

***An Analysis of Gorontalo District Court's Decision on White-Collar
Employment Embezzlement
(A Study of Case No. 16/PID.SUS-TPK/2024/PN GTO)***

**Analisis Putusan Dalam Perkara Kasus Penggelapan Dalam Jabatan di
Pengadilan Negeri Gorontalo
(Studi Perkara No. 16/PID.SUS-TPK/2024/PN GTO)**

Mohamad Rachmad Attamimi¹, Lisnawaty W. Badu², Achmad Achmad³

¹⁻³Faculty of Law, Gorontalo State University, Indonesia

Article Info

Corresponding Author:

Penulis Korespondensi

✉ amadcb14@gmail.com

History:

Submitted: 29-06-2026

Revised: 25-07-2026

Accepted: 27-07-2026

Keyword:

Judicial Discretion; Minimum Sentence;
White Collar; Integrative Paradigm; Legal
Certainty.

Kata Kunci:

Diskresi Yudisial; Sanksi Minimum;
Kejahatan Jabatan; Paradigma
Integratif; Kepastian Hukum.

Abstract

This article critically examines the legitimacy of imposing minimum sentences in corruption cases by focusing on the Gorontalo District Court Decision concerning a major bureaucratic employment embezzlement case. By employing a normative legal method that utilizes statutory, case, and conceptual approaches, this research evaluates judicial discretion through the antinomy of legal purposes. The results demonstrate that while the verdict fulfills formal legal certainty, it fundamentally distorts substantive justice and social utility by completely neglecting the severe intentions of bureaucratic offenders. The application of minimum sanctions ultimately fails to provide any meaningful deterrent effect. The discussion highlights an urgent necessity to reconstruct the absolute boundaries of judicial discretion. This reconstruction must strictly align with the gravity of offense principle mandated by the United Nations Convention Against Corruption and the integrative sentencing paradigm of the new Indonesian Criminal Code. Therefore, establishing rigid sentencing guidelines remains highly imperative for all future judicial verdicts.

Abstrak

Artikel ini secara kritis menguji legitimasi penjatuan hukuman pidana minimum dalam perkara korupsi dengan berfokus pada Putusan Pengadilan Negeri Gorontalo mengenai kasus besar penggelapan dalam jabatan pemerintahan. Dengan menggunakan metode hukum normatif yang mengaplikasikan pendekatan aturan hukum, kasus, dan konseptual, penelitian ini mengevaluasi diskresi yudisial melalui teori antinomia tujuan hukum. Hasil penelitian menunjukkan bahwa meskipun putusan tersebut memenuhi syarat kepastian hukum formal, hal tersebut secara fundamental mendistorsi keadilan substantif serta kemanfaatan sosial dengan sepenuhnya mengabaikan niat jahat serius dari para pelaku birokrasi. Penerapan sanksi minimum pada akhirnya murni gagal untuk memberikan efek jera yang berarti. Pembahasan ini menyoroti kebutuhan sangat mendesak untuk segera merekonstruksi batasan absolut dari diskresi kehakiman. Rekonstruksi ini harus secara ketat selaras dengan prinsip gravitasi kejahatan yang dimandatkan oleh instrumen konvensi internasional antikorupsi global dan paradigma pemidanaan integratif dari instrumen KUHP nasional Indonesia yang baru. Oleh karena itu, pembentukan pedoman pemidanaan kaku tetap sangat penting untuk dilakukan.



Copyright: © 2026 by the authors. Submitted for possible open access publication under the terms and conditions of the Creative Commons Attribution (CC BY SA).

doi: <https://doi.org/10.65101/qa4c4272>

A. INTRODUCTION

1. Background

The contemporary criminal justice system is constantly confronted with a permanent tension between the rigidity of statutory norms and the flexibility of judicial discretion, particularly in the adjudication of structural white-collar crimes committed by state apparatuses.¹ This dogmatic tension peaks when first-instance panels of judges are required to formulate a calibrative equilibrium between statutory minimum sentences and the gravity of crimes that sociologically dismantle the architecture of public governance.²

Recent legal phenomena across various local jurisdictions exhibit an empirical tendency wherein panels of judges frequently seek refuge behind the principle of formalistic legal certainty by imposing the most lenient sentences permitted by legislative instruments upon public officials who abuse their authority. This pathological reality is explicitly captured and has triggered jurisprudential polemics in the Gorontalo District Court Decision Number 16/Pid.Sus-TPK/2024/PN Gto. In this case, a former high-ranking regional official, who was legally and convincingly proven guilty of committing a corruption offense in the form of abuse of authority in a public infrastructure project, was merely sentenced to a specific statutory minimum under Article 3 of the Anti-Corruption Law, amounting to one year of imprisonment.³

The imposition of a verdict at this absolute lower limit ignites fundamental academic debate, not merely concerning the evidentiary aspects of the material elements of the offense, but rather regarding the philosophical validity and sociological justification of the employment of judicial discretion that engenders extreme sentencing disparities in the adjudication of bureaucratic crimes.⁴ This problematic issue becomes increasingly crucial considering the dogmatic construction of the act is limitatively classified as an offense of abuse of authority (*misbruik van bevoegdheid*), rather than mere ordinary employment embezzlement. Such acts inherently betray the public trust, injure the sociological

¹ Erdhy Widyatama Suparno, Alwan Hadianito, and Isfandir Hutasoit, "Disparitas Pemidanaan Korupsi Dalam Perspektif Kepastian Hukum Dan Keadilan Publik," *Jurnal USM Law Review* 9, no. 1 (January 21, 2026): 341–60, <https://doi.org/10.26623/julr.v9i1.13356>.

² Irfan Ardiansyah and Rustam Rustam, "Restorative Justice for Corruptors: A Solution or a Legal Setback?," *Arena Hukum* 18, no. 2 (August 5, 2025): 287–312, <https://doi.org/10.21776/ub.arenahukum2025.01802.6>.

³ "Putusan Pengadilan Negeri Gorontalo Nomor 16/Pid.Sus-TPK/2024/PN Gto" (2025).

⁴ Ahmad Fadli Daulay, "Sentencing Disparities in Corruption Cases and Judicial Discretion in Indonesian Courts," *JlHK* 6, no. 2 (January 9, 2025): 160–72, <https://doi.org/10.46924/jlhk.v6i2.248>.

confidence of society in the integrity of state institutions, and massively distort distributive justice.⁵

In order to dissect the depth and complexity of this clash of norms, mapping prior literature (state of the art) serves as an essential methodological instrument to identify the constellation of contemporary criminal law discourse. Academic debates over the past five years have tended to polarize into three principal, intersecting clusters of thought.

The first cluster of thought, represented by doctrinal studies concerning the antinomy of legal purposes, consistently asserts that sentencing disparities are factual manifestations of the structural conflict between legal certainty, the autonomy of judicial discretion, and the escalation of public demands for justice. Literature within this group specifically operationalizes the Gustav Radbruch formula to demonstrate that the absence of precise sentencing guidelines causes legal instruments to fail in functioning as a tool for differentiating the severity of criminal offenses, wherein judges are proven to frequently reduce the essence of substantive justice merely to pursue the formality of statutory texts.^{6,7}

The second cluster of thought shifts the analytical focus to the transnational dimension and the teleological nature of penalizing bureaucratic corruption. This group highlights how international legal instruments mandate a strict equivalence between penal sanctions and the gravity of the offense to ensure the achievement of an optimal deterrent effect. These global-dimensional studies levy harsh critiques that the imposition of minimum sentences in domestic courts, without the foundation of objective weighting guidelines, conversely transforms the courtroom into an arena of veiled impunity for bureaucratic elites, and has been empirically proven to fail in fully restoring institutional losses.^{8,9}

⁵ Esteban Eustaquio Flores Apaza et al., "Judicial Corruption and Public Trust Assessing the Effectiveness of Legal Ethics Reforms in Global Legal Systems," *Journal of Posthumanism* 5, no. 6 (June 15, 2025): 3649–62, <https://doi.org/10.63332/joph.v5i6.2499>.

⁶ Suparno, Hadiano, and Hutasoit, "Disparitas Pemidanaan Korupsi Dalam Perspektif Kepastian Hukum Dan Keadilan Publik."

⁷ Meisy Fajarani et al., "Judicial Strategies in Addressing Domestic Violence: Gender-Responsive Legal Analysis from the Religious Court of Malang Regency, Indonesia," *Justicia Islamica* 23, no. 2 (June 2, 2026): 477–504, <https://doi.org/10.21154/justicia.v23i2.11804>.

⁸ Eka Farman et al., "The Implementation of Restorative Justice in Cases Involving Corporate Perpetrators," *International Journal of Law, Crime and Justice* 2, no. 2 (July 2025): 276–93, <https://doi.org/10.62951/ijlcj.v2i2.679>.

⁹ Kuat Puji and Icuik Rangga Bawono, "Ratification of the United Nations Convention against Corruption (UNCAC) Policy on 'Trading in Influence' as a New Instrument of Criminal Law for Combating Corruption in Indonesia," *Indian Journal of Law and Justice* 15, no. 02 (2024): 25–36, <https://ir.nbu.ac.in/handle/123456789/5573>.

Meanwhile, the third cluster of thought specifically dissects the paradigmatic transition of national criminal law, particularly in anticipating and evaluating the enactment of the New National Criminal Code (Law Number 1 of 2023). Cutting-edge literature from this cluster highlights that the New National Criminal Code introduces a fundamental shift from a purely retributive justice paradigm towards an integrative sentencing model that accommodates the concept of judicial pardon and structured sentencing guidelines. Nevertheless, this literature also warns that this transition still leaves hazardous interpretative loopholes regarding the lower limits of penal threats for white-collar crimes and employment offenses.^{10,11}

Through a thematic synthesis of these three literature clusters, this article identifies a significant blind spot within the repository of anti-corruption criminal law research. The majority of prior studies tend to be trapped in macro-analyses of verdict disparities at the cassation level, utopian evaluations of corporate restorative justice, or transitional studies of Law No. 1/2023 (the New Criminal Code) without real-case testing. There has yet to be a doctrinal study that specifically examines the legitimacy of specific minimum sentences for the offense of abuse of authority at the first-instance court level. This research fills that void by contrasting the *ratio decidendi* of the district court decision against the integrative sentencing paradigm of the New Criminal Code and the global commitments of the United Nations Convention Against Corruption (UNCAC). This examination at the first-instance level is crucial because the district court serves as the epicenter for the formation of factual jurisprudence that directly confronts societal expectations of justice.

Based on this gap, the original contribution of this manuscript is explicitly declared. In contrast to mainstream literature that focuses on appellate courts, this research microscopically dissects the legitimacy of specific minimum sentences in abuse of authority cases within the jurisdiction of first-instance courts. This research evaluates the philosophical validity of the verdict within the contemporary law enforcement landscape post-full enactment of the New Criminal Code, and positions Article 30 of the UNCAC—particularly the mandate prioritizing the gravity of offense—as an impartial external

¹⁰ Adi Mansar and Ikhsan Lubis, "Harmonization of Indonesian Criminal Law Through the New Criminal Code Towards Humane Law," *Journal of Law and Sustainable Development* 11, no. 12 (December 6, 2023): e2381, <https://doi.org/10.55908/sdgs.v11i12.2381>.

¹¹ Hana Krisnamurti, "Harmonizing the Principle of Judicial Pardon in Indonesia's Positive Law to Achieve Dignified Justice," *LITIGASI* 26, no. 2 (October 30, 2025): 104–34, <https://doi.org/10.23969/litigasi.v26i2.22645>.

testing benchmark against domestic judicial discretion. This comparative approach elevates the degree of local doctrinal analysis onto the stage of international legal discourse.

In conclusion, this manuscript asserts its primary thesis statement: the imposition of specific minimum penal sanctions on regional bureaucratic actors—although dogmatically and formalistically valid—fatally distorts substantive justice and social utility if the instrument of judicial discretion is executed without proportional parameters relative to the gravity of the offense. Without rigid sentencing guideline regulations, the freedom of judicial discretion will continue to trigger destructive judicial disparities that undermine the dignity of the criminal justice system. The conceptual solution offered by this article is the reconstruction of discretionary parameters through the synchronization of domestic sentencing guidelines with international standards. This reconstruction is an absolute prerequisite to guarantee the equilibrium of legal purposes while simultaneously preventing the moral bankruptcy of law enforcement at first-instance courts.

2. Research Questions

Grounded in the research gaps elucidated in the background, the critical examination of the legal issues within this manuscript is directed toward two fundamental questions:

- a. How is the legitimacy of imposing specific minimum sentences on the defendant in the Gorontalo District Court Decision Number 16/Pid.Sus-TPK/2024/PN Gto evaluated from the perspective of Gustav Radbruch's antinomy of legal purposes?
- b. How should the boundaries of judicial discretion in imposing specific minimum sentences for regional bureaucratic corruption cases be reconstructed to align with the proportionality principle regarding the gravity of the offense under Article 30 of the UNCAC and the integrative sentencing paradigm of the New National Criminal Code (Law Number 1 of 2023)?

3. Research Methods

The methodological design operationalized to resolve the legal issues in this manuscript is normative legal research (doctrinal legal research). This research is not oriented towards the pursuit of empirical data or patterns of social behavior; rather, it focuses entirely on examining the systematic coherence among norms, dogmatic

evaluation, and the synchronization of criminal law doctrines within judicial decisions. The determination of this normative research taxonomy is justified by the necessity to test the prescriptive truth and philosophical validity of the panel of judges' legal reasoning (*ratio decidendi*) through the lens of legal dogmatics.¹²

To ensure interpretive acuity, this research integratively operationalizes three approaches. First, the case approach is implemented through a microscopic dissection of the anatomy of the Gorontalo District Court Decision Number 16/Pid.Sus-TPK/2024/PN Gto, analyzing the foundation of the judges' reasoning in applying the minimum sentence. Second, the statute approach is utilized to analyze the rationality of existing corruption norms and their paradigmatic alignment with the codification of the new criminal code. Third, the conceptual approach is applied as a philosophical bridge, employing Gustav Radbruch's theoretical instrument of the antinomy of legal purposes to calibrate the judges' decision from the dimensions of legal certainty, justice, and utility.¹³

The inventory of legal material sources is classified hierarchically and rigidly. Primary legal materials consist of authoritative legislative instruments, encompassing Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Criminal Acts of Corruption, as well as the Criminal Code (Law Number 1 of 2023) which has become fully effective.^{14,15} Furthermore, in accordance with the principle of ratification, the text of the United Nations Convention Against Corruption (UNCAC) via Law No. 7 of 2006, along with the document of the Gorontalo District Court Decision No. 16/Pid.Sus-TPK/2024/PN Gto, are positioned as pillars of primary legal materials.^{16,17} Conversely, secondary legal materials are selectively compiled, comprising literature and globally reputable journal articles that possess a dogmatic correlation with the discourse on mandatory minimum sentencing and the limits of judicial discretion.

¹² Terry Hutchinson, "Doctrinal Research," in *Research Methods in Law* (London: Routledge, 2025), 8–38, <https://doi.org/10.4324/9781032710372-2>.

¹³ Gustav Radbruch, "Statutory Lawlessness and Supra-Statutory Law (1946)," *Oxford Journal of Legal Studies* 26, no. 1 (2006): 1–11.

¹⁴ "Undang-Undang (UU) Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi" (2001).

¹⁵ "Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana (Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842)" (2023).

¹⁶ "Undang-Undang (UU) Nomor 7 Tahun 2006 Tentang Pengesahan United Nations Convention Against Corruption, 2003 (Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi, 2003)" (2006).

¹⁷ Putusan Pengadilan Negeri Gorontalo Nomor 16/Pid.Sus-TPK/2024/PN Gto.

All legal materials were collected through a structured library research technique. Subsequently, the applied analytical technique precisely utilized the methods of deductive syllogism and prescriptive analysis. This method operates by converging the major premises—comprising criminal law principles, Radbruch's theory, the paradigm of the New Criminal Code, and UNCAC sentencing standards—with the minor premises in the form of juridical facts and the judges' reasoning within the decision. Through this mechanism of logical interconnection, arguments are synthesized to generate conclusions that do not merely evaluate the formal validity of the decision, but also formulate prescriptive solutions for the trajectory of criminal law enforcement policy.

B. DISCUSSION

1. The Application of the Specific Statutory Minimum Sentence in Decision Number 16/Pid.Sus-TPK/2024/PN Gto from the Perspective of the Antinomy of Legal Purposes

A dogmatic dissection of the anatomy of corruption court decisions provides a highly crucial analytical space to calibrate the quality of the sentencing architecture in Indonesia. In the precedent of Decision Number 16/Pid.Sus-TPK/2024/PN Gto, the defendant Syamsul Baharuddin, acting in his capacity as a structural public official (Former Head of the Youth and Sports Agency of Gorontalo Regency), was legally and convincingly proven to have committed premeditated corruption in the David Tony Sports Hall renovation project, which resulted in a state financial loss of IDR 460 million.¹⁸ Through this adjudicative process, the panel of judges convicted the defendant by operationalizing the specific offense of abuse of authority (*misbruik van bevoegdheid*) within the bureaucratic sphere, as stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. However, a prescriptive legal anomaly emerged when the district court panel's verdict imposed a penal sentence of merely 1 (one) year of imprisonment alongside a fine of IDR 50,000,000 (fifty million rupiah).¹⁹

This verdict rests exactly at the specific statutory minimum permitted by Article 3 of the Anti-Corruption Law, which mandates a margin of imprisonment of at least 1 (one) year and a maximum of 20 (twenty) years. To unravel and dismantle the legal anomaly

¹⁸ Apris Nawu, "Eks Kadispora Gorontalo Tersangka Korupsi GOR, 4 Rekanan Turut Ditahan," Detik Sulsel, 2024, <https://www.detik.com/sulsel/hukum-dan-kriminal/d-7487374/eks-kadispora-gorontalo-tersangka-korupsi-gor-4-rekanan-turut-ditahan>.

¹⁹ Undang-undang (UU) Nomor 20 Tahun 2001 tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi. Pasal 3.

behind this seemingly legally-formally valid decision, a conceptual scalpel comprising Gustav Radbruch's three basic legal values (antinomy) is required: legal certainty (*rechtssicherheit*), justice (*gerechtigkeit*), and utility (*zweckmäßigkeit*).²⁰

a. Challenging the Formalistic Construction of Legal Certainty (*Rechtssicherheit*)

The perspective of legal certainty (*rechtssicherheit*) within the contemporary positivist paradigm inherently demands textual consistency in law enforcement to prevent arbitrariness by judicial authorities, while simultaneously guaranteeing a degree of normative predictability for all legal subjects. Relying purely on this formalistic dimension, the construction of the legal reasoning (*ratio decidendi*) in Decision Number 16/Pid.Sus-TPK/2024/PN Gto appears to possess an irrefutable degree of procedural legitimacy.²¹ The Panel of Judges at the Gorontalo District Court explicitly demonstrated absolute submission to the principle of procedural legality, wherein the imposition of a 1-year prison sentence sits at the absolute lowest margin of the specific minimum sentence (*strafmaat*) mandated by Article 3 of the Anti-Corruption Law. Within this mechanical framework, the judges manifested their sentencing discretion by adopting a narrow grammatical interpretation method.

Nevertheless, modern legal dogmatics sharply rejects the reduction of the essence of legal certainty to mere blind legalism. Legal philosopher Gustav Radbruch asserts that legal certainty is one of the normative pillars that must not be absolutely glorified at the expense of justice and utility. Legal certainty rapidly mutates into an instrument of impunity when judicial authorities permit structural government actors—who consciously betray their oath of office to enrich themselves or affiliated corporate entities—to be penalized merely with minimum sentences. The blind spot of this formal legal certainty is further exacerbated by judicial disparities. Doctrinal analysis by Suparno et al. and a gender-responsive study within the judicial landscape by Fajarani et al. confirm that the freedom of discretion without a structural sentencing guideline system is prone to abuse, paradoxically producing inconsistencies that undermine legal certainty itself.^{22,23} This is scientifically corroborated by recent discourse from Daulay, who

²⁰ Radbruch, "Statutory Lawlessness and Supra-Statutory Law (1946)."

²¹ Putusan Pengadilan Negeri Gorontalo Nomor 16/Pid.Sus-TPK/2024/PN Gto.

²² Suparno, Hadianito, and Hutasoit, "Disparitas Pemidanaan Korupsi Dalam Perspektif Kepastian Hukum Dan Keadilan Publik."

²³ Fajarani et al., "Judicial Strategies in Addressing Domestic Violence: Gender-Responsive Legal Analysis from the Religious Court of Malang Regency, Indonesia."

discovered that the absence of steadfast sentencing guidelines (*sentencing guidelines*) in the Indonesian criminal justice system frequently exploits the flexibility of statutory interpretation; this condition provides a dark space for first-instance judges to rationalize the most lenient verdicts in severe bureaucratic corruption cases.²⁴ Consequently, the attained principle of certainty does not serve as an instrument of legal order, but rather as a mere compromise that perpetuates a legal shield for bureaucrats.

The comparative table demonstrates that the application of Article 3 of the Anti-Corruption Law at the Gorontalo District Court reduces legal certainty to a formal compromise through the utilization of the 1-year minimum limit as an escape clause. This results in sentencing disparities, wherein superficial mitigating factors distort the severity of the corruptor's *mens rea* (criminal intent):

Table 1. Comparison of Formal Certainty vs. Substantive Justice Reality

Legal Characteristic	Anti-Corruption Law Construction (Article 2 vs. Article 3)	Reality of Application at Gorontalo District Court	Implication for Legal Certainty
Specific Statutory Minimum (<i>Strafmaat</i>)	Article 2: Min. 4 years. Article 3: Min. 1 year.	Judges selected the absolute lowest margin of Article 3 (1 year of imprisonment).	Legal certainty is reduced to a formal compromise; the defendant enjoys a maximum structural sentence discount.
Assessment of Culpability (<i>Mens Rea</i>)	Article 3 requires the existence of abuse of official authority.	Court facts legally proved the existence of a structural conspiracy in the IDR 460 million Sports Hall project.	The lack of synchronization between the severity of bureaucratic <i>mens rea</i> and minimal sanctions engenders uncertainty in sentencing standards.
Position of Mitigating Factors	Exclusively designed for peripheral subjects without an intellectual role (<i>intellectual actor</i>).	Superficial mitigating factors (polite/cooperative behavior) distort the aggravating weight of holding office.	The juridical <i>escape clause</i> is fully exploited to protect corrupt regional elites.

Referring to the tabulation above, the 1-year minimum sentence limit is visibly exploited. The judges appeared to heavily prioritize superficial mitigating factors (politeness in court) while discounting the primary aggravating element, namely the

²⁴ Daulay, "Sentencing Disparities in Corruption Cases and Judicial Discretion in Indonesian Courts."

destruction of state institutional integrity. Consequently, legal certainty stands tall procedurally, but collapses in its function to protect public finances and the state order.

b. Distortion of the Postulate of Substantive Justice (*Gerechtigkeit*)

If the architecture of this decision is further calibrated using the pillar of justice—both from the lens of the retributive justice school, which fundamentally mandates commensurate retaliation against the offender's level of culpability, and the distributive justice school, which strives to restore the usurped rights of society—then the minimum verdict for this corruption actor is a distortion that deeply violates public common sense. Officials at the Head of Agency level possess a multi-layered formation of *mens rea* and a level of destructive intentionality as systemic disruptors, far exceeding the typology of criminal offenders from the civil or private sector.

Therefore, the imposition of a 1 (one) year prison sentence for the abuse of authority that caused a state loss of IDR 460 million fatally injures the rationality of public justice. Based on the Radbruch Formula (*Radbruchsche Formel*), there is a postulate that when statutes or positive legal decisions reside at a point of extreme conflict that cannot be bridged with a sense of justice, then such extreme injustice is no law. At this juncture, the positive value of the law instantly loses its juridical and sociological validity.²⁵

In recent academic discourse, several experts such as Farman et al. and Kuat Puji et al. have argued for the importance of balancing sanctions with restorative justice instruments for corporations or considering a compromising justice model for non-structural economic offenders.^{26,27} However, this manuscript vehemently refutes that such a permissive approach can be transplanted into anti-corruption courts prosecuting state apparatuses. The financial restoration by bureaucratic corruptors will never be commensurate to restoring the structural damage (public trust) they have orchestrated. Aligning with the *Radbruchsche Formel* doctrine, extreme injustice is no law; thus, the court's verdict, which appears to distribute sanctions cheaply, loses its moral and juridical justification.²⁸

The novelty of the authors' position becomes increasingly robust when cross-examined using contemporary criminological parameters. A global empirical study on

²⁵ Radbruch, "Statutory Lawlessness and Supra-Statutory Law (1946)."

²⁶ Farman et al., "The Implementation of Restorative Justice in Cases Involving Corporate Perpetrators."

²⁷ Puji and Bawono, "Ratification of the United Nations Convention against Corruption (UNCAC) Policy on 'Trading in Influence' as a New Instrument of Criminal Law for Combating Corruption in Indonesia."

²⁸ Radbruch, "Statutory Lawlessness and Supra-Statutory Law (1946)."

white-collar crime by Gottschalk describing Convenience Theory convincingly proves that intellectual offenders with strategic positions (both in government and corporations) will consistently abuse hierarchical convenience, organizational authority, and legal access simultaneously, not only to execute their crimes but also to engineer a shield of protection (concealment).²⁹ Therefore, handing down a minimum one-year sentence to such high-status subjects—erroneously analogizing them with petty theft offenses—constitutes a fatal denial of the principle of equal treatment, considering it nullifies the structural hierarchical advantage arbitrarily enjoyed by the defendant.

c. The Bankruptcy of Social Utility Value (*Zweckmäßigkeit*)

The final fundamental pillar eroded by sentencing disparity is legal utility (*zweckmäßigkeit*). Within the corridors of modern penology and victimology, the benchmark of social utility relies absolutely on the justice system's success in incubating a deterrent effect. The imposition of one year's confinement on a project mastermind or bureaucratic overlord empirically fails to provide a terrifying cost-benefit analysis of crime for perpetrators or other potential apparatuses. The fact that the convict will later reap the privileges of remissions and parole will only shrink their prison duration into a highly premature "administrative isolation."

The transition of the national legal order towards the New National Criminal Code (Law Number 1 of 2023), comprehensively discussed by Mansar and Lubis as well as Krisnamurti, has indeed introduced the paradigms of judicial pardon and integrative justice.^{30,31} Although this transition promises a more humane justice system, this research presents a sharp rebuttal thesis: flexible discretionary instruments and integrative pardons are philosophically designed only for vulnerable communities or peripheral actors without premeditated *mens rea*, not as a red carpet of protection for highly educated bureaucrats who steal state funds.

The presence of this Gorontalo District Court Decision inherently establishes a "psychological jurisprudence" that crumbles the morale of anti-corruption eradication. As demonstrated in the international study by Rose et al. regarding public responses and

²⁹ Petter Gottschalk and Christopher Hamerton, "Characteristics of Crime Convenience: The Case of Corporate Offenders," *Deviant Behavior* 46, no. 3 (March 4, 2025): 288–98, <https://doi.org/10.1080/01639625.2024.2341088>.

³⁰ Mansar and Lubis, "Harmonization of Indonesian Criminal Law Through the New Criminal Code Towards Humane Law."

³¹ Krisnamurti, "Harmonizing the Principle of Judicial Pardon in Indonesia's Positive Law to Achieve Dignified Justice."

sentencing preferences, the fading correlation between formal punishment and the severity of social harm will inevitably collapse public expectation in the efficacy of the justice system.³² The minimum verdict handed down against this structural crime worth hundreds of millions can no longer claim to provide social utility; rather, it reduces the entire pyramid of anti-corruption justice to a mere formality of retributive ceremony that normalizes corruption as an administrative career choice carrying an extremely light penal risk.

2. The Boundaries of Judicial Discretion within the New National Criminal Law Regime and UNCAC Global Commitments

The structural failure and philosophical weakness within Decision Number 16/Pid.Sus-TPK/2024/PN Gto inherently transform this discourse into an urgency to reformulate the boundaries and parameters of judicial discretion. Rigid doctrinal analysis cannot stand statically solely within the corridor of interpreting past positive law (the existing Anti-Corruption Law). Conversely, this discourse must immediately be calibrated and elevated with the latest domestic legislative transition that will operate fully, and must be measured using the standards of global anti-corruption jurisprudence that legally bind Indonesia as a state party that has ratified the relevant treaty.

a. Projections of the New National Criminal Code (Law Number 1 of 2023)

Starting in early 2026, a new chapter in Indonesia's criminal justice system will formally commence through the full operationalization of the New National Criminal Code (Law Number 1 of 2023) as the primary instrument of sentencing. The integration of Corruption Crime regulations into the body of the New Criminal Code, which specifically extracts the offense of abuse of authority in Article 604 (as a direct convergence and transition from Article 3 of the old Anti-Corruption Law), carries a radically different philosophical foundation for sentencing.³³ One of the sharp critiques shadowing the restructuring of corruption core crimes into the New National Criminal Code is the recalibration of penal threats. Within the New Criminal Code, existing minimum statutory limits are frequently relaxed, lowered, or reformulated to become far more flexible, such as modified minimum prison terms and fines aligned into a categorical fine mechanism.

³² Brendan Rose et al., "Can Criminology Sway the Public? How Empirical Findings about Deterrence Affect Public Punishment Preferences," *Crime Science* 13, no. 1 (December 18, 2024): 43, <https://doi.org/10.1186/s40163-024-00240-8>.

³³ Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842). Pasal 604.

Table 2 below presents a comparative synthesis of how the New Criminal Code regime transforms the sentencing landscape and its attendant risks if judicial discretion is left unchecked:

Table 2. Comparison of the Sentencing Landscape: Anti-Corruption Law vs. New Criminal Code

Sentencing Analysis Component	Old Corruption Paradigm (Existing)	Anti-Law	New National Criminal Code Paradigm (Law No. 1/2023)	Potential Discretion Clash in Corruption Cases
Basic Philosophy of Sanctions	Emphasis on retributive justice (retaliation for extraordinary crimes).		Integrative equilibrium (rehabilitation, restoration, proportionality) (Articles 53 & 54).	Judges may misinterpret "equilibrium" as a loophole to impose the most lenient sentence possible for bureaucratic elites.
Sentence Reduction Clauses	Relies entirely on the subjectivity of the panel of judges in weighing mitigating factors.		Introduces the institution of Judicial Pardon and structural sentencing guidelines.	Judicial pardons risk being exploited to protect white-collar corruption if strict boundaries for high-ranking subjects are absent.
Specific Minimum Limits	Textually rigid (e.g., minimum 1 year for Article 3).		Several articles relax minimum limits, allowing sentence conversion or imposition below the limit under specific conditions.	Demands judges to formulate exceptionally strict mathematical and sociological rationalizations, prohibiting the arbitrary use of discretion.

If the *ratio decidendi* of the Gorontalo District Court judges who imposed the minimum verdict is tested for appropriateness using the sentencing paradigm of the New National Criminal Code, its jurisprudential weaknesses will be starkly exposed. The New Criminal Code revolutionarily introduces the "Principle of Equilibrium" and "Sentencing Guidelines" (*vide* Articles 53 and 54 of Law No. 1 of 2023), which legally obligate every judge to weigh in detail and explicitly the motive of the act, the structural position of the perpetrator, the impact of damage on the victim (institution/state), and the inner attitude of the perpetrator before handing down a verdict. Even more aggressively, the New Criminal Code accommodates the mechanism of judicial pardon and sentence modification based on a review of highly specific circumstances.³⁴

³⁴ Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842). Pasal 53-54.

To fill the space in this discourse, it is necessary to examine the views of prior literature by Mansar and Lubis as well as Krisnamurti, who optimistically celebrate the transition of the New Criminal Code as a milestone of humane and transformative legal achievement through the institutionalization of the judicial pardon.^{35,36} However, this manuscript sharply criticizes and refutes the position of such literature if applied without structural reservations to corruption offenses by state apparatuses. Such an overly utopian view leaves a highly dangerous blind spot. As empirically proven in recent studies by Daulay, the freedom of judicial discretion in regional courts—especially when unguided by rigid quantitative sentencing guidelines—constantly serves as the primary incubator for extreme sentencing disparities proven to protect white-collar offenders.³⁷

Therefore, the relaxation of minimum limits and the principle of pardon in the New Criminal Code are dogmatically designed solely as a safety valve for peripheral legal subjects (e.g., administrative staff without criminal initiative), not as a pardoning privilege for intellectual actors at the Head of Agency level. If, in the future, judges utilize the equilibrium principle of the 2023 Criminal Code to justify imposing minimum sentences on officials orchestrating bid-rigging conspiracies, such actions are doctrinally classified purely as an abuse of judicial discretion. The integrative sentencing paradigm in the New Criminal Code absolutely requires judges to provide measurable proportional justifications, forbidding the minimum sanction limit from becoming a mere trial compromise.

b. Evaluation Through UNCAC Global Standard Commitments (Article 30 Paragraph 1)

The conceptual thesis regarding the distortion of domestic judicial discretion attains absolute validation when juxtaposed and compared with international law. The Unitary State of the Republic of Indonesia is legally bound (*pacta sunt servanda*) following its ratification of the United Nations Convention Against Corruption (UNCAC) through Law Number 7 of 2006. In the provisions of Article 30 paragraph (1) of the UNCAC, the convention delegates an imperative normative mandate requiring every state party to

³⁵ Mansar and Lubis, "Harmonization of Indonesian Criminal Law Through the New Criminal Code Towards Humane Law."

³⁶ Krisnamurti, "Harmonizing the Principle of Judicial Pardon in Indonesia's Positive Law to Achieve Dignified Justice."

³⁷ Daulay, "Sentencing Disparities in Corruption Cases and Judicial Discretion in Indonesian Courts."

ensure that penal sanctions for perpetrators of corruption are calibrated proportionally to the seriousness of the crime (taking into account the gravity of that offense).³⁸

The imposition of a 1 (one) year minimum prison sentence in a regional court for the offense of abuse of authority blatantly collides with the architecture of the gravity of the offense principle under the UNCAC. In comparative law doctrine, specifically examining the Common Law jurisdiction of the United States, the intervention of judicial discretion intersecting with mandatory minimum sentences has been mitigated through exceptionally strict institutional oversight.³⁹ The Federal Sentencing Guidelines system in the US requires numerical calculations where the weight of a defendant's culpability is automatically and drastically increased (*sentence enhancement*) if proven to have committed an Abuse of Position of Trust or utilized a Special Skill.⁴⁰ Through this scheme, bureaucratic figures will inherently be sentenced beyond the minimum limit. Aligned with this premise, research by Warner et al. confirms that in the Australian jurisdiction, a sentence discount is applied exclusively for judicial efficiency regarding crucial guilty pleas, and is forbidden to be channeled as a sanction markdown for betrayals of public trust.⁴¹

To contrast these disparity findings against future constitutional law science discourse, the latest study by Alimardani & Istiqomah asserts that justice systems refusing to establish objective weighting frameworks in corruption cases will consistently breed *black box* anomalies benefiting the judicial elite.⁴² The solution and conceptual novelty of this manuscript offers a reconstruction of the boundaries of judicial discretion: The Supreme Court of the Republic of Indonesia must immediately issue a Supreme Court Regulation (PERMA) concerning anti-corruption Sentencing Guidelines specifically calibrated for the structure of the New Criminal Code. These guidelines must establish an absolute prescription that minimum sanction parameters are tightly closed off to figures

³⁸ Undang-undang (UU) Nomor 7 Tahun 2006 tentang Pengesahan United Nations Convention Against Corruption, 2003 (Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi, 2003).

³⁹ Esther Nir and Siyu Liu, "The Challenge of Imposing Just Sentences Under Mandatory Minimum Statutes: A Qualitative Study of Judicial Perceptions," *Criminal Justice Policy Review* 33, no. 2 (March 8, 2022): 177–205, <https://doi.org/10.1177/08874034211030555>.

⁴⁰ United States Sentencing Commission, "Guidelines Manual: Chapter Two - Offense Conduct (Parts E - K)" (2024), https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2024/CHAPTER_2_E-K.pdf.

⁴¹ Kate Warner et al., "Juror and Community Views of the Guilty Plea Sentencing Discount: Findings from a National Australian Study," *Criminology & Criminal Justice* 22, no. 1 (February 12, 2022): 78–96, <https://doi.org/10.1177/1748895820956703>.

⁴² Armin Alimardani and Milda Istiqomah, "Beyond Black Boxes and Biases: Advancing Artificial Intelligence in Sentencing," *Current Issues in Criminal Justice* 38, no. 3 (July 3, 2026): 417–37, <https://doi.org/10.1080/10345329.2025.2527994>.

controlling state budgets, regardless of how polite or manipulative the defendant's gestures are in the courtroom.

The doctrinal compliance of regional courts with global instruments is utterly crucial. The failure of the panel of judges to absorb the spirit of the convention not only demolishes sanction consistency—impacting the decline of the national anti-corruption perception index—but also manifests the state's dogmatic failure to internalize global justice standards into the adjudicative reasoning of its apparatus. First-instance courts may no longer operate in isolation; rather, they are demanded to elevate the rationality of their decisions towards a global discourse that positions substantive justice as the primary breath of law enforcement.

C. CONCLUSION

The application of specific minimum sentences in the Gorontalo District Court Decision Number 16/Pid.Sus-TPK/2024/PN Gto is deemed to have lost its philosophical legitimacy due to its failure to harmonize Gustav Radbruch's antinomy of legal purposes, wherein the judges are perceived to overly prioritize rigid legal certainty at the expense of substantive justice and utility, heavily in favor of the defendant. The tension among these three fundamental values proves that the mechanical application of sentencing rules in regional bureaucratic corruption cases is not always capable of responding to the complexity of intent and the degree of legal culpability of the perpetrator. Therefore, the boundaries of judicial discretion must be reconstructed by mandating considerations of proportionality regarding the gravity of the offense, as mandated by Article 30 of the UNCAC, to serve as an objective justification when imposing sanctions beyond the minimum limits. Ultimately, this discretionary reconstruction directly operationalizes the integrative sentencing paradigm within Law Number 1 of 2023, which guides judges to comprehensively balance the interests of corruption eradication with individual justice.

REFERENCES

- Alimardani, Armin, and Milda Istiqomah. "Beyond Black Boxes and Biases: Advancing Artificial Intelligence in Sentencing." *Current Issues in Criminal Justice* 38, no. 3 (July 3, 2026): 417–37. <https://doi.org/10.1080/10345329.2025.2527994>.
- Apaza, Esteban Eustaquio Flores, Manuel Choccelahua Huincho, Job Josue Perez Villanueva, Percy Eduardo Basualdo Garcia, Víctor Roberto Mamani Machaca, Denjiro Félix del Carmen Iparraguirre, Saúl Manuel Hurtado Valencia, and Cristian Farfán Diego. "Judicial Corruption and Public Trust Assessing the Effectiveness of Legal Ethics Reforms in Global Legal Systems." *Journal of Posthumanism* 5, no. 6

(June 15, 2025): 3649–62. <https://doi.org/10.63332/joph.v5i6.2499>.

Ardiansyah, Irfan, and Rustam Rustam. "Restorative Justice for Corruptors: A Solution or a Legal Setback?" *Arena Hukum* 18, no. 2 (August 5, 2025): 287–312. <https://doi.org/10.21776/ub.arenahukum2025.01802.6>.

Daulay, Ahmad Fadli. "Sentencing Disparities in Corruption Cases and Judicial Discretion in Indonesian Courts." *JIHK* 6, no. 2 (January 9, 2025): 160–72. <https://doi.org/10.46924/jihk.v6i2.248>.

Fajarani, Meisy, Musleh Harry, Muhammad Jihadil Akbar, Nur Jannani, and Mikdar Rusdi. "Judicial Strategies in Addressing Domestic Violence: Gender-Responsive Legal Analysis from the Religious Court of Malang Regency, Indonesia." *Justicia Islamica* 23, no. 2 (June 2, 2026): 477–504. <https://doi.org/10.21154/justicia.v23i2.11804>.

Farman, Eka, Suherman Suherman, Muhammad Farid, Maskur Maskur, Syamsuddin Syamsuddin, and Musmuliadin Musmuliadin. "The Implementation of Restorative Justice in Cases Involving Corporate Perpetrators." *International Journal of Law, Crime and Justice* 2, no. 2 (July 2025): 276–93. <https://doi.org/10.62951/ijlcj.v2i2.679>.

Gottschalk, Petter, and Christopher Hamerton. "Characteristics of Crime Convenience: The Case of Corporate Offenders." *Deviant Behavior* 46, no. 3 (March 4, 2025): 288–98. <https://doi.org/10.1080/01639625.2024.2341088>.

Hutchinson, Terry. "Doctrinal Research." In *Research Methods in Law*, 8–38. London: Routledge, 2025. <https://doi.org/10.4324/9781032710372-2>.

Krisnamurti, Hana. "Harmonizing the Principle of Judicial Pardon in Indonesia's Positive Law to Achieve Dignified Justice." *LITIGASI* 26, no. 2 (October 30, 2025): 104–34. <https://doi.org/10.23969/litigasi.v26i2.22645>.

Mansar, Adi, and Ikhsan Lubis. "Harmonization of Indonesian Criminal Law Through the New Criminal Code Towards Humane Law." *Journal of Law and Sustainable Development* 11, no. 12 (December 6, 2023): e2381. <https://doi.org/10.55908/sdgs.v11i12.2381>.

Nawu, Apris. "Eks Kadispota Gorontalo Tersangka Korupsi GOR, 4 Rekanan Turut Ditahan." *Detik Sulsel*, 2024. <https://www.detik.com/sulsel/hukum-dan-kriminal/d-7487374/eks-kadispota-gorontalo-tersangka-korupsi-gor-4-rekanan-turut-ditahan>.

Nir, Esther, and Siyu Liu. "The Challenge of Imposing Just Sentences Under Mandatory Minimum Statutes: A Qualitative Study of Judicial Perceptions." *Criminal Justice Policy Review* 33, no. 2 (March 8, 2022): 177–205. <https://doi.org/10.1177/08874034211030555>.

Puji, Kuat, and Icuk Rangga Bawono. "Ratification of the United Nations Convention against Corruption (UNCAC) Policy on 'Trading in Influence' as a New Instrument of Criminal Law for Combating Corruption in Indonesia." *Indian Journal of Law and Justice* 15, no. 02 (2024): 25–36. <https://ir.nbu.ac.in/handle/123456789/5573>.

Putusan Pengadilan Negeri Gorontalo Nomor 16/Pid.Sus-TPK/2024/PN Gto (2025).

Radbruch, Gustav. "Statutory Lawlessness and Supra-Statutory Law (1946)." *Oxford Journal of Legal Studies* 26, no. 1 (2006): 1–11.

Rose, Brendan, Malouke Esra Kuiper, Chris Reinders Folmer, and Benjamin van Rooij. "Can Criminology Sway the Public? How Empirical Findings about Deterrence Affect Public Punishment Preferences." *Crime Science* 13, no. 1 (December 18, 2024): 43. <https://doi.org/10.1186/s40163-024-00240-8>.

Suparno, Erdhy Widyatama, Alwan Hadianito, and Isfandir Hutasoit. "Disparitas Pemidanaan Korupsi Dalam Perspektif Kepastian Hukum Dan Keadilan Publik." *Jurnal USM Law Review* 9, no. 1 (January 21, 2026): 341–60. <https://doi.org/10.26623/julr.v9i1.13356>.

Undang-undang (UU) Nomor 20 Tahun 2001 tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi (2001).

Undang-undang (UU) Nomor 7 Tahun 2006 tentang Pengesahan United Nations Convention Against Corruption, 2003 (Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi, 2003) (2006).

Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842) (2023).

United States Sentencing Commission. Guidelines manual: Chapter two - Offense conduct (Parts E - K) (2024). https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2024/CHAPTER_2_E-K.pdf.

Warner, Kate, Caroline Spiranovic, Lorana Bartels, Lynne Roberts, and Karen Gelb. "Juror and Community Views of the Guilty Plea Sentencing Discount: Findings from a National Australian Study." *Criminology & Criminal Justice* 22, no. 1 (February 12, 2022): 78–96. <https://doi.org/10.1177/1748895820956703>.