COMPARATIVE ANALYSIS OF CORRUPTION CRIMINAL REGULATIONS BETWEEN THE NEW CRIMINAL LAW AND THE CORRUPTION ACT

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Abstract

The National CC's (NCC) ratification has completed the mission of establishing a NCC adequately through a legislative process on the development of codified criminal science and practice adapted to the conditions and characteristics of the Indonesian nation and state, which differed from legal politics during the Dutch colonial administration. It can br concluded from the results of the study that the regulation of corruption crimes between the Corruption Law and the NCC is still classified as an extraordinary crime, but there is a slight difference of increase/decrease in the minimum/maximum prison terms and fines. This is motivated by the implementation of the legal principle of proportional criminal responsibility. Then, the existence of Article 630 of the NCC is the implementation of legal preference *Lex Generalis Derogate Legi Specialis* and *Lex Posteriori Derogat Legi Priori* principles, when there is a double arrangement between the Corruption Law and the NCC. However, the NCC also applies the *In Dubio Pro Reo* principle, which means that when considering two regulations that govern the same case, the rule that is more advantageous to the suspect or defendant is used. By taking into account the provisions of Article 632 of the NCC that this Criminal Code shall come into effect 2 (two) years from the date of promulgation, this should be seen as the implementation of the Government's task to socialize this NCC to the whole community before it is enacted.

Keywords: criminal law, corruption crime, comparative analysis

INTRODUCTION

Corruption causes various problems and hinders the development of a country. According to the 2020 Association of Certified Fraud Examiners (ACFE) report, based on the frequency of fraudulent acts that occur, corruption is an act of fraud that has the highest frequency besides misuse of assets and fraudulent financial statements (Sipayung & Ardiani, 2022). Therefore, various efforts to realize a government that is clean and free from corruption continue to be carried out, both at the central and regional government levels, including the supervisory agency for the Audit Board of the Republic of Indonesia which is still facing a number of integrity problems committed by individuals who were recently caught red-handed by the Corruption Eradication Commission (Sipayung & Wahyudi, 2022). Improvements have been made by the government in order to increase the public satisfaction index on the quality of bureaucratic services (Wikansari, *et al.*, 2023). However, these efforts do not have achievement indicators for the impact produced at the institutional level, which is then felt by employees and the wider community. One of the action plans for preventing corruption on a national scale is strengthening the Criminal Code as the Umbrella Law on Criminal Law.

The Criminal Code or commonly abbreviated as "KUHP" is one of the laws and regulations which governs prohibition of actions which are categorized as criminal acts, and determines what punishment should be implemented on the doers. The KUHP was originally a version of criminal law which came from the Dutch colonial era, *Wetboek van Strafrecht voor Nederlands-Indië*. The authentic justification for the prerequisite of all lawful rules during the pioneer time period toward the beginning of Indonesian autonomy was the Transitional Provisions of Art. II of the Constitution of the Republic of Indonesia (which is alluded to as the '1945 Constitution') which expressed that: "As long as a new state body has not been established in accordance with this Constitution, all existing regulations and state bodies are immediately put into effect."

The *Wetboek van Strafrecht voor Nederlands-Indië* was approved by Staatsblad Number 732 of 1915 and became law on January 1, 1918. However, *Wetboek van Strafrecht voor Nederlands-Indië* in its implementation underwent adjustments to the conditions of social dynamics that occurred in society which was marked by the revocation irrelevant articles. Then, the Government stipulated Law (UU) No. 1 of 1946 regarding Criminal Law Regulations on February 26, 1946, which became the legitimate reason for alterning *Wetboek van Strafrecht voor Nederlands-Indië* to Wetboek van Strafrecht (WvS) or commonly recognized as the KUHP.

When we examine the chronology of the KUHP's legal jurisdiction, as described in Art. XVII of Law Number 1 of 1946, we find that it is restricted to the Java and Madura regions only. However, the new KUHP has been in effect throughout the Republic of Indonesia's territory since September 20, 1958, as stipulated by Law Number 73 of 1958, Announcing the Applicability of Law No. 1 of 1946 of the Republic of Indonesia concerning Criminal Law Regulations for the Entire Territory of the Republic of Indonesia and Amending the KUHP.

Another reason for the importance of adjusting the KUHP as mentioned above is that the Government has revoked several irrelevant articles, including the birth of a special law after the KUHP, as well as the enactment of several judicial review decisions related to the KUHP at the Constitutional Court which are erga omnes which have an impact on the binding power of the articles. the article of the KUHP partiall, which explains that the missions of decolonization, democratization, consolidation, and harmonization have not been carried out so that basically the KUHP needs to be adapted to the conditions of the Indonesian nation and state which has its own characteristics that are different from legal politics during the Dutch colonial administration, through the establishment of a new KUHP which should thoroughly and codified. It adopts the concept of legitimacy that supports legal authority as Weber's rationale for the idea that both goals and values can be formulated in a rule of law/legal code (Manullang, 2020).

For this reason, the Government also has a track record of efforts to construct a new KUHP in the task of developing Indonesian national legislation. The chronology of the preparation of the NCC can be traced chronologically as follows (Harruma, 2022):

1. In 1963 the First National Law Seminar was held which resulted in a conclusion on the urgency of forming a new NCC in the shortest possible time.
2. In 1970, the Government through the formation of a Team chaired by Prof. Sudarto and members of several other Criminal Law Professors in Indonesia started to design the RKUHP. However, the RKUHP that had been designed by the Team which was then submitted to the House of Representatives (DPR) for discussion has not been implemented.
3. In 2004, the Government formed a Team for Drafting the RKUHP which was chaired by Prof. Dr Muladi, S.H. Then, it was only in 2012 that the RKUHP draft was submitted by President Susilo Bambang Yudhoyono to the DPR.
4. In the 2014-2019 period, the DPR at the beginning of its decision agreed on the RKUHP draft.

5. In September 2019, considering the upheaval of protests from a number of people, including academics and students regarding the RKUHP draft, President Joko Widodo decided to postpone the ratification of the RKUHP and instructed to review the controversial articles.
6. In April 2020, the DPR officially resumed discussing the RKUHP, which generally did not experience substantial changes to the version approved in 2019.
7. In July 2022, the DPR is targeting the RKUHP to be passed. However, the RKUHP was canceled because the government was still making a number of improvements. In addition, rejection of a number of articles of the RKUHP which are considered problematic are still occurring today.

On December 6, 2022, it was a new milestone in Indonesia, that the DPR approved the RKUHP as a law at the 11th Plenary Session for Session Period II for Session Year 2022-2023 (Sekjen DPR, 2022). This means that the Indonesian Government's legal politics are very strong in replacing the Dutch colonial-era KUHP with a new KUHP that is in line with the times and adheres to the application of legal principles. It is not hand in hand with the characteristics of the country. One source of national criminal law is based on customary law which has grown and developed in society (Manullang, 2021). In social life, the need for renewal of the national Criminal Code is to prevent disputes in the community through setting criminal norms for an act that is detrimental and disrupts order that was previously considered not a crime (Sipayung & Prasetyo, 2023). This can be seen in the disclosure of increasingly sophisticated and varied acts of corruption with various modes of operation (Suyanto, 1982). For this, of course the Government of Indonesia under the leadership of President Joko Widodo may be proud of this achievement which has been able to complete the dream of the nation's founding fathers which began 59 years ago through 7 changes of President and 20 changes of Ministers.

Barda Nawawi Arief is of the opinion that it would be better if the draft of the new KUHP could never be separated from the plan to build a legal system for the nation with Pancasila as the fundamentals. This is further explained by Sipayung, *et al.* (2023) that Pancasila's fundamental ideals, which include striking a balance between religious morality and humanistic values (humanitarian, nationalist, democratic, and social) that embed main concept or rationale in legal policy, must also be the driving force behind the reform of the NCC.

The views on the reconstruction of the punishment articles mentioned above should be adopted in the RKUHP and through a legislative review process. However, after the ratification of the RKUHP into law, in the view of academics, in terms of its content, it still leaves various legal issues, one of which is regulation regarding corruption. In this regard, administrative legal actions can be taken to rectify the situation, which can be carried out by filing a judicial review lawsuit with the Constitutional Court (MK). However, the scope of this paper is limited to a comparison of the new KUHP and Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001 on Amendments to Law No. 31 of 1999 on the Eradication of Corruption Crimes (Tipikor Law).

RESEARCH METHOD

This research uses doctrinal method. Data collection uses literature study and legal theory. Research data were obtained from applicable laws and regulations, online news, as well as expert opinions related to research topics. Then, data analysis consists of the stages of collection, inventory, analysis of facts and juridical comparisons between what should be and what is actually related to the regulation of corruption. In addition, the gap between the regulations that have been regulated and those that have not been regulated is based on the results of comparisons between the old and new regulations, as well as the conclusions on the results of the comparison of these rules.

RESULTS AND DISCUSSION

Differences in Arrangement between the Corruption Law and the NCC

The guideline of debasement in the past Lawbreaker Code had not been explicitly directed yet was as yet consolidated in everyday wrongdoings as a lex generalis, specifically burglary in Art. 362 of the KUHP as well as weighted robbery within Article 362 of the KUHP. In addition, the Corruption Law was developed as a lex specialis for corruption-related crime. The new KUHP, known as the NCC, took effect on December 6, 2022.

Corruption-related criminal matters are covered by both the NCC and the Corruption Law. With various game plans in regards to a similar matter, in the event that there is no synchronization and harmonization among regulations and guidelines, it will surely cause covering. The NCC is theoretically the first step toward criminal law reform, restoring the structure of punishment in accordance with its legal principles.

In terms of the direction of legal politics, the Constitutional Court's judicial review decision Number 91/PUU-XVIII/2020 regarding meaningful participation in the formation of laws and

community participation should also be followed (Indonesia Corruption Watch, 2022). The right to be considered, the right to be heard, and the right to be explained are all components of meaningful participation. In this regard, legislators should immediately socialize the text of the NCC in its entirety to get a public hearing. However, in searching online media, there is still a public perception that the punishment for corruptors in the RKUHP is lighter than the Corruption Law (Ni'am, 2022).

One change in the structure of punishment is the expansion of the types of punishment. In the past, both the primary punishment (death, confinement, and fines) as well as the additional penalties (revocation of particular rights, confiscation of particular goods, announcement of a judge's decision) were all considered criminal punishments. head, extra discipline, and unique discipline. In the main punishment, the NCC does not only regulate prison sentences and fines, but adds closing sentences, supervision sentences, and social work crimes. This can be understood as the adoption of the comparative results of the criminal justice system in developed countries, such as America (ProCon.org, 2021).

Then, criminal demonstrations of debasement in the system of combination in a legitimate codification are gathered in 1 (one) separate part, to be specific the "Special Crimes Chapter", along with serious violations against common freedoms, criminal demonstrations of psychological oppression, criminal demonstrations of tax evasion, and opiates wrongdoing as managed in Art. 67 of the NCC, due to the fact that wrongdoing is classified in a way that is unprecedented or intense, which is planned overall/center wrongdoing what capabilities as spanning articles between the NCC and the particular regulation other. In the Explanation of the Second Book Number 4 of the NCC, it describes those specific crimes have the following characteristics:

1. the effect of victimization (victims) is large;
2. are often transnational organized (Trans-National Organized Crime);
3. the arrangement of the criminal procedure is specific;
4. frequently departs from material criminal law's general principles;
5. the existence of law enforcement support institutions that are specific in nature and have special authority.
   In accordance with the Corruption Law, the Corruption Eradication Commission is an institution under executive power which functions to control and prevent corruptions in the country. The authority that already exists in law enforcement institutions remains authorized to handle specific crimes despite the existence of the Special Crimes Chapter. Even though this specialization seems to provide stronger powers in supervising the handling of legal processes by the Attorney General's Office and the Police, this does not guarantee that the level of corruption in Indonesia will decrease (Manullang, *et al.*, 2023).
6. supported by various international conventions, both those that have been ratified and those that have not; And
7. is an act that is considered very evil (*super mala per se*) and is disgraceful and highly condemned by society (strong people condemnation).

The qualities of the kinds of discipline in unique discipline likewise incorporate the detailing of death punishment as the most serious sort of discipline which is a different segment to show that this sort of discipline is really exceptional. In principle, the death penalty is more directed at protecting the interests of society, another aspect of protecting society is the protection of victims and the restoration of a disturbed balance of values in society. This is like the overall clarification of the Corruption Law that capital punishment is forced to accomplish a more successful objective of forestalling and destroying corruption. The death penalty is used to punish those who are deemed incapable of reintegration into society because the crimes they have committed meet the criteria for extraordinary crimes. However, the NCC shows that criminal law politics has been implemented by upholding human rights and as a result of a comparison of the criminal law system that has been developed in several developed countries such as America which treats capital punishment as a special punishment which is always threatened as an alternative. This also takes into account that severe punishment has not been effective in creating a deterrent effect on corruptors, the need for impoverishment and even prevention efforts through integrity education from an early age (Sudarmanto, *et al.*, 2020).

Moreover, the advancement of the discipline arrangement is the kind of criminal discipline as fines ordered in the sum as specified in Art. 79 section (1) of the NCC, as follows:

Table 1. Fine Categories Based on Amount

Category	Value
I	IDR 1,000,000.00 (one million rupiah)
II	IDR 10,000,000.00 (ten million rupiah)
III	IDR 50,000,000.00 (fifty million rupiah)

Category	Value
IV	IDR 200,000,000.00 (two hundred million rupiah)
V	IDR 500,000,000.00 (five hundred million rupiah)
VI	IDR 2,000,000,000.00 (two billion rupiah)
VII	IDR 5,000,000,000.00 (five billion rupiah)
VIII	IDR 50,000,000,000.00 (fifty billion rupiah)

A government regulation must specify the number of fines in the event of a change in the value of money.

Furthermore, the differences in the regulation of corruption crimes between the Corruption Law and the NCC can be seen in Table 2, as follows:

Table 2. Differences in Corruption Crime Arrangements between Corruption Law with the NCC

Act Against the Law	Corruption Law	NCC	Difference
Against the Law of Enriching Yourself	Art. 2 Par. (1) Any illegal act of enriching oneself, another person, or a corporation that has the potential to harm the state's finances or the economy of the country is punishable by life in prison, a minimum sentence of four years, a maximum of twenty years, and a fine of one Rp. 200,000,000.00 (two hundred million rupiahs), with a maximum of Rp. 1,000,000,000.00 (one billion rupiahs).	Art. 607 A person who wrongfully enriches themselves, another person, or a corporation in a way that hurts the state's finances or the economy of the country faces a sentence of life in prison or a sentence of imprisonment for a minimum of 2 (two) years and a maximum of 20 (twenty) years, as well as a fine of category II or category VI.	Prison sentences were reduced from 4 years to 2 years. In addition, the minimum fine has also decreased, from IDR 200 million to IDR 10 million.
Abuse of Authority	Art. 3 Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or position which can be dangerous for the financial state of the country must be sentenced for life or imprisonment for a minimum of 1 (one) year. one) year and a maximum of 20 (twenty) years and or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).	Art. 608 A sentence of life in prison or a sentence of imprisonment for a minimum of 2 (two) years and a maximum of 20 (twenty) years, as well as a fine of at least category II and category VI, shall be imposed on anyone who, with the intention of benefiting himself, other people, or the corporation, abuses the authority, opportunities, or facilities available to him due to his position.	The prison sentence was increased by one year, but it was equated with Art. 2. Apart from that, the minimum fine was also reduced, from IDR 50 million to IDR 10 million.
Bribe	Art. 5 Par. (1) Will be rebuffed with detainment for at least 1 (one) year and a limit of 5 (five) years as well as be fined at least Rp. 50,000,000.00 (fifty million rupiah), with a maximum of Rp. 250,000,000.00 (two hundred fifty million dollars rupiah) for everyone who: a. give or make a promise to a civil servant or state administrator with the intention that the civil servant or state administrator will do or not do something that is against his responsibilities in his position.; or b. give something to a government worker or state head due to or regarding something in spite of commitments, done or not done in his situation.	Art. 609 Par. (1) Sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a minimum fine of category III and a maximum of category V, Everyone who: a. give or promise something to a civil servant or state administrator with the intention that said civil servant or state administrator will do or not do something in his position, which is contrary to his obligations; or b. give something to a state administrator or civil servant because of or in connection with something that goes against the obligations of his position.	The prison sentence is the same as the Corruption Law. Meanwhile, the maximum fine has increased, from IDR 250 million to IDR 500 million.
Gratification	Art. 5 Par. (2) The same punishment as in Par. 1 applies to state administrators and civil servants who receive gifts or promises as described in letters a or b of Par. (1).	Art. 609 Par. (2) Civil servants or state administrators who accepts or promises gifts as what is mentioned in Par. (1) shall be subject to imprisonment for a minimum of 1 (one) year and a maximum of 6 (six) years and a fine of	The maximum prison sentence has increased when compared to the Corruption Law, from 5 years to 6 years

Act Against the Law	Corruption Law	NCC	Difference
		at least category III and a maximum of category V.	in prison. Meanwhile, the maximum fine has increased, from IDR 250 million to IDR 500 million.
Gratification	Art. 13 Any individual who gives a gift or vow to a government employee remembering the power or authority joined to his situation or position, or the provider of the gift or commitment is viewed as connected to that position or position, will be rebuffed with detainment for a limit of 3 (three) years or potentially a fine 150,000,000.00 (one hundred and fifty million rupiah) maximum.	Art. 610 Par. (1) A maximum sentence of 3 (three) years in prison and a fine of category IV can be imposed on anyone who makes gifts or promises to state administrators or civil servants with an eye toward the power or authority attached to their position or position, or the person making the gifts or promises is thought to be attached to said position or position. Art. 610 Par. (2) Government employees or state heads who get gifts or commitments as alluded to in section (1) will be dependent upon detainment for a limit of 4 (four) years and a greatest fine of category IV.	The prison sentence is the same as the Corruption Law. Meanwhile, the maximum fine has increased, from IDR 150 million to IDR 200 million.

Based on a comparative analysis of corruptions between the two regulations mentioned above, in substance, nothing has changed, it's just that in general terms of imprisonment have declined, but have increased in terms of minimum fines. However, what is somewhat contrasting is the implementation of the proportionality principle of criminal responsibility, which protects perpetrators who have a minor role in corruption and provides more severe threats to perpetrators who are crucial in conducting corruption, for example, the morning punishment for state officials who are corrupt is more severe. when compared to ordinary people. This is in line with the theory of dignified justice which has material and spiritual dimensions which are placed proportionally according to the degree of wrongdoing (Suyanto, 2018).

Power Applies to the NCC

Based on the NCC articles, the Government of Indonesia has implemented the principles of crime regulations in general. For example, the principle of legality in Article 1 of the NCC:

(1) There is not a single act that can be punished criminally unless it is covered by criminal regulations in the laws and regulations that already exist before the act is done.

(2) It is against the law to use analogies when determining whether a crime has taken place.

This is equivalent to the standard of legitimateness or nullum delictum nulla poena sine preavia lege poenali in Art. 1 passage (1) of the old KUHP which generally is that judges are disallowed from making regulations on the off chance that the lawbreaker arrangements in the law don't control it. Likewise, it is implied that the principle is not retroactive, that is, criminal law is not enforced retroactively since the enactment of a law.

Additionally, if the transitional provisions include a time limit for the exercise of the powers granted by the new laws and regulations, they must adhere to the legality and non-retroactivity principle, which states that laws and regulations generally apply in the future, except for example for crimes against human rights (HAM). Prof. Dr. Eddy O.S. Hiariej (Professor of Criminal Law at the Faculty of Law, Universitas Gadjah Mada) provides a non-retroactive meaning, as a principle that has two functions: (i) the function of protection, which means that the criminal law protects the people against arbitrary state power; (ii) the function of instrumentation, that is, within the limits determined by law, the exercise of power by the state is strictly permissible (Wikipedia, 2018). Likewise in the NCC, the principle is not retroactive nor is it absolutely applied in subsequent articles.

Furthermore, the principle of prohibiting the use of analogical interpretations in criminal law is also still applied in order to prevent guilty persons from being punished. This is done in the hope that the judge will be confident that a crime has actually occurred if there are at least two valid evidences in minimum, and that law enforcement officials will not arbitrarily convict someone. and that the

defendant was the one who was responsible for it, as what is stated in Art. 183 of the Criminal Procedure Code (KUHAP).

Likewise, there is the application of the ius curia novit principle, namely the judge is considered to know the law, with the explanation that the judge is dhi. The court is obliged to inspect, attempt and settle on a case documented regardless of whether the law exist or is muddled. In connection with these problems, judges are obliged to find law (*rechtvinding*) through unwritten laws or laws that live in society. This can be traced to the regulation in Article 2 of the NCC:

(1) The arrangements alluded to in Article 1 section (1) don't lessen the legitimacy of the law that exists in the public eye which establishes that an individual ought to be rebuffed despite the fact that the demonstration isn't controlled in this Law.

(2) The law existing within the society which is described in Par. (1) is implemented in the place where the regulation exists as long as it is not applied by this Law and does not go against Pancasila norms and values, the 1945 Constitution of the Republic of Indonesia. essential freedoms, and society's general legitimate norms.

According to the law, it can be understood that criminal law and laws that live in society which are generally unwritten (e.g., customs, religion) are a complementary source of law to the NCC in order to prevent a legal vacuum. This indicates that the criminal law system recognizes legal pluralism and gives judges the authority to select legal options in the context of satisfying a society's sense of justice and preventing criminalization analogies.

Then, if there are other written regulations that have been in effect before the existence of the NCC, especially related to corruption, meaning that there are double arrangements, then the NCC has explicitly explained that there are mitigating and aggravating legal aspects in Table 3 as follows:

Table 3. Comparison of related Punishment Aspects Corruption Crime in the NCC

Aspects Of Mitigating Punishment	Aspects of aggravating punishment
Art. 3 (1) In the event that there is a change in the laws and regulations after the act has occurred, the new laws and regulations shall be enforced, except for the provisions of the old laws and regulations which are beneficial to the perpetrators and assistants of the Criminal Act. (2) In the event that the act that occurred is no longer a criminal act according to the new laws and regulations, the legal process against the suspect or defendant must be terminated for the sake of law. (3) Given that the provisions mentioned in the second Par. are applied to suspects or defendants who are in detention, the suspects or defendants will be released by the authorities according to the class of investigation. (4) Given that after the sentencing decision has permanent legal force and the act that occurred is no longer a crime, referring to the new laws and regulations, the implementation of the sentencing decision will be abolished. (5) In the event that the sentencing decision has permanent legal force as referred to in Par. (4), the agency or official carrying out the acquittal is the authorized agency or official.	Art. 18 Par. (2) In the event that an attempt has caused financial or economic losses to the state or according to laws and regulations it has constituted a separate crime, the perpetrator can be held accountable for said crime. Art. 70 Par. (2) letter d Exceptions in certain circumstances where prison sentences are not imposed do not apply to criminal acts that are detrimental to the country's finances or economy. Art. 611 The crime of money laundering, which should be presumed to be the result of a criminal act of corruption, carries a maximum sentence of 15 years in prison and a maximum fine of category VII. Art. 620 Provisions regarding conspiracy, preparation, trial and assistance regulated in the Law on Corruption shall apply in accordance with the provisions in the said Law.
Art. 8 Par. (5) Indonesian citizens outside the Republic of Indonesia who commit the crime referred to in Par. (1) cannot be sentenced to death if the said crime according to the laws of the country where the crime was committed is not punishable by death.	

The mitigating legal aspect is if there are old and new laws and regulations that regulate the same thing, hand in hand with the interrelationship of the *In Dubio Pro Reo* principle, namely the principle which states that if there is doubt whether the Defendant is wrong or not, then things that are favorable to the Defendant should be given. that is, acquitted of charges (Supreme Court Decision No. 2175/K/Pid/2007 and Supreme Court Decision No. 33K/MIL/2009). In practice, this legal principle is often coupled with the "No Criminal Without Guilt" ("Geen Straf Zonder Schuld") principle or "Anwijzigheid van alle Schuld' which has become constant jurisprudence and can be derived from Art. 182 par. (6) of the Criminal Procedure Code.

Furthermore, Art. 630 of the NCC also in principle states that the dual arrangement related to the Corruption Law is declared invalid by the existence of the NCC and that what applies is the NCC as explained as follows:

(1) (1) At the time this law takes effect, the following provisions: k. Law No. 31 of 1999 Regarding the Eradication of Corruption (State Gazette of the Republic of Indonesia of 1999 Number 140, Supplement to the State Gazette of the Republic of Indonesia Number 3874), as amended by Law No. 20 of 2001 Concerning Amendments to Law No. 31 of 1999 Concerning the Eradication of Corruption (State Gazette of the Republic of Indonesia of 2001 Number 134, Supplement to State Gazette of the Republic of Indonesia Number 4150); denied and proclaimed invalid.

(4) In case that the provisions of the article in Par. (1), letter k, regarding corruption are mentioned by the provisions of the article in the relevant law, the reference is replaced with the article in this law with the following provisions:

a. Article 2 reference is replaced with Article 607;
b. Article 3 reference is replaced by Article 608;
c. Article 5 reference is replaced by Article 609;
d. Article 11 the reference is replaced by Article 610 Par. (1); And
e. *Article 13 the reference is replaced by Article 610 Par. (2).*

If there are 2 regulations that are equally applicable, then in the science of law there is a principle of preference. The principle of preference is a legal principle that determines which law takes precedence (to be enforced), if an event (law) is related to or violates several regulations (Sucipta, *et al*., 2020). Furthermore, Prof. Eddy O.S. Hiariej stated that: "Viewed from the perspective of criminal law politics (penal policy), the legal principle known as "lex specialis derogat legi generali" is actually what determines the application stage. During this stage, the law enforcement process is used to put criminal laws and regulations that have been broken against specific events (ius operatum). When it comes to applying criminal laws and regulations to the criminal cases they handle, law enforcement officials must therefore adhere to the "lex specialis" principle (Hiariej, *et al.*, 2009).

If it is analyzed that the basis for weighing the NCC is the product of the codification of several special laws that have been promulgated separately from the old KUHP, then in this context the levels are parallel, it can be understood that what is meant by *lex generalis* is the KUHP, while *lex specialis* is the Special Law. However, if we examine Article 630 of the NCC, of course the opposite preference principle applies, namely *Lex Generalis Derogate Legi Specialis*.

The principle of preference that is applied in the context of Article 630 of the NCC is the principle of Lex Posteriori Derogat Legi Priori, which states that the most recent law prevails over the previous one. A principle of law is one that is regarded as the basis or fundamental of law (Asir, 2022). This means that even though the NCC is a *lex generalis* but because it was promulgated more recently than the Special Law as a *lex specialis*, the NCC annulls the legal norms of the Special Law. Because it is in a similar scope, in the same hierarchy, and it is explicitly stated that the repeal of the special law and the enactment of Article 603 of the NCC are stated, the binding power of Article 603 of the NCC is strong enough to become the main reason for the application of the preference principle of Lex Posteriori Derogat Legi Priori. However, it is essential to keep in mind that the NCC's Article 632 stipulates that the code will take effect 2 (two) years after its promulgation. This shows that there are still some things to do for the Government to mingle this NCC before it is ordered.

CONCLUSION

The ratification of the NCC proves how the KUHP formation mission which is adapted to the unique properties of Indonesia that are different from the legal politics during the Dutch colonial government, through the legislative process on the development of knowledge and codified criminal practice, has been carried out adequately. There are differences in the regulation of corruption between the Corruption Law and the NCC, which are similar in substance but there is an increase/decrease in terms of minimum/maximum prison terms and fines. This is due to proportional criminal responsibility's legal primciple.

The existence of Article 630 of the NCC acts as an implementation of the legal preference *Lex Generalis Derogate Legi Specialis* and *Lex Posteriori Derogat Legi Priori*, when there is a double arrangement between the Corruption Law and the NCC. However, the NCC also applies the *In Dubio Pro Reo* principle, which means that when considering two regulations that govern the same matter, the rule that is more advantageous to the suspect or defendant is used.

Suggestion by taking into account the provisions of Art. 632 of the NCC that this CC may come into effect 2 (two) years from the date of promulgation, this should be seen as the implementation of the Government's obligation to socialize this NCC to the whole community before it is enacted.

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