

Comparative Evaluation of Regulation and Law Enforcement of Corruption Crimes in Indonesia and Malaysia

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Abstract—The research compares the legal system of corruption between Indonesia and Malaysia, focused on legislation, law enforcement agencies, evidentiary mechanisms, and the application of sanctions against perpetrators of corruption. Although both countries have similarities in classifying corruption as a serious criminal offense, the application of different legal systems, namely civil law in Indonesia and common law in Malaysia, has a significant impact on the effectiveness of law enforcement. Indonesia has more regulations addressing corruption offenses, in addition to law enforcement bodies like the Corruption Eradication Commission (KPK), which possesses wider authorities. In contrast, Malaysia depends on the Suruhanjaya Pencegahan Rasuah Malaysia (SPRM), which has restricted powers in prosecution. These differences are reflected in the sanction application, the reverse proof system, and the judicial mechanisms used in each country. This research is expected to provide insight into the effect of legal system differences on corruption eradication in the two countries.

Keywords: Comparison; legal system; corruption crime; Indonesia; Malaysia; legislation; law enforcement institutions; reverse evidence system

Introduction

Corruption is a serious crime that has a wide impact, both nationally and internationally, because it is organized and involves many parties, including state officials and law enforcement official These crimes are often carried out systematically, depriving people of their right to welfare, and diverting public funds that should be used for development. The impact is not only detrimental to the country's economy but also threatens global stability and international security. Therefore, strict and effective law enforcement is the key to creating a clean, transparent, and accountable government. Consistent law enforcement will minimize corrupt practices, create a deterrent effect, and improve public trust in the government. In addition, countries with strong anti-corruption legal systems tend to be more attractive to global investment, accelerating economic growth and sustainable development.

Transparency International's 2022 report shows that Indonesia has a Corruption Perception Index (CPI) of 34 on a scale of 0 to 100, placing it in the fifth most corrupt country in Southeast Asia. Malaysia,

although slightly better, is in ninth place out of ten countries in the region. This rating reflects significant differences in the effectiveness of law enforcement in the two countries despite their comprehensive anti-corruption legal frameworks. Indonesia's low score indicates weaknesses in implementing policies and regulations that require in-depth evaluation to improve the legal system and combat corruption more effectively.

Indonesia has enacted special laws on corruption since 1999, but corruption remains a persistent problem. Data from the Corruption Eradication Commission (KPK) recorded 252 corruption cases throughout 2022, with potential state losses reaching IDR 33.6 trillion. This fact shows that although the existing regulations are almost complete, the implementation still faces various challenges. Weak law enforcement, low integrity of the apparatus, and lack of public awareness are the main factors that need to be improved immediately so that corruption eradication efforts can run more effectively and create a clean and transparent government.

In 2022, Malaysia obtained a Corruption Perception Index (CPI) score of 47, much higher than Indonesia's score of 34. This achievement puts Malaysia in second place as the best anti-corruption country in Southeast Asia, while Indonesia is in fifth place. This striking difference in GPA scores shows that Malaysia has a more effective system for handling corruption, with a more entrenched anti-corruption culture. Besides strong regulations, Malaysia managed to create a more conducive environment for corruption eradication through consistent law enforcement and higher public awareness in fighting corrupt practices.

In enforcing corruption laws, both Indonesia and Malaysia face major challenges, particularly in proving the guilt of perpetrators who often have powerful positions and extensive access to resources. Indonesia applies the reverse proof system generally in all corruption cases involving wealth that does not match the official income of state officials, as stipulated in Law No. 20 of 2001. In contrast, in Malaysia, the reverse proof system is limited to bribery and graft cases, as stipulated in the Anti-Corruption Commission Act 2009. Despite the more limited scope of Malaysia's laws, the country has successfully leveraged these regulations in addressing significant cases, such as the 1MDB scandal. This illustrates that the effectiveness of corruption eradication relies not only on the breadth of the legal framework but also on the consistency and efficacy of law enforcement.

Although Indonesia has a more complete set of laws, the reality shows that Indonesia's Corruption Perception Index (CPI) score remains lower than Malaysia's. It raises fundamental issues that need to be investigated further, namely the effectiveness of law enforcement and the performance of anti-corruption institutions in both countries. Comprehensive regulations will not be effective without the support of consistent law enforcement, an independent judicial system, and law enforcement officials who are free from corruption. Therefore, this study is critical to evaluate why Indonesia's more comprehensive legal system has not been able to produce a better GPA score than Malaysia, which has simpler legal instruments but appears more effective in practice.

Understanding the factors that influence the effectiveness of law enforcement against corruption is crucial for strengthening governance and promoting transparency in Southeast Asia. This study focuses on Indonesia and Malaysia, two countries that face significant challenges in combating corruption within their legal frameworks. By examining the various elements that affect the enforcement of anti-corruption laws, the research aims to identify key determinants that either facilitate or hinder successful prosecution and prevention efforts. Furthermore, a comparative analysis of the law enforcement systems in both countries provides valuable insights into their respective approaches, institutional structures, and procedural mechanisms. Such a comparison not only highlights similarities and differences but also offers opportunities to learn from each other's experiences, ultimately contributing to the development of more effective strategies to combat corruption in the region.

Method

The research method used in this study is a comparative method with a qualitative approach to analyze the comparison of the law enforcement systems for corruption crimes in Indonesia and Malaysia.

Result and Discussion

Factors Influencing the Effectiveness of Law Enforcement Against Corruption in Indonesia and Malaysia

Corruption is a serious crime that harms various sectors of life, including the economy, education, and health, and threatens the welfare of society and the development of the country. Based on various experts' definitions, corruption involves the abuse of power or position by public officials for personal or group gain, often in an organized and systematic manner. The impact of corruption is broad and includes large economic losses, interference with the social and economic rights of the community, and hampering the growth and development of the country. Corruption is also categorized as an extraordinary crime and transnational crime that requires more comprehensive handling, both through international legal arrangements, strengthening law enforcement agencies, and improving legal culture in each country.

Indonesia considers corruption as a serious crime and has implemented a range of laws and specific regulations to tackle this issue. In addition to regulations in the Criminal Code (KUHP), Indonesia also has laws such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption and Law Number 30 of 2002 in conjunction with Law Number 19 of 2019 on the Corruption Eradication Commission (KPK). These initiatives reflect Indonesia's dedication to combating corruption at both national and international levels. In conjunction with the implementation of the new Criminal Code outlined in Law No. 1 of 2023, Indonesia aims to enhance its legal framework concerning corruption, marking a significant advancement in the fight against crime.

Law No. 20/2001 on the Eradication of Corruption is the main legal basis governing corruption offenses in Indonesia, covering seven main categories, including offenses that harm state finances, bribery, embezzlement in office, extortion, fraudulent acts, conflict of interest in procurement, and gratuities, with varying criminal penalties, including imprisonment of up to 20 years or even the death penalty in some cases. In addition, this law also regulates the legal subjects that can be subject to punishment, including individuals, state officials, corporations, and other related parties, and applies a reverse proof system for certain cases, such as gratuities with large values. Corruption procedural law also has special rules, including continuing legal responsibility towards heirs if the defendant dies, as well as allowing legal proceedings to be carried out even if the defendant does not appear in court through the *in absentia* procedure.

The legal regulation of corruption offenses in Indonesia and Malaysia has similarities despite the two countries adhering to different legal systems, with Indonesia following the civil law system and Malaysia following the common law. Both countries consider corruption a serious crime, known in Malaysia as “*rasuah*”. Malaysia regulates corruption through several rules that have evolved since 1961, with primary reference to the Malaysian *Rasuah Prevention Suruhanjaya Act 2009* (Act 694). Previously, Malaysia had three laws to combat corruption, including the *Prevention of Corruption Act 1961*, the *Emergency (Essential Powers Ordinance No. 22, 1970)*, and the *Anti-Corruption Agency Act 1983*, which established specialized agencies to deal with corruption. Act 694 then provided more detailed arrangements, including the establishment of an independent agency, *Suruhanjaya Pencegahan Rasuah Malaysia (SPRM)*, tasked with combating corruption.

In substance, the regulation of corruption offenses in Malaysia is similar to Indonesia, where corruption involves the abuse of power by state officials for personal or group interests. Malaysia classifies corruption offenses as bribery, corruption by business agents, bid-rigging, and corruption by employees of foreign entities. Penalties for corruption in Malaysia are quite severe, with a maximum prison sentence of 20

years and fines that can reach five times the value of the money corrupted. Malaysia also applies a reverse proof system in bribery cases, whereby defendants who receive bribes must declare their receipt, otherwise they can be charged with two offenses at once. However, Malaysia's procedural law system is not fully comparable to Indonesia's, as Malaysia does not have a specialized court to handle corruption cases.

Just as Indonesia has a Corruption Eradication Commission (KPK), Malaysia has a specialized agency, Suruhanjaya Pencegahan Rasuah Malaysia (SPRM), which has broad powers in the investigation and prosecution of corruption cases. SPRM can conduct seizures, arrests, and wiretaps to combat corruption, although it does not have the authority to prosecute cases, which is the authority of the prosecutor's office. In Malaysia's procedural law system, investigators are required to inform the accused that he or she is not obliged to give testimony or answer questions in court, although any information provided can be used as evidence in the case. Unlike Indonesia, which has a special court for corruption offenses, Malaysia handles corruption cases through two types of general courts, namely the Session Court and the Magistrates Court, depending on the criminal charges.

The effectiveness of law enforcement against corruption in Indonesia and Malaysia is influenced by various factors, both structural, social, and cultural. One of the main factors affecting this effectiveness is the quality of the legal system and existing laws and regulations in both countries. In Indonesia, despite the existence of complete regulations in the eradication of corruption, such as Law No. 20/2001 on the Eradication of Corruption and the existence of the Corruption Eradication Commission (KPK), the applicable legal system often faces challenges in terms of implementation and law enforcement. The number of corruption cases involving high-ranking state officials and the involvement of the private sector shows the gap between the existing law and the reality on the ground. Imperfect coordination between institutions, as well as the pervasiveness of corrupt practices at all levels of society, are major obstacles to effective law enforcement in Indonesia.

On the other hand, Malaysia also faces similar challenges despite having a well-developed legal system through the 2009 Malaysian Rasuah Prevention Suruhanjaya Act and agencies such as SPRM that are given broad powers in enforcing corruption laws. One of the factors that has contributed to the effectiveness of law enforcement in Malaysia is the stronger awareness and commitment of the government and society towards the fight against corruption. However, the integrity of public officials and the challenge of tackling corruption in the private sector are also obstacles. SPRM's success in handling major cases, such as the 1MDB scandal, shows that although Malaysia has strict regulations, consistency in the application of the law and public participation in preventing corruption still need improvement.

In addition to regulatory factors and law enforcement agencies, legal culture factors and public perceptions of corruption also play critical functions in determining the effectiveness of law enforcement. In Indonesia, a legal culture that allows corrupt practices in several sectors is a major obstacle in eradicating corruption. A society that tends to be apathetic towards acts of corruption and low legal awareness among officials and the general public exacerbates the condition. Meanwhile, in Malaysia, while there has been progress in fighting corruption, a stronger "zero-tolerance for corruption" culture and consistency in law enforcement have proven more effective in preventing corruption. However, challenges such as political and economic influences as well as transparency and accountability issues remain, indicating that a strong legal culture cannot stand alone without the support of an efficient law enforcement system and the integrity of the institutions involved.

Another important factor is the presence of technology and information systems on behalf of law enforcement. Both Indonesia and Malaysia are increasingly relying on technology to uncover and trace the flow of corrupt funds, but the implementation of this technology still faces various obstacles. In Indonesia, despite the existence of technology-based reporting and monitoring systems such as e-government and e-budgeting, the level of transparency and efficiency in these systems still needs to be improved to reduce the potential for abuse. In Malaysia, the use of technology in corruption investigations is also underway, but wider adoption and improved training of law enforcement officers is still needed for the technology to be

fully utilized to uncover large and complex cases. Thus, these factors determine how effective law enforcement against corruption is in both countries.

Comparison of Corruption Law Enforcement Systems between Indonesia and Malaysia

Indonesia adopts a civil law legal system, which is based on clear and systematic codification of laws, where written law is the main source of law. In executing corruption laws, the civil law system relies on existing laws and regulations, such as Law Number 20 of 2001 concerning the Eradication of Corruption, which regulates in detail the types of corruption crimes, investigation procedures, and criminal sanctions that can be imposed. This system also prioritizes the application of law based on the text of the law, so that the law enforcement process is more directed at the application of existing regulations without prioritizing precedents or binding judges' decisions. This causes law enforcement in Indonesia to often be more rigid and structured, but tends to be more difficult to adapt to the dynamics of the development of increasingly complex corruption practices.

In contrast, Malaysia adopts a common law legal system, which is more flexible and prioritizes previous court decisions as legal precedents that can be used as references in resolving similar cases. In this system, the courts have an important role in developing laws based on the principles of justice and more open interpretations of concrete situations. The application of the *stare decisis* principle allows Malaysian courts to adapt the law more quickly to social and economic changes, including in the eradication of corruption. However, despite having greater flexibility, the common law system often faces challenges in the consistency of law enforcement due to differences in interpretation between judges. This difference in legal systems has an impact on the enforcement of corruption laws in each country, where Indonesia relies more on detailed laws, while Malaysia places more emphasis on the implementation of court decisions that are more dynamic and responsive to the development of new cases.

In Indonesia, corruption is regulated through Law Number 20 of 2001 concerning the Eradication of Corruption, which is the main regulation in handling corruption cases in this country. This law covers various forms of corruption, such as bribery, embezzlement in office, extortion, and gratification, with provisions for severe penalties, including imprisonment of up to 20 years and very large fines. This law also regulates a reverse burden of proof system for some cases, which imposes the obligation on the defendant to prove that his wealth was obtained legally. In addition, Indonesia has a special institution, the Corruption Eradication Commission (KPK), which is authorized to conduct investigations, inquiries, and prosecutions in corruption cases. Although the existing regulations are quite comprehensive, there are still challenges in their implementation, including corrupt practices that are difficult to uncover and weaknesses in supervision.

Meanwhile, Malaysia regulates corruption through the Malaysian Prevention of Corruption Act 2009 (Act 694), which replaces previous acts such as the Prevention of Corruption Act 1961 and the Anti-Corruption Agency Act 1983. Deed 694 regulates corruption in greater detail, covering the offenses of bribery, corruption by business agents, bid-rigging, as well as corruption involving employees of foreign entities. One important aspect of Act 694 is the establishment of an independent agency, Suruhanjaya Pencegahan Rasuah Malaysia (SPRM), which has broad powers in the investigation and prosecution of corruption. Although the regulatory scope is broader in some aspects compared to Indonesia, the reverse proof system in Malaysia is only applied to bribery cases. This difference shows that although both countries have strong regulations, Indonesia emphasizes more detailed regulations related to various types of corruption, while Malaysia has a more specific focus on bribery and the establishment of institutions that focus heavily on prevention.

Anti-corruption law enforcement agencies in Indonesia, namely the Corruption Eradication Commission (KPK), and in Malaysia, namely Suruhanjaya Pencegahan Rasuah Malaysia (SPRM), have an important role in combating corruption. The KPK in Indonesia has far-reaching powers in terms of investigating, investigating, and prosecuting corruption cases, including the authority to conduct

wiretapping, confiscation, and arrest of officials involved in corruption. In addition, the KPK also has the authority to provide recommendations to the government and relevant institutions to improve systems that allow corruption to occur. On the other hand, the SPRM in Malaysia also has broad powers of investigation and prosecution but does not have the authority to conduct prosecutions. Prosecution remains the responsibility of the Malaysian prosecution service. The KPK is more independent, while the SPRM is more integrated into the Malaysian government's administrative system. While these two institutions share the same focus on combating corruption, their operational mechanisms and the limits of their authority show significant differences.

The reverse proof system, utilized in corruption procedural law in both Indonesia and Malaysia, highlights the distinct approaches each country takes in handling corruption cases. In Indonesia, the reverse proof system is applied in specific instances, such as gratuities exceeding a certain value. Under this framework, the burden of proof lies with the defendant, who must demonstrate that their assets were obtained through legal means. This approach is seen as effective in revealing assets concealed by corruption perpetrators. In contrast, while Malaysia also employs a reverse proof system, its application is more restricted, focusing primarily on bribery cases where defendants are required to declare any received bribes. Failure to do so can lead to charges of two distinct offenses. Although the reverse proof system poses challenges in both countries, the narrower scope of its application in Malaysia means that the evidentiary process increasingly relies on materials prepared by law enforcement agencies.

Differences in prosecution mechanisms and corruption trials in Indonesia and Malaysia also affect the course of corruption cases. In Indonesia, corruption cases are processed through a special court known as the Corruption Court (*Tipikor*). These courts have judges who are specially trained to handle corruption cases and are often faster in deciding cases than general courts. In Malaysia, there are no specialized courts to handle corruption cases, and all corruption cases are filed in general courts, such as the Session Court or Magistrates Court. While these courts have the ability to handle corruption cases, they do not have a specific focus on handling such cases. Prosecutions in Indonesia are conducted by prosecutors working with the KPK, whereas in Malaysia prosecutions are conducted by the Malaysian Attorney General's Office, with the SPRM's role limited to the investigation and prosecution stages.

In terms of the application of sanctions against perpetrators of corruption, Indonesia and Malaysia apply severe penalties but with slight differences in the mechanisms. In Indonesia, perpetrators of corruption can be subject to very long prison sentences, hefty fines, and deprivation of political and other rights, which are often part of the court's decision. Additional penalties such as deprivation of the right to hold public office are an important tool in preventing corruption offenders from returning to power. Meanwhile, in Malaysia, prison sentences for corruption offenders can reach a maximum of 20 years, with fines greater than the amount corrupted. Malaysia also has provisions for taking additional measures, such as assets seizure derived from the proceeds of corruption. However, although the penalties in both countries are quite severe, the difference in additional sanctions indicates a more pragmatic approach in Malaysia in dealing with the economic impact of corruption.

From the discussion on the comparison of corruption laws between Indonesia and Malaysia, several similarities show the similarity of goals in eradicating corruption in both countries. Both classify corruption as a serious criminal offense that must be eradicated by implementing special laws governing it. In addition, both countries have law enforcement agencies that are authorized to conduct investigations and inquiries, and apply the reverse proof system in corruption cases. In addition, both Indonesia and Malaysia provide criminal sanctions in the form of imprisonment and fines as the main sanctions for perpetrators of corruption. Legal subjects in corruption crimes in both countries also include individuals, state officials, civil servants, and other parties involved. These similarities illustrate that Indonesia and Malaysia have a strong commitment to eradicating corruption, although there are differences in several important aspects.

However, while there are many similarities, there are significant differences in the legal arrangements between the two countries. One of the main differences lies in the number of applicable legal arrangements.

Indonesia has several laws governing corruption offenses, with Law No. 31/1999 in conjunction with Law No. 20/2001 on the Eradication of Corruption as the main regulation. Malaysia, on the other hand, has only one primary law, the Malaysian Prevention of Corruption Act 2009 (Akta 694). In addition, Indonesia regulates seven forms of corruption offenses, while Malaysia only regulates five forms. This difference in the number and type of regulations shows that Indonesia has more complex and detailed regulations for regulating corruption crimes.

Distinct differences can be observed in the realm of law enforcement agencies and judicial systems. Indonesia is equipped with the Corruption Eradication Commission (KPK), which possesses extensive authority for investigation, inquiry, and prosecution. In contrast, Malaysia has the Malaysian Anti-Corruption Commission (SPRM), whose powers are restricted to investigation and prevention, with the responsibility for prosecution resting solely with the prosecutor's office. In addition, Indonesia has a Corruption Court (Tipikor) that specifically handles corruption cases, while Malaysia does not have a special court and handles corruption cases through the general courts. The disparities in law enforcement agencies and judicial systems significantly influence how corruption cases are managed. Indonesia boasts a more structured legal framework for addressing corruption, whereas Malaysia operates with a simpler system. While Indonesia has a greater number of regulations and authorized institutions, both nations encounter equivalent challenges stemming from a legal culture that impacts the effectiveness of corruption enforcement.

Conclusion

The conclusion of the comparison of the corruption law enforcement system between Indonesia and Malaysia shows that although the two countries have many similarities in terms of commitment to eradicating corruption, such as the existence of special laws, law enforcement agencies, and the application of the reverse proof system, there are also significant differences, especially in terms of the number of regulations, law enforcement agencies, and judicial mechanisms. Indonesia has more regulations governing corruption, with broader powers of institutions such as the Corruption Eradication Commission (KPK), as well as special courts for corruption. Meanwhile, Malaysia regulates corruption through one main law with agencies such as Suruhanjaya Pencegahan Rasuah Malaysia (SPRM) whose authority is limited to investigation and prosecution and does not have special courts for corruption cases, which results in a simpler but less specific case handling process.

The suggestion that can be given is that although Indonesia has a more complex and diverse legal structure, the country can improve the effectiveness of law enforcement by increasing synergy between institutions involved in eradicating corruption, as well as strengthening a legal culture that supports integrity and transparency. On the other hand, Malaysia can consider expanding the authority of the SPRM and developing a special court system to handle corruption cases, to ensure a more efficient and focused law enforcement process. In addition, both countries need to continue to educate the public and strengthen public awareness of the importance of preventing corruption, because eradicating corruption is not only the task of law enforcement agencies but also the shared responsibility of all elements of society.

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