criminal system capable of

[11] Uluc Aysun, 'Duration of Bankruptcy Proceedings and Monetary Policy Effectiveness', *Journal of Macroeconomics*, 44 (2015), 295–302 https://doi.org/10.1016/j.jmacro.2015.03.008

[12] Elías Cisneros and Krisztina Kis-Katos, 'Unintended Environmental Consequences of Anti-Corruption Strategies', *Journal of Environmental Economics and Management*, 128 (2024), 103073 https://doi.org/10.1016/j.jeem.2024.103073

[13] Ponco Hartanto and others, 'Corruption Policy Challenges in Combating Land Mafia: Experiences from Several Countries', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 521–654 https://doi.org/10.53955/jhcls.v4i3.233

[14] Terry OCallaghan, 'Patience Is a Virtue: Problems of Regulatory Governance in the Indonesian Mining Sector', *Resources Policy*, 35.3 (2010), 218–25 https://doi.org/10.1016/j.resourpol.2010.05.001

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addressing crimes of power that continue to evolve into increasingly complex forms of collusion and nepotism.

Third, the urgency of legal reconstruction regarding the crimes of collusion and nepotism lies in the need to make them effective instruments for preventing corruption by implementing fundamental changes in substance, structure, and legal culture. Substantially, it is necessary to change the title and reformulate the articles in Law No. 28 of 1999 to make legal norms more assertive, clear, and operational, rather than open to interpretation or merely administrative in nature. Structurally, strengthening the ability to track and the effectiveness of enforcement requires increasing the authority to wiretap, expanding the scope of evidence, and regulating trials in absentia. In terms of legal culture, increasing public legal literacy, conducting public campaigns, and strengthening the capacity of law enforcement are key steps in fostering an anti-collusion and anti-nepotism stance.[15] By classifying collusion and nepotism as crimes of extraordinary gravity if they have systemic impacts and are detrimental to the state and providing an alternative resolution for minor cases, this reconstruction aims to create a criminal justice system that is fairer and more in the public interest.[16]

Research by Carrillo et al. (2024) indicates that political connections are strongly correlated with increased corruption in public procurement in the Dominican Republic, particularly through nepotism and collusion, which lead to inefficiency and budget waste. This finding is particularly relevant for Indonesia, given the weakness of legal instruments in prosecuting collusion and nepotism as separate crimes.[17] Therefore, legal reconstruction in the application of criminal acts of collusion and nepotism is crucial for breaking the cycle of corruption based on power connections. This objective can be achieved by clarifying the criminal definition, expanding the legal subjects, and strengthening evidentiary mechanisms, thereby preventing corruption from the early stages of power abuse.

Meanwhile, Michela (2025) develops a diagnostic approach to identify the forms of corruption considered most detrimental by citizens by mapping perceptions of four types of harm: economic, political, moral, and personal. In the Indonesian context, these study addresses to the urgency of legal reform in tackling the application of criminal acts of collusion and nepotism in corruption cases, as it highlights the importance of distinguishing between

[15] Susan S. Silbey, *Legal Culture and Legal Consciousness*, *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, Second Edi (Elsevier, 2015), XIII https://doi.org/10.1016/B978-0-08-097086-8.86067-5

[16] Mahdi Abdullah Syihab and Muhammad Hatta, 'Punishment Weighting for Criminal Acts of Corruption in Indonesia', *SASI*, 28.2 (2022), 307 https://doi.org/10.47268/sasi.v28i2.955

[17] Michela Scalpello, 'Malta: The Use of Ambiguity for Corruption and (Mis)Rule of Law', *Journal of Economic Criminology*, 5.March (2024), 100088 https://doi.org/10.1016/j.jeconc.2024.100088

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the types of impacts caused by these practices on public perception. By understanding that the practices of collusion and nepotism not only have economic impacts but also damage public morale and political trust, Indonesia can design regulations that are more contextual and responsive to the multidimensional damage caused by abuse of power, while simultaneously strengthening the social legitimacy of efforts to criminalise collusion and nepotism.

Erlich et al. (2025) develop a diagnostic approach to identify the forms of corruption considered most damaging based on citizen perceptions, distinguishing their economic, political, moral, and personal impacts. The results, conducted through an experiment with the Armenian Corruption Prevention Commission, showed that types of corruption, such as high-level embezzlement, were considered the most multidimensionally damaging. In contrast, corruption in service sectors, such as health, had more moral and personal impacts.[18] The relevance of these findings for Indonesia lies in understanding public perceptions of collusion and nepotism as forms of structural corruption that have not been widely explicitly criminalised. Legal reconstruction in Indonesia must consider that collusion and nepotism, although often viewed as ethical or administrative violations, have profound impacts on public morality, social justice, and the effectiveness of state governance. Hence, an approach similar to that taken in this study can be applied to design criminal law policies that are more sensitive to the social dimensions and public perceptions in combating corruption in Indonesia.

This research aims to demonstrate the urgency of reconstructing the national legal system to address the lack of norms and the weak effectiveness of regulations in tackling collusion and nepotism, which are at the root of systemic corruption in Indonesia. Law No. 28 of 1999 does not explicitly regulate these two crimes; instead, it addresses administrative matters, thereby creating legal ambiguity. The absence of important instruments such as wiretapping authority and in absentia trials makes enforcement weak and inaccessible to perpetrators within the ruling circles. The practice of patronage politics and conflicts of interest in state-owned enterprises and regional governments highlights the weakness of oversight. Therefore, legal reconstruction is urgently needed to qualify collusion and nepotism as strict and operational criminal offences.

Methodology

This research is normative legal research based on the analysis of primary and secondary legal materials.[19] It can produce new arguments, theories, or

[18] Aaron Erlich and others, 'What Corruption Is Most Harmful? Unbundling Citizen Perceptions', *World Development*, 194 (2025), 107001 https://doi.org/10.1016/j.worlddev.2025.107001

[19] Andri Gunawan Wibisana, 'Menulis Di Jurnal Hukum: Gagasan, Struktur, Dan Gaya', *Jurnal Hukum & Pembangunan*, 49.2 (2019), 471 https://doi.org/10.21143/jhp.vol49.no2.2014

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concepts as prescriptions for solving problems related to the ineffective criminalisation and regulation of collusion and nepotism in corruption cases in Indonesia. This research applies the statute approach by examining relevant legislation, such as Decree No. XI/MPR/1998, No. VIII/MPR/2001, and Law No. 28 of 1999 and a comparative study with the United States legal system to complete the recommendations. The restorative justice theory approach aligns with the legal reconstruction of collusion and nepotism, particularly for minor cases that can still be resolved administratively with the victim's consent.[20] Meanwhile, for extraordinary cases that result in financial losses to the state, reconstruction still classifies them as formal crimes to maintain legal certainty and the accountability of public officials. This research is a literature study,[21] which legal materials are conducted from relevant laws and regulations, books, academic works, and international and national journals.[22] The analysis technique is deductive, a way of thinking that starts with the understanding that something also applies to all events of that type. This deductive requires a syllogism, an argument consisting of three propositions: central premises, minor premises, and conclusions.

Results and Discussion

Comparative Legal Politics and Criminalisation of Collusion and Nepotism

The legal policy of the United States federal government differs from Indonesia's in that it does not recognise acts of collusion and nepotism as crimes. The first discussion concerns the legal policy of collusion in the United States.[23] *First,* it is important to note that the United States federal legal system does not explicitly codify collusion as a crime in the United States Code. The term 'collusion' is descriptive, rather than legal terminology with specific criminal consequences. The legal argument for why collusion is not a separate crime in the federal legal system is rooted in the characteristics of the standard law system, with its principle of legality and a strict approach to the formulation of offences and the verification of elements.

It is well established that common law evolves through the court precedent and the interpretation of statutes. This means that the United States places greater emphasis on element-based legal analysis using a

[20] Janet C. Gerson, 'Restorative Justice and Alternative Systems', in *Encyclopedia of Violence, Peace, & Conflict* (Elsevier, 2022), pp. 125–36 https://doi.org/10.1016/B978-0-12-820195-4.00161-8

[21] Mathias M. Siems, 'The Taxonomy Of Interdisciplinary Legal Research: Finding The Way Out Of The Desert', *Journal of Commonwealth Law and Legal Education*, 7.1 (2009), 5–17 https://doi.org/10.1080/14760400903195090

[22] Terry Hutchinson, 'The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law', *Erasmus Law Review*, 2016 https://doi.org/10.5553/ELR.000055

[23] Jay S. Albanese, 'Corruption as the Cause, Not the Effect, of Organized Crime?', *Journal of Economic Criminology*, 7 (2025), 100137 https://doi.org/10.1016/j.jeconc.2025.100137

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casuistic and technical approach.[24] Criminal acts must be clearly and specifically defined in law, the general term 'collusion' is ambiguous if not elaborated into concrete elements. Therefore, federal criminal law constructs the law of collusion using technical terms such as conspiracy, bribery, or fraud, which have clear definitions and elements. The absence of an explicit collusion article indicates that criminal law policy in the United States is casuistic and based on strictly defined legal elements, rather than broad and normative terms.[25] This aligns with common law principles, which require prosecution to be based on clear and specific articles. Therefore, collusive acts can only be prosecuted if they meet the elements of the applicable criminal articles.[26]

Second, other criminal articles address 'collusion' differently. While the United States Code does not regulate the term '*collusion*', actions that substantially meet the elements of collusion can be prosecuted under federal criminal articles, such as conspiracy, bribery, fraud, and election law violations. In the United States, Collusion is implicitly regulated through various specific criminal provisions, although it is not recognised as a separate crime. Although collusion is not explicitly designated as a crime, its substance can still be prosecuted through various criminal law norms. Rather than being defined under a single legal term, collusion-related offences are dispersed across various sections of the United States Code. For example, in Title 18, Article 371 on conspiracy, collusion is understood as a conspiracy to commit a crime or defraud the government, which implies a broad legal scope for various forms of illegal cooperation. In Article 201 on bribery, collusion arises through corrupt reciprocal relationships, such as the payment of bribes to obtain certain benefits.[27]

Meanwhile, Article 2, on aiding and abetting, captures the collaborative role in supporting the main crime, even though the perpetrator does not directly commit it. The aspect of collusion is also evident in Articles 1510 to 1521, concerning obstruction of justice, which involves joint efforts to cover up a crime or manipulate the legal process. In the political realm, Title 52, Section 30121, regulates collusion in the form of foreign contributions to elections, aiming to protect the integrity of democracy from external

[24] Simeon A. Igbinedion and Anthony Osobase, 'Grand Corruption in the Global South: Legal, Political and Economic Analysis of Assets Recovery in Nigeria', *Journal of Economic Criminology*, 9 (2025), 100164 https://doi.org/10.1016/j.jeconc.2025.100164
[25] Domenico Marino, 'Dynamics of Corruption: Theoretical Explanatory Model and Empirical Results', *Physica A: Statistical Mechanics and Its Applications*, 658 (2025), 130288 https://doi.org/10.1016/j.physa.2024.130288
[26] Hoeft and Mill, 'Abuse of Power: An Experimental Investigation of the Effects of Power and Transparency on Centralized Punishment'.
[27] Esther Enuwa Abah, Clement Owoicho Momoh, and Samuel Olushola Fadairo, 'Endogenous Measures for Stifling Corruption within Selected Agricultural and Food Development Projects in Benue State, North Central, Nigeria', *Journal of Economic Criminology*, 4 (2024), 100060 https://doi.org/10.1016/j.jeconc.2024.100060

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interference. Lastly, Article 1030, concerning cybercrime, reflects modern forms of collusion that occur through digital technology, such as hacking or the dissemination of stolen information.[28] Overall, collusion in the context of United States criminal law is implicitly understood as a form of illegal cooperation that undermines the integrity of public institutions and democratic processes and has broad implications in legal, political, and technological aspects.

For example, the case of alleged collusion between Donald Trump's campaign and the Russian government in the 2016 United States presidential election highlights the tension between the political term '*collusion*' and the terminology of United States federal criminal law. There is no crime explicitly designated as collusion in the United States federal legal system.[29] Instead, the alleged acts are classified into several crimes, including conspiracy, aiding and abetting, campaign finance violations, and cybercrimes. In this context, Title 18 of the United States Code, Section 371, is often cited as the primary legal basis because it criminalises an agreement between two or more persons to violate the law or defraud the United States government.[30]

Several academics and legal practitioners believed that the alleged collusion was evident through several indications, including a meeting between Donald Trump, Jared Kushner, and Paul Manafort with a Russian lawyer in June 2016, which was linked to the Russian government's offer of damaging information about Hillary Clinton. Although no explicit request was found, implicit communications could still be considered unlawful if there was evidence of an intent to receive improper assistance from a foreign national, as prohibited by Title 52 of the United States Code, Section 30121. Some believe that an independent commission should conduct the collusion investigation to differentiate between legal issues and political debate. Therefore, although the term collusion is widely used in public discussion, legally, the allegations against the Trump campaign are more appropriately analysed through the framework of existing articles, such as conspiracy, hacking under Title 18 United States Code Section 1030, online fraud under Title 18 United States Code Section 1343, and violations of campaign finance

[28] Abroon Qazi, 'Risk Forecasting for Shortfalls in Achieving Sustainable Development Goals: A Corruption Perspective', *Journal of Safety Science and Resilience*, 6.2 (2025), 237–49 https://doi.org/10.1016/j.jnlssr.2024.10.003

[29] Aniek Tyaswati, Wiji Lestari, and Totok Tumangkar, 'The Business Judgement Rules (BJR) Doctrine As Legal Protection Against Board of Directors In BUMN', *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 22.2 (2023), 899–909 https://doi.org/10.31941/PJ.V22I2.4666

[30] Andre Harrison and Robert R. Reed, 'Gross Capital Inflows, the U.S. Economy, and the Response of the Federal Reserve', *Journal of International Money and Finance*, 139 (2023), 102943 https://doi.org/10.1016/j.jimonfin.2023.102943

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from foreign entities.[31] The concept of collusion, in federal criminal law practice, serves as a broad umbrella for various specific legal offences addressed through relevant sections of the United States Code.

Regarding the legal policy on nepotism, Indonesian law categorises as a crime, while the United States federal government categorises it as an administrative violation. The regulation of nepotism in the United States can be found in Title 5, Government Organisation and Employees, Article 3110, Employment of Relatives. This provision prohibits public officials in executive, legislative, judicial, or local government institutions from appointing or employing close relatives in institutions where they have authority. If violated, the sanctions are not in the form of criminal penalties but administrative ones, such as cancellation of appointments and prohibition of salary payments. However, this rule provides room for exceptions in emergencies or disasters. This difference in approach indicates that Indonesia places greater emphasis on repressive aspects and eradication through criminal law. In contrast, the United States focuses on preventing conflicts of interest and promoting ethics in governance.[32]

The existence of Title 5 of the United States Code, Section 3110, was triggered by the controversy surrounding the appointment of Robert Kennedy as Attorney General by his brother, President John F. Kennedy. This appointment was considered a form of nepotism due to family ties and was exacerbated by Robert's role in protecting the president's misconduct. The public perceived a collaboration between nepotism and collusion in power, leading to sharp criticism. In response to public pressure and opposition to the practice, Congress passed an anti-nepotism law known as the "Bobby Kennedy Law," which prohibits public officials from appointing close relatives to official government positions.

Violation of the article does not constitute a criminal offence; the sanction imposed is that the perpetrator is not entitled to receive any salary or income for the position given in a nepotistic manner.[33] Thus, the legal policy of the United States federal government regarding acts of nepotism is categorised as an administrative violation rather than a crime. Based on a comparison of the legal policies of the United States federal government and the states with those of the Indonesian government, the United States federal government has stated a prohibition on acts of nepotism in public and government

[31] Fangsu Dong, Huaichen Dong, and Lei Zhang, 'Accountability and the Quality of Information Disclosure of State-Owned Enterprises', *Finance Research Letters*, 71 (2025), 106462 https://doi.org/10.1016/j.frl.2024.106462

[32] Paul W. Grimes, Jane S. Lopus, and Dwi Sulistyorini Amidjono, 'Financial Life-Skills Training and Labor Market Outcomes in Indonesia', *International Review of Economics Education*, 41.September (2022), 100255 https://doi.org/10.1016/j.iree.2022.100255

[33] Sugata Marjit and others, 'Finance and Collusion in Oligopolistic Markets', *The North American Journal of Economics and Finance*, 76 (2025), 102351 https://doi.org/10.1016/j.najef.2024.102351

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positions, but not as a criminal offence. In contrast, the state government categorises it as a crime under Indonesia's legal policy.[34]

The *ratio legis* clearly illustrates the differences. The *ratio legis* regulating the criminal acts of collusion and nepotism is a form of moral consideration and the value of justice that serves as the basis for the birth of legal norms, which direct how the state administration should be carried out. This basis of consideration is reflected in various decrees and laws, especially Decree No. XI/MPR/1998, No. VIII/MPR/2001, and Law No. 28 of 1999, which emphasises the importance of state administration that is clean, responsible, and free from the practices of corruption, collusion, and nepotism. The *ratio legis* was born as a response to the demands of the people's conscience, resulting from the abuse of power during the New Order era that caused damage to the foundations of national and state life. Therefore, collusion and nepotism are categorised as criminal acts that are contrary to binding legal values, moral values, and universal values of justice, which require transparency, accountability, and integrity in the implementation of public power. Legislation, both in the United States federal government and the states, prohibits nepotism as an effort to protect the interests and functions of United States government institutions, not as a framework for eradicating corruption. In Indonesia, legislative measures regulating nepotism aim to rehabilitate all aspects of national life with justice, addressing the business practices that disproportionately benefited a group of businessmen during the Old Order era as part of the broader effort to eradicate corruption.

The Political Basis of Criminalising Collusion and Nepotism in Indonesia

Legal policy is a rational approach to addressing crime and responding to it socially. Legal policy instruments extend beyond the imposition of criminal sanctions and encompass how society collectively and systematically formulates legal policy. This includes legislative policy, law enforcement, and the broader criminal justice system.[35] Collusion and nepotism are regulated in Law Number 28 of 1998 concerning the Governance of a Clean and Corruption-Free State. The first discussion concerns the crime of collusion. *First,* the Law on Corruption, Collusion, and Nepotism is a specific law that lists collusion as one of three primary forms of deviation in state governance. However, normatively, the law does not regulate collusion as a direct criminal offence but rather as a moral and administrative principle within the framework of bureaucratic reform and clean governance. Although the Corruption, Collusion, and Nepotism Law explicitly identifies collusion as a

[34] Shangkun Liang, Sichao Wang, and Kaijuan Gao, 'Cross-Owners and Bond Issue Pricing: Coordination or Collusion?', *China Journal of Accounting Research*, 18.2 (2025), 100421 https://doi.org/10.1016/j.cjar.2025.100421

[35] Martien Herna Susanti and Stanley Khu, 'The 2024 Indonesian Presidential Election in the Accounts of Millennials: A Case Study of Prabowo Subianto and Gibran Rakabuming Raka Voters in Semarang, Central Java', *Social Sciences & Humanities Open*, 11 (2025), 101629 https://doi.org/10.1016/j.ssaho.2025.101629

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form of deviation that must be eradicated, this law is more declarative and administrative than repressive in the criminal sense.[36] This means that this law does not define the crime of collusion that can be directly used as a basis for prosecution in criminal proceedings, unlike the Corruption Law, which addresses corruption.[37] This creates a normative vacuum, as politically, collusion has been recognised as a common enemy; however, legally, there is no specific criminal article in the Criminal Code or other sectoral laws.

Second, there is criticism of Article 15 of the Corruption Eradication Law for being inconsistent with the Decree of the People's Representative Council XI/MPR/1998, as it focuses solely on corruption and fails to address collusion and nepotism in an integrated manner. The Corruption Eradication Law does not fully reflect the legal policy mandating the integral eradication of corruption, collusion, and nepotism, as it is still limited to the corruption aspect alone.[38] However, Article 15 only regulates criminal conspiracy in the context of corruption, without covering collusion and nepotism. This creates a regulatory imbalance, where corruption is punished with a very progressive and repressive approach, but collusion and nepotism lack adequate criminal law instruments. As a result, powerful actors who engage in systemic collusion, such as in project tenders, the distribution of positions, or the bartering of power between institutions, cannot be effectively prosecuted.

Decree Number XI/MPR/1998 emphasises that the eradication of corruption, collusion, and nepotism must be carried out comprehensively, from both a legal and institutional perspective, as well as a political and cultural perspective. By narrowly criminalising corruption, the Corruption Eradication Law fails to fulfil its legal and political mandate. The situation is exacerbated by the fact that Law No. 28 of 1998, which was intended to serve as an implementing legal framework, does not contain criminal sanctions. Thus, it functions only as a weak normative guideline from a law enforcement perspective. This condition demonstrates that the state currently lacks an effective legal tool to establish collusion as a structural crime. In practice, law enforcement officials often resort to extensive and varying interpretations of Article 15 of the Corruption Eradication Law to address the legal void in

[36] Dewi Asri Yustia and Firdaus Arifin, 'Bureaucratic Reform as an Effort to Prevent Corruption in Indonesia', *Cogent Social Sciences*, 9.1 (2023) https://doi.org/10.1080/23311886.2023.2166196

[37] Firmansyah Firmansyah and others, 'Reconstruction to Prove Elements of Detrimental to State Finances in the Criminal Act of Corruption in Indonesia', *Jurnal Cita Hukum*, 8.3 (2020) https://doi.org/10.15408/jch.v8i3.18295

[38] Hasto Kristiyanto, Satya Arinanto, and Hanief Saha Ghafur, 'Institutionalization and Party Resilience in Indonesian Electoral Democracy', *Heliyon*, 9.12 (2023), e22919 https://doi.org/10.1016/j.heliyon.2023.e22919

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collusion prosecutions, potentially leading to abuse of authority and criminalisation of intent.[39]

Furthermore, this gap results in the prosecution of collusion relying on legal construction through Article 15 of the Corruption Law, specifically conspiracy. Conspiracy as stipulated in Title 18 of the United States Code, Article 371, compared to conspiracy as stipulated in Article 88 of the Criminal Code, is a form of inchoate or unfinished crime that then allows the state to apply criminal penalties for acts that have not yet reached the stage of committing a crime but already indicate an agreement to do so.[40] Conspiracy in the United States has a vast scope, specifically involving the type of conspiracy to commit an offence against the United States and defraud the United States. Meanwhile, Article 88 in Indonesia regulates conspiracy more narrowly, as this article only applies to specific types of crimes determined by law, rather than all types of crimes. Crimes against state security, corruption, and narcotics are a few examples.

The primary requirement for both provisions above is an agreement between two or more individuals to commit a specific criminal act (*overeenkomst*). Article 88 explains that the requirements for criminal conspiracy do not require legal consequences, physical preparation, or preliminary actions (*begin van uitvoering*). This implies that a shared intention, rather than actual real-life occurrences, can prove a criminal conspiracy. Criminal conspiracy has legal implications, especially after its inclusion in Article 15 of the Corruption Law, as it is increasingly used in corruption eradication cases. However, there are no restrictions on the type of corruption referred to; even a small bribery plan can be criminalised as criminal conspiracy, without regard to proportionality.[41]

Meanwhile, regarding legal politics in Indonesia, nepotism is positioned as an integral part of extraordinary crimes, along with corruption and collusion, due to its impact on the government system, destruction of bureaucratic principles, and weakening of public trust in state institutions. This is reflected in Law Number 28 of 1999, which explicitly states that nepotism is a criminal offence, and state officials who commit it are subject to criminal sanctions.[42] Article 22 of the law explains that any state official proven to

[39] Leonard Hoeft and Wladislaw Mill, 'Abuse of Power', *Journal of Economic Behavior & Organization*, 220 (2024), 305–24 https://doi.org/10.1016/j.jebo.2024.02.003
[40] Femmy Silaswaty Faried, Hadi Mahmud, and Suparwi Suparwi, 'Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022) https://doi.org/10.53955/jhcls.v2i1.31
[41] Julien Hanoteau, Jason Miklian, and Ralf Barkemeyer, 'Business and Violent Conflict as a Multidimensional Relationship: The Case of Post-Reformasi Indonesia', *Business Horizons*, 68.4 (2025), 425–38 https://doi.org/10.1016/j.bushor.2025.02.014
[42] Boge Triatmanto and Suryaning Bawono, 'The Interplay of Corruption, Human Capital, and Unemployment in Indonesia: Implications for Economic Development', *Journal of Economic Criminology*, 2 (2023), 100031 https://doi.org/10.1016/j.jeconc.2023.100031

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have committed nepotism, namely appointing or promoting relatives or cronies to public office without a basis in professionalism, can be sentenced to a maximum of two years' imprisonment and/or a maximum fine of two hundred million rupiah. This provision is intended as a preventive and repressive measure against practices of abuse of power that have been entrenched since the New Order era and before.

From a legal and political perspective, the existence of articles criminalising nepotism is a response to public pressure for total reform of the bureaucracy and government system. The legal rationale of this regulation is not merely based on formal law enforcement but also contains a profound axiological value to create a state administration that is fair, clean, and oriented towards the public interest, rather than the interests of particular groups or families.[43] This legal rationale is outlined in Decree Number XI/MPR/1998, which emphasises the need for state administrators to be free from corruption, collusion, and nepotism for national development and reform to be effective. In this context, nepotism is not merely a form of administrative violation but rather part of the abuse of power that closely collaborates with the practices of collusion and corruption.[44] Therefore, eradicating nepotism is not merely the duty of law enforcement but part of the state's moral and political agenda to realise democratic, accountable, and socially just governance.[45] Thus, to see a comparison of legal politics and the legal ratio of criminal acts of collusion and nepotism in the United States and Indonesia, see the table below:

Table 2 Legal Politics and the *Ratio Legis* of Collusion and Nepotism Crime in the United States and Indonesia

Subject	Federal Government of the US		State Government of the US		Indonesia	
	Legal Politics	***Ratio Legis***	**Legal Politics**	***Ratio Legis***	**Legal Politics**	***Ratio Legis***
Collusion	There are no specific rules and regulations governing collusive actions.	*The ratio* can vary depending on the context, for example, crimes of conspiracy, fraud, and computer-mediated activities, online fraud, contributions and donations from foreign nationals, and treason.	There are no specific rules and regulations governing collusive actions.	The ratio can vary depending on the context, for example, crimes of conspiracy, fraud, and computer-mediated activities, online fraud, contributions and donations from foreign nationals, and treason.	As a criminal offence.	Efforts to eradicate corruption
Nepotism	Not a criminal offence.	Protecting the interests and functions of government institutions.	As a criminal offence.	Protecting the interests and functions of government institutions.	As a criminal offence.	Efforts to eradicate corruption

[43] Ade Paranata, 'The Miracle of Anti-Corruption Efforts and Regional Fiscal Independence in Plugging Budget Leakage: Evidence from Western and Eastern Indonesia', *Heliyon*, 8.10 (2022), e11153 https://doi.org/10.1016/j.heliyon.2022.e11153

[44] Nadja Capus and Melody Bozinova, 'Impression Management in Corporate Corruption Settlements: The Storied Self of the Prosecutorial Authority', *International Journal of Law, Crime and Justice*, 73 (2023), 100578 https://doi.org/10.1016/j.ijlcj.2023.100578

[45] Alessandro De Chiara and Ester Manna, 'Corruption and the Case for Safe-Harbor Regulation', *Economics Letters*, 216 (2022), 110546 https://doi.org/10.1016/j.econlet.2022.110546

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Source: Compiled by the Author

Table 2 shows a comparison of legal policy and *ratio legis* regarding the collusion and nepotism crime between the United States Federal Government, the United States State Governments, and the Government of Indonesia. In the case of collusion, neither the federal nor the state governments in the United States have specific legal norms that explicitly regulate collusion as a separate crime. However, the *ratio legis* approach in the United States legal system allows for the expansion of the interpretation of collusion to include various other crimes, depending on the context. For example, acts of collusion can be classified as crimes of conspiracy, computer-based fraud, online fraud, and contributions or donations from foreign nationals intended to influence policy or elections. In other words, the United States legal system tends to address collusive behaviour through broader crime categories, without defining collusion as a separate crime. On the other hand, Indonesia has firmly adopted a legal policy approach that defines collusion as a criminal offence, in line with its national commitment to eradicate corruption comprehensively. In this case, the *ratio legis* used by Indonesia is that collusion is an inseparable part of systemic efforts to eradicate corruption in all its forms and networks.

Meanwhile, regarding nepotism, fundamental differences in the legal and political orientations between Indonesia and the United States are evident.[46] In the United States, both at the federal and state levels, nepotism is not classified as a criminal offence.[47] Acts of nepotism are regulated within the realm of administrative law, primarily through Title 5 of the United States Code, Article 3110, which prohibits public officials from appointing or employing relatives to civil positions under their jurisdiction. This legal approach aims to protect the integrity, function, and interests of public institutions from conflicts of interest, without exposing them to the threat of criminal penalties. In contrast, Indonesia defines nepotism as a criminal offense subject to criminal sanctions as stipulated in laws and regulations relating to the eradication of corruption, collusion, and nepotism. Indonesian legal policy in this regard emphasizes that nepotism is an integral part of the abuse of power and authority, which can undermine the principles of meritocracy, public accountability, and public trust in state institutions.[48] Therefore, the *ratio legis* in the Indonesian context is that eradicating nepotism is as important as eradicating corruption and collusion, as all three

[46] Anisah Alfada, 'The Destructive Effect of Corruption on Economic Growth in Indonesia: A Threshold Model', *Heliyon*, 5.10 (2019), e02649 https://doi.org/https://doi.org/10.1016/j.heliyon.2019.e02649
[47] Paranata.
[48] Boge Triatmanto and Suryaning Bawono, 'The Interplay of Corruption, Human Capital, and Unemployment in Indonesia: Implications for Economic Development', *Journal of Economic Criminology*, 2 (2023), 100031 https://doi.org/10.1016/j.jeconc.2023.100031

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have interrelated root causes and impacts on the deterioration of governance.

Reconstruction of Collusion and Nepotism in Corruption Policy

The Restorative Justice theory approach can be strategically synergised with the legal reconstruction of the application of criminal acts of collusion and nepotism, particularly in the context of distinguishing between extraordinary and minor acts.[49] According to Law No. 28 of 1999, provisions have been formulated that allow the settlement of collusion and nepotism cases outside the courts, as long as they can still be handled through administrative mechanisms and agreed upon by the affected party. This aligns with the primary principles of restorative justice, which prioritise the restoration of losses, active participation by victims, and reconciliation between perpetrators and the community, rather than solely focusing on punishment.[50]

By incorporating restorative justice into this legal framework, the state creates space for more humane and efficient solutions, while maintaining accountability for public officials.[51] Furthermore, this reconstruction maintains legal certainty regarding acts of collusion and nepotism that harm state finances or are systemic by classifying them as formal crimes that cannot be resolved restoratively. Therefore, integrating restorative justice principles into the legal structure of collusion and nepotism strikes a balance between repressive and preventive approaches while promoting efficient law enforcement and restoring public trust in the criminal justice system.[52]

The first reconstruction of the legal substance involves changing the title of Law Number 28 of 1999 concerning the Governance of a Clean State Free from Corruption, Collusion, and Nepotism to the Law on the Eradication of Criminal Acts of Collusion and Criminal Acts of Nepotism. The urgency of this change is to align the substance and the title to avoid confusion in its application, thereby making the law more applicable. Law Number 28 of 1999 regulates only a limited aspect of government administration, while the title suggests it is primarily an administrative law. Changing the title also emphasises that it is no longer an administrative penal law but has evolved into a criminal law, encompassing various criminal law instruments designed

[49] Giuseppe Maglione, 'Imaging Victims, Offenders and Communities. An Investigation into the Representations of the Crime Stakeholders within Restorative Justice and Their Cultural Context', *International Journal of Law, Crime and Justice*, 50 (2017), 22–33 https://doi.org/10.1016/j.ijlcj.2017.02.004

[50] Gerson.

[51] Nynke van Uffelen, 'Understanding Energy Conflicts: From Epistemic Disputes to Competing Conceptions of Justice', *Energy Research and Social Science*, 118.October (2024), 103809 https://doi.org/10.1016/j.erss.2024.103809

[52] Jonathan Hobson and Brian Payne, 'Building Restorative Justice Services: Considerations on Top-down and Bottom-up Approaches', *International Journal of Law, Crime and Justice*, 71 (2022), 100555 https://doi.org/10.1016/j.ijlcj.2022.10055

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to provide justice, legal certainty, and benefits for the community.[53] The primary benefit of this affirmation is to facilitate the implementation of the law, as it no longer creates doubts for law enforcement officials and the public.[54]

Second, the repositioning of the formulation of the criminal acts of collusion and nepotism, originally in Chapter I, General Provisions, Article 1, concerning the definition of legal terms of Law Number 28 of 1999 concerning the Administration of a State that is Clean and Free from Corruption, Collusion, and Nepotism, was moved to a new chapter on criminal provisions. The importance of changing the placement of the formulation of criminal acts into the body of the law is to provide certainty and clarity of understanding that the formulation is for criminal articles, not for the definition of the concepts of collusion and nepotism in state administrative law. The expected result is that the formulation of these criminal acts is easier to apply because it has been understood that the formulation is indeed for criminal acts.

Tabel 3 Reconstruction of Law Number 28 of 1999 on Collusion and Nepotism

Chapter	Original Formulation	Reconstruction Results
Article 1 number 4	Unlawful collusion or cooperation between state administrators or between state administrators and other parties that is detrimental to other people, society and/or the state.	Article ... (1) Public officials with public officials or public officials with their cronies or people other than public officials who collaborate in an unlawful manner that is detrimental to other people and/or the public shall be punished with a maximum prison sentence of five years or a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and at most IDR 2,000,000,000.00 (two billion rupiah). (2) If the act as referred to in paragraph (1) may or is intended to cause harm to state finances or the state. (3) In the economy, the perpetrator shall be punished by imprisonment for a minimum of one year and a maximum of fifteen years and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 2,000,000,000.00 (two billion rupiah). (4) If the act as referred to in paragraph (1) can still be resolved through administrative efforts and with the consent of the injured victim, the case can be resolved outside of court.
Article 1 number 5	Every unlawful act by a state administrator that benefits the interests of his family and/or cronies above the interests of society, the nation, and the state.	Article ... (1) Public officials who abuse the authority, opportunities, or means available to them due to their position or rank, which benefits blood relatives or relatives by marriage in a straight line up or down to the third degree, which is detrimental to other people and/or society, shall be punished with imprisonment for a maximum of five years and/or a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and at most IDR 1,000,000,000.00 (one billion rupiah). (2) Suppose the act as referred to in paragraph (1) may or is intended to cause harm to state finances or the state

[53] Nurfaika Ishak, Rahmad Ramadhan Hasibuan, and Tri Suhendra Arbani, 'Bureaucratic and Political Collaboration Towards a Good Governance System', *Bestuur*, 8.1 (2020) https://doi.org/10.20961/bestuur.42922

[54] Nilam Firmandayu and Khalid Eltayeb Elfaki, 'The Electronic Government Policy-Based Green Constitution Towards Good Governance', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 108–21 https://doi.org/10.53955/jsderi.v1i2.11

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	economy. In that case, the perpetrator shall be punished by imprisonment for a minimum of one year and a maximum of fifteen years and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 1,000,000,000.00 (one billion rupiah).
(3)	The criminal penalties referred to in paragraphs (1) and (2) are only imposed on public officials.
(4)	If the act referred to in paragraph (1) can still be resolved through administrative efforts and with the consent of the injured victim, the case can be resolved outside of court.

Source: Compiled by the Author

Table 3 shows specific steps within the framework of the law revision, particularly regarding the regulation of collusion and nepotism by modifying the formulation of the crime of collusion, as outlined in Article 1, paragraph 4, of Law Number 28 of 1999. Article 1 number 4 clarifies that the implementation of the crime of collusion does not give rise to multiple interpretations. The formulation of the crime explains that public officials includes civil servants as referred to in the Law on Civil Servants; civil servants as referred to in the Criminal Code; individuals who receive salaries or wages from state or regional finances; individuals who receive salaries or wages from a corporation that receives assistance from state or regional finances; or individuals who receive salaries or wages from other corporations that use capital or facilities from the state or the community.

The term *'crony'* refers to a relationship based on shared interests aimed at gaining profit,[55] regardless of differing backgrounds, such as alumni connections, regional ties, political party membership, or mutual profit interests. *'Beneficial'* refers to any condition of increasing benefits obtained by the perpetrator for himself, his family, or his cronies. *'Unlawfully'* in this article refers to unlawful acts in the formal sense, namely, acts that can only be punished if they have been regulated in written laws and regulations and existed prior to the commission of a prohibited act. *'Cooperation'* refers to the definition of various forms of participation in Article 55 of the Criminal Code. The terms *'can or with the intention or intended'* to include all forms of intention. *'State finance'* encompasses all state assets in any form, separated or not separated, including all parts of state assets and all rights and obligations arising from being in the control, management, and responsibility of state institution officials, both at the central and regional levels; being in the control, management, and responsibility of state-owned enterprises or regional-owned enterprises, foundations, legal entities, and companies that include state capital, or companies that include third party capital based on

[55] Tri Sandi, Lidya Ramadhani Hasibuan, and Aulia Rahman Lubis, 'When Corporations Cross the Line: Legal Perspectives on Corporate Corruption in Indonesia', *Indonesian Journal of Interdisciplinary Research in Science and Technology*, 3.2 (2025), 225–34 https://doi.org/10.55927/marcopolo.v3i2.11

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agreements with the state.[56] Meanwhile, *'state economy'* is economic life that is structured as a joint effort based on the principle of family or independent community efforts, based on government policies, both at the central and regional levels, by the provisions of applicable laws and regulations that aim to provide benefits, prosperity, and welfare to all people's lives.

Amendment to Article 1 number 5, namely the criminal act, is given the following explanation: what is meant by public officials includes civil servants as referred to in the law on civil servants; civil servants as referred to in the criminal code; people who receive salaries or wages from state or regional finances; people who receive salaries or wages from a corporation that receives assistance from state or regional finances; or people who receive salaries or wages from other corporations that use capital or facilities from the state or the community.[57] What is meant by 'profitable' is all conditions under which benefits are increased for the perpetrator or his family. What is meant by 'can' or 'with the intention' or 'intended to' include all forms of intent. What is meant by state finance is all state assets in any form, separated or not separated, including all parts of state assets and all rights and obligations arising from being in the control, management, and responsibility of state institution officials, both at the central and regional levels, and being in the control, management, and responsibility of state-owned enterprises or regional-owned enterprises, foundations, legal entities, and companies that include state capital, or companies that include third-party capital based on agreements with the state.[58]

The second reconstruction of the legal structure involves amending the provisions of laws and regulations related to the authority of law enforcement officers to conduct investigations and prosecutions. *First,* a new norm will be added to Law Number 28 of 1999, which regulates the authority of investigators to conduct wiretapping with the following formulation: a) based on sufficient initial evidence, investigators have the right to wiretap conversations via telephone or other communication devices suspected of being used to prepare, plan, and carry out criminal acts of collusion and criminal acts of nepotism; b) wiretapping actions as referred to in paragraph (1) may only be carried out on the orders of the head of the district court for a maximum period of 1 (one) year; and c) actions as referred to in paragraphs (1) and (2) must be reported or accounted for to the investigator's superior. *Second,* in proving the crimes of collusion and nepotism, the evidence that can be used falls into three main categories.

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[56] Olivier Butzbach and others, *State-Owned Enterprises as Institutional Actors in Contemporary Capitalism and Beyond* (Cambridge University Press, 2025) https://doi.org/10.1017/9781009474115

[57] Abah, Momoh, and Fadairo.

[58] Matías Herrera Dappe and others, 'State-Owned Enterprises as Countercyclical Instruments: Quasi-Experimental Evidence from the Infrastructure Sector', *World Development*, 179 (2024), 106608 https://doi.org/10.1016/j.worlddev.2024.106608

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Evidence is regulated in the Criminal Procedure Code. Other types of evidence include electronic information that is spoken, sent, received, or stored using optical devices or similar technology. Data, recordings, or information that can be seen, read, and/or heard, whether in physical or electronic form, including writing, sound, images, maps, designs, photographs, letters, numbers, symbols, or other signs that have meaning and can be understood by a competent person. Finally, third, the provisions for trials in absentia in cases of criminal collusion and nepotism are regulated by the norm that if the suspect or defendant has been legally summoned but does not appear without a valid reason, then the examination at the investigation stage or trial can be continued and decided without the presence of the person concerned.[59]

The third reconstruction of legal culture can be carried out by influencing the public's perspective on the crimes of collusion and nepotism.[60] This effort includes encouraging the government and the House of Representatives to implement the mandate of Decree Number VIII/MPR/2001 concerning the policy direction for eradicating and preventing corruption, collusion, and nepotism; increasing the capacity and technical legal capabilities of law enforcement officers in handling cases of collusion and nepotism; conducting outreach and campaigns for the anti-collusion and nepotism movement among non-governmental organisations; and providing legal education and legal information to the public regarding the dangers of the crimes of collusion and nepotism.[61]

The reconstruction of criminal acts of collusion and nepotism is carried out by formulating more explicit provisions (*lex stricta*), which are easy to understand and can distinguish between extraordinary and minor acts. Collusion and nepotism that harm the state's finances or economy are categorised as formal and extraordinary crimes, allowing prosecution to be carried out without waiting for actual losses to occur.[62] Meanwhile, for minor collusion and nepotism, prosecution is carried out only if there has been actual harm to others or the community. This formulation aligns with the restorative justice approach and the principle of *ultimum remedium* by regulating options for resolving cases out of court in a fair, expeditious, and

[59] Bima Suprayoga, Hartiwiningsih, and Muhammad Rustamaji, 'Reconstruction of State Economic Losses in Criminal Acts of Corruption in Indonesia', *Revista de Gestão Social e Ambiental*, 17.4 (2023), e03453 https://doi.org/10.24857/rgsa.v17n4-024

[60] Alberto Febbrajo, *Law, Legal Culture and Society*, *Law, Legal Culture and Society*, 2018 <https://doi.org/10.4324/9781351040341>.

[61] Paul Atagamen Aidonojie and others, 'Examining Human Rights Abuses on Religious, Cultural, and Political Intolerance in Nigeria', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 78–94 https://doi.org/10.53955/jsderi.v3i1.55

[62] Alessandro De Chiara and Ester Manna, 'Corruption, Regulation, and Investment Incentives', *European Economic Review*, 142 (2022), 104009 https://doi.org/10.1016/j.euroecorev.2021.104009

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efficient manner.[63] The use of the phrase 'public official' as a legal subject broadens the scope of this crime to include the public service sector and public companies while eliminating the dualism of regulation in Law Number 28 of 1999. Furthermore, previously abstract elements are replaced with more concrete concepts, such as '*state financial loss*', to ensure legal certainty and protect human rights. This formulation is intended to be a more effective instrument for preventing corruption than the current approach, which relies on waiting for losses to occur. Considering that collusion and nepotism are often the initial stages of corruption, this approach aims to address these issues more effectively.

Conclusion

The reconstruction of Law No. 28 of 1999 shows the urgent need to transform vague and symbolic provisions into clear, enforceable norms that effectively criminalise collusion and nepotism. Without substantive legal clarity, procedural authority, and cultural reform, the law risks remaining a nominal commitment rather than a functional tool for justice. This research shows, *first,* the urgency of comparing the criminalisation of collusion and nepotism in the United States and Indonesia to understand how differing socio-political contexts and legal approaches shape criminal policy and inform more effective measures. *Second,* the urgency of reforming Indonesia's criminal law policy lies in the normative imbalance and legal vacuum that weaken enforcement against collusion and nepotism, requiring a reconstruction of legal politics to establish a just, clear, and effective system for addressing these evolving structural crimes. *Third,* the urgency of legal reconstruction lies in transforming collusion and nepotism into effective anti-corruption tools through substantive, structural, and cultural reforms, ensuring clearer norms and a legal culture that supports justice and the public interest. Thus, this research concludes that legal reconstruction is urgently needed to address the normative gaps and weak enforcement in tackling collusion and nepotism by reformulating them as clear.

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