

When the Law Is No Longer Sharp Upwards: A Critical Study of Elite Impunity in Corruption Crimes

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ABSTRACT

The phenomenon of elite impunity in corruption cases in Indonesia shows that there is a sharp gap between ideal legal norms and the reality of law enforcement practices that are full of power intervention. Although legal instruments such as the Corruption Law and the 2023 Criminal Code have normatively regulated sanctions against corruption, their implementation often favors the interests of political and economic elites. The judicial process is often characterized by weak independence of legal institutions, judicial mafia practices, and multiple interpretations of legal articles that open up space for abuse of authority. This inequality not only violates the principle of equality before the law, but also results in the erosion of the legitimacy of legal institutions and a decline in public trust in the democratic system. This study uses a normative juridical approach with critical legal theory analysis to dismantle power relations in the Indonesian legal system. The results emphasized the need for structural reform through strengthening the independence of law enforcement agencies, progressive regulatory revisions, and the formation of a critical legal culture with integrity. Without comprehensive reform, the law will only be a tool for the perpetuation of power, not an instrument of justice. This study recommends a transformation of the legal paradigm in order to ensure substantive justice and prevent the systemic practice of impunity of the elite.

Keywords: Democracy; Impunity-Elite; Enforcement-Law

INTRODUCTION

In recent decades, corruption involving political elites and public officials has been increasingly exposed in various countries, including Indonesia. Major cases such as corruption of social assistance funds, fictitious infrastructure projects, and abuse of power in the management of the state budget show how deep the roots of corruption involving the elites are. Although the evidence corroborating their involvement is often clear and supported by a comprehensive investigation, the legal process that runs in court is often slow and tends to result in a lenient verdict or even an acquittal. This condition reinforces

the public perception that the legal system has a tendency to protect the interests of the elite and does not provide an adequate deterrent effect.¹

This phenomenon not only shows the ineffectiveness of law enforcement, but also indicates that there is a widening inequality in access to justice. Injustice in the legal process is one of the main factors that cause low public trust in legal institutions and government.² When the law appears "sharp downwards" but "blunt upwards", the implications not only undermine the legal order, but also create a crisis of democratic legitimacy. The political elite who are supposed to be the pioneers of integrity and accountability actually get impunity, thereby strengthening the culture of corruption and weakening governance as a whole. Therefore, an in-depth critical study is needed to uncover the structural barriers in the legal system that allow this practice of impunity to continue.

The phenomenon of elite impunity in corruption cases actually reflects the failure of the legal system in carrying out its basic function, which is to uphold justice indiscriminately. Impunity not only occurs due to weak law enforcement mechanisms, but is also supported by a protective power structure between political and economic elites.³ This power network often manipulates the judicial process through political influence, pressure on law enforcement officials, and internal corrupt practices in the legal institutions themselves. As a result, the legal process becomes a tool that is easy to use for certain interests, thus creating a cycle of impunity that is difficult to break. This condition exacerbates legal inequality and weakens the principle of the rule of law which should be the main pillar of a democratic state.

Furthermore, the impact of elite impunity not only undermines public trust in legal institutions, but also contributes to development stagnation and political instability. A 2021 report from the United Nations Office on Drugs and Crime confirms that corruption left unaccounted for directly hinders economic growth, widens social inequality, and fuels public discontent which in turn can lead to social conflict. In this context, elite impunity is a systemic threat that undermines the foundations of democracy and clean governance. Therefore, a critical study and thorough reform of the legal and political system are indispensable to ensure that the law is sharp back upwards, and that elite impunity is no longer the norm in the enforcement of justice. These efforts must involve strengthening law enforcement agencies, transparency in the judicial process, and empowering civil society as effective social control.

Law Number 1 of 2023 concerning the new Criminal Code (KUHP) actually provides an important momentum to carry out national criminal law reform. However, in the context of the inequality of law enforcement between the elite and ordinary people, this law still contains a number of potential problems that need to be seriously criticized. One of the important highlights is articles that are multi-interpreted and have the potential to cause abuse of authority, such as Article 240 concerning insults to public power or state institutions. This article, if not balanced with the protection of freedom of opinion, can become a tool of repression against public criticism, especially from lower society groups

¹ Lestari, Y. S., Chadijah, D. I., & Sariyanti, L. (2024). KORUPSI POLITIK DAN PELANGGARAN HAK ASASI MANUSIA DI INDONESIA. *Ius Civile: Refleksi Penegakan Hukum dan Keadilan*, 8(1), 12-26.

² Firmansyah, F., Haeril, H., Akhyar, A., & Hidayatullah, A. (2025). Dinamika Kuasa Lokal dan Politik Anggaran: Ekspose Korupsi Struktural dalam Sistem Pengadaan di Bima dan Dompu. *JISPENDIORA Jurnal Ilmu Sosial Pendidikan Dan Humaniora*, 4(1), 543-561.

³ Arifin, F. (2024). Politik Dinasti dan Pembaruan Sistem Demokrasi di Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, 31(3), 636-665.

or activists. Meanwhile, in practice, political and economic elites who commit criminal acts such as corruption or abuse of power are often not seriously touched by law enforcement officials, suggesting that although the substance of the law has been updated, structural inequalities in its implementation are still very thick.⁴

More than that, Law No. 1 of 2023 does not progressively deal with the problem of corruption committed by the elite, especially in terms of preventing impunity. Although some articles touch on specific criminal acts, including crimes that harm state finances, there has been no significant strengthening of the independence of law enforcement institutions or the supervision mechanism for the apparatus that protects perpetrators from the powerful.⁵ Ironically, the law still puts a harsh face on the small people, for example, with relatively heavy criminal threats for minor crimes such as simple theft or moral trespassing, as provided for in Article 463 onwards. This is where it can be seen how the law still operates in a logic of repression against the weak, and permissive towards the strong. Therefore, the revision of the substance of criminal law through Law No. 1 of 2023 is not enough if it is not accompanied by profound reforms to the structure, culture, and politics of law in Indonesia. A just law is not enough just to be written on paper, but it must be realized through the courage of institutions to take firm action against abuses by the elite, as well as to guarantee the protection of civil society's rights in real terms.

The urgency of critical study in the context of elite impunity becomes even more urgent when the law no longer serves as a tool to uphold justice, but rather as an instrument of power that perpetuates the dominance of certain groups. Impunity does not occur in a vacuum; It is formed through systemic power relations where elite actors have access to legal, political, and economic resources to avoid criminal liability. Power works not only through repression, but also through normalization in which the deviant actions of the elite become 'ordinary' because they are never seriously processed. In the Indonesian context, a critical study of the legal system, both in terms of institutions, procedures, and legal discourse itself, needs to be carried out to dismantle how this inequality is produced and reproduced. Research by Indonesia Corruption Watch 2023 shows that weak transparency, low integrity of law enforcement officials, and political intervention are the three main factors that underpin elite impunity in corruption cases.

More than just identifying problems, critical studies must also be able to drive a substantive and transformative legal reform agenda. This includes institutional reforms, such as strengthening the independence of the KPK, prosecutor's office, and courts, as well as expanding public participation in the supervision of the justice system. In the context of Law Number 1 of 2023, a critical study is needed to assess whether the legal product is really in favor of substantive justice or simply strengthens the status quo. For example, if the law does not explicitly regulate accountability mechanisms for public officials and does not strengthen protection for whistleblowers, then the potential for impunity will remain high. Therefore, legal reform is not enough to rely only on changing articles, but must be accompanied by a complete overhaul of the legal paradigm: from a law that serves power, to a law that liberates and empowers society. Thus, the rule of law can be realized as a political and social reality that protects all citizens equally

⁴ Puanandini, D. A., Maharani, V. S., & Anasela, P. (2025). Korupsi sebagai Kejahatan Luar Biasa: Analisis Dampak dan Upaya Penegakan Hukum. *Public Sphere: Jurnal Sosial Politik, Pemerintahan Dan Hukum*, 4(1).

⁵ Susanto, E. A., & Widodo, E. (2024). PENEGAKAN HUKUM TERHADAP PELAKU TINDAK PIDANA KORUPSI DALAM PENGADAAN BARANG PEMERINTAH. *Jurnal Penelitian Ilmiah Multidisiplin*, 8(10).

METHOD

This study uses a normative juridical method, which is an approach that relies on the analysis of relevant laws and regulations, legal principles, and legal theories to examine the phenomenon of elite impunity in corruption crimes. Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.⁶

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.⁷ According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal system adopted.⁸ Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.⁹ The focus is on examining the extent to which legal norms provide a basis for the enforcement of justice and how distortions can occur in practice, especially when dealing with elite power.

Data sources consist of primary legal materials (the 1945 Constitution, the Corruption Law, and the 2023 Criminal Code), secondary legal materials (legal literature, journals, ICW/KPK reports), and tertiary materials (legal dictionaries, encyclopedias). The analysis is carried out through a systematic and historical interpretation approach, and supported by critical legal theory to dismantle structural biases in law enforcement. The results are expected to reveal the gap between normative law and law in practice, as well as to recommend fair and egalitarian legal reform

RESULTS AND DISCUSSIONS

Inequality in Law Enforcement in Corruption Cases: Between Normative Texts and Practical Reality

1. Inconsistency in the Application of the Law in Corruption Cases Involving Elite

In modern legal theory, one of the main pillars of the state of law (*rechtsstaat*) is the principle of equality before the law. This principle not only guarantees equal legal treatment regardless of social status, but is also a condition for substantive justice. However, in the context of law enforcement against corruption crimes in Indonesia, this principle is often distorted when dealing with actors from the elite class, both from politicians, high-ranking state officials, and big businessmen. This inconsistency in the

⁶ Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

⁸ Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

⁹ Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

application of the law is not only a violation of the principles of the law itself, but also a real form of crisis of trust in the judicial institution.¹⁰

Normatively, Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption has provided a firm framework in the eradication of corruption, including by aggravating criminal threats and giving special authority to law enforcement officials, especially the Corruption Eradication Commission (KPK). The articles in the law clearly include gratuities, bribery, and abuse of authority, with criminal threats of up to twenty years or even life. However, in practice, court verdicts against perpetrators from the elite circle often do not reflect the severity of the violations of the law committed. Data from ICW (Indonesia Corruption Watch) shows that the average criminal sentence for corruption perpetrators is still below five years, with a tendency to be lighter if the perpetrators come from the elite.¹¹ This shows that there is a sentencing disparity that cannot be rationally or normatively justified.

Soft behavior towards the elite cannot be separated from political intervention and the influence of oligarchs that infiltrate the law enforcement system. Within the framework of state capture theory, corruption is no longer just an illegal act by individuals, but has become a systemic mechanism by which economic and political forces distort policy and law enforcement processes to protect narrow interests.¹² Political elites and oligarchs have enough resources to influence law enforcement officials, from investigators, prosecutors, to judges, through patronage relationships, political pressure, or even bribery.¹³ In major cases such as corruption in the e-KTP project, Jiwasraya, or bribery at the Supreme Court, the public can see how the legal process is often slow, full of negotiations, and ultimately leads to light sentences or controversial parole.

Furthermore, the newly passed 2023 Criminal Code raises new concerns regarding the effectiveness of law enforcement against the elite. Some legal experts criticize that the provisions in the Criminal Code are not progressive enough in the context of eradicating corruption, and even have the potential to weaken the independence of the KPK through narrowing the investigation space. This is exacerbated by the weak supervision of judges, especially at the level of cassation and review (PK), where in some cases there are decisions that annul the guilty verdict against corruption perpetrators on the grounds of weak juridical reasoning. This situation shows that corruption has permeated all levels of law enforcement agencies, making the law an instrument of negotiation, not justice.

Sociologically, this inequality in legal treatment also reflects the stratification of power in society, where the elite not only has control over economic and political resources, but also over legal norms that should apply universally. According to Pierre Bourdieu, law is a symbolic form of power that is legitimized through state institutions, but in practice often reflects only the dominant interests of the ruling class. In this context,

¹⁰Ningsih, L. D., Suprihatno, A., & Rosidin, U. (2024). Politik Hukum Dalam Sistem Penegakan Hukum Di Indonesia. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 4(3), 2570-2584.

¹¹ Al Banna, N. H., Ardana, N. N., Kurniawan, M. F., & Prasetyo, R. D. (2025). Analisis Ketimpangan Keadilan di Indonesia: Potret Buram Hukum yang Berpihak pada Kuasa. *Pancasila: Jurnal Keindonesiaan*, 5(1), 125-134.

¹² Ibnu, S. C., & Marfungah, L. (2024). Regulatory capture on emergency due process of law-making. *Cogent Social Sciences*, 10(1).

¹³ Sihombing, D. A. P. (2025). Pencabutan Hak Politik Terhadap Mantan Anggota Legislatif Pelaku Tindak Pidana Korupsi. *Jurnal Dunia Pendidikan*, 5(6), 2123-2133.

the law ceases to be a tool of people's liberation, and instead turns into a shield of protection for the elite from the snares of justice.

This condition not only hinders efforts to eradicate corruption systemically, but also exacerbates the deficit in the legitimacy of the rule of law. When the public witnesses that corrupt perpetrators from the elite can escape punishment or get preferential treatment, the public's perception of justice will be eroded.¹⁴ This is reflected in Indonesia's Corruption Perception Index (CPI) which has stagnated or tended to decline in the last five years, as well as in the Kompas and LSI R&D surveys which show low public trust in law enforcement institutions such as the Supreme Court and the Attorney General's Office.

From the point of view of modern criminal law, siding with elites who are proven to be corrupt is also contrary to the purpose of punishment, namely retribution, prevention, and rehabilitation. If the perpetrators of corruption do not receive comparable punishments, then the function of criminalization as a form of general deterrence is not achieved. Furthermore, this can trigger structural impunity, where criminals from the elite feel that they will not be punished and instead use the legal system as a means of safety. In the long run, this will give birth to a recurring and systematic cycle of corruption.

In order to answer this problem, several approaches to legal reform are needed. First, strengthening the institutional independence of law enforcement, especially the KPK, so that it is free from political intervention. Second, the implementation of a strict assessment and discipline system for judges and prosecutors, including public audits of disproportionate verdicts. Third, strengthening civil society and the media as independent supervisory actors. The role of civil society is essential to maintain accountability and encourage the openness of the legal process, especially in cases involving elites. And fourth, the expansion of the application of justice collaborators and the protection of key witnesses to dismantle the network of systemic corruption involving power elites.

In an academic framework, this discussion emphasizes that elite corruption is not just an individual moral problem, but is a structural and systemic phenomenon that requires an interdisciplinary approach, encompassing law, politics, sociology, and political economy. Only in this way can the law return to its nature as a means of justice and not as an instrument of discriminatory power.

2. Structural and Institutional Barriers in Realizing Equal Law Enforcement

The main problems in law enforcement in Indonesia cannot be separated from the institutional structure that is vulnerable to intervention and the legal architecture that still opens up space for power manipulation. In the theory of the state of law according to Friedrich Julius Stahl, the main principle of the state of law is that the power of the government must be limited by law in order to guarantee the rights and freedoms of citizens.¹⁵ However, this principle has not been fully internalized in Indonesian institutional practices. This can be seen from the increasing symptoms of legal politicization and the weak resilience of legal institutions to political pressure.

One concrete example is the weakening of the KPK through the revision of Law No. 30 of 2002 to Law No. 19 of 2019. This revision not only lowers the independent status of the KPK to an executive institution under the President, but also gives great

¹⁴ Indratno, K. (2023). *Rekonstruksi Regulasi Sanksi Pidana Terhadap Pelaku Tindak Pidana Korupsi Berbasis Nilai Keadilan* (Doctoral dissertation, Universitas Islam Sultan Agung (Indonesia)).

¹⁵ Siregar, M. (2024). Teori Hukum Progresif dalam Konsep Negara Hukum Indonesia. *Muhammadiyah Law Review*, 8(2).

authority to the Supervisory Board which is formed through a political mechanism. According to the ICW study (2020), this revision has had direct implications for the decline in the performance of the KPK's enforcement efforts, including a decrease in the number of OTT (Hand Arrest Operations) and an increase in the number of termination of major case investigations. This supports the opinion that the institutional structure has been engineered in such a way as to contain the power of anti-corruption institutions.

From the point of view of judicial institutions, the Supreme Court and the Attorney General's Office as the two main pillars of the judicial system are also often caught up in conflicts of interest. In Indonesia, this dualism is reflected in the selective tendency in the handling of cases involving political elites, where legal processes are often stagnant or even stopped without clarity.

This condition is exacerbated by the provisions in the 2023 Criminal Code, which many academics consider to still contain multi-interpretation norms. For example, Article 218 on insulting the President is considered to be able to criminalize legitimate public criticism, even though freedom of expression is part of the constitutional rights of citizens as guaranteed in Articles 28E and 28F of the 1945 Constitution and the International Covenant on Civil and Political Rights (ICCPR) which has been ratified by Indonesia through Law No. 12 of 2005. This multi-interpretation provision opens up space for repressive practices against opposition groups or civil society activists with vague legal legitimacy.

Meanwhile, in the context of the accountability of public officials, the 2023 Criminal Code has also not adopted modern principles in the criminal law of state administration.¹⁶ There is no article that explicitly regulates the principle of strict liability or vicarious liability in the context of office crimes, even though many corruption cases involve structural networks, not just individuals. This shows that Indonesia's legal approach is still oriented towards the individualization of responsibility, which makes it difficult to prove in cases of organized corruption or institutional collusion. Various empirical studies also confirm that the checks and balances system in Indonesia is very weak, especially due to the absence of an independent and strong external audit body.¹⁷ For example, the Judicial Commission is often limited in supervising judges, as it does not have direct authority to take sanctions except through recommendations to the Supreme Court.

In the systemic approach, as Niklas Luhmann puts it, law is a sub-system in a social system that works through autonomous communication. However, when the legal system receives too much interference from other systems, especially political and economic, the law loses its autonomy and is no longer able to produce norms independently. In the Indonesian context, this is particularly relevant because the law is more often used as an instrument of legitimacy of power than as a corrective mechanism.

Based on this framework, it appears that inequality in law enforcement is systemic, not just a technical or operational error. Therefore, institutional reform and legal structure are an urgent agenda. This reform must include three dimensions: (1) legal reform through multi-interpreted regulatory revisions; (2) institutional reform to reduce the dependence

¹⁶ Nugraha, R. S., Rohaedi, E., Kusnadi, N., & Abid, A. (2025). The Transformation of Indonesia's Criminal Law System: Comprehensive Comparison between the Old and New Penal Codes. *Reformasi Hukum*, 29(1), 1-21.

¹⁷ Akbar, K., Karim, Z. P., Fadlullah, N., & Armia, M. S. (2021). Sistem Pengawasan Dana Otonomi Khusus Aceh dan Dampaknya terhadap Pemberantasan Korupsi. *Integritas: Jurnal Antikorupsi*, 7(1), 101-120.

of legal institutions on executive power; and (3) cultural reform to build ethical awareness and social responsibility in the legal profession.¹⁸

Without a comprehensive reform of these three aspects, Indonesia will continue to be trapped in the paradox of the rule of law: normatively adhering to the rule of law, but practically submitting to the supremacy of power. Therefore, there needs to be a joint commitment from all executive, legislative, judicial, academic, and civil society stakeholders to oversee the course of reform in a transparent and participatory manner.

A Critical Analysis of Elite Impunity: Power Relations, Law, and the Crisis of Legitimacy

1. Law as a Tool for Perpetuating Power: Criticism of Legal Neutrality in the Oligarchic Political System

The law is often positioned as a neutral institution that functions to maintain social order and ensure justice for all citizens. However, in the context of a country with an oligarchic power structure like Indonesia, this assumption needs to be criticized in depth. Critical Legal Theory (CLT) offers a conceptual foundation for understanding that law is never truly value-free or stands outside the power relationship. In socio-political reality, the law is often an instrument used by elite groups to maintain their dominance. This can be seen from the tendency of the law to side with dominant political and economic interests, both through the formulation of laws and regulations and through a selective law enforcement process.¹⁹

Antonio Gramsci, an Italian Marxist thinker, explained that the power of the dominant class takes place not only through economic or political control alone, but also through ideological mechanisms such as law, education, and the media. In the framework of his hegemony, law is a tool to create a social consensus that seems to be fair, but serves to disguise the structure of domination. According to Gramsci, law is part of a superstructure that reproduces obedience to the capitalist system and the unequal social order.²⁰ This concept of hegemony emphasizes that law is not just a formal rule, but also a means of forming social consciousness in accordance with the interests of the ruler. In the Indonesian context, this can be seen from the narrative of "law enforcement" which is used to justify repressive actions against opposition groups, but tends to be lenient towards the ruling political elite.

Meanwhile, the findings highlight how law operates as symbolic capital, a form of power legitimized by social and institutional structures.²¹ Law, according to Bourdieu, works not only through the text of regulations, but also through social practices and the position of legal actors in the space of power. Judges, prosecutors, and politicians carry certain habits and interests that are often not neutral. Therefore, the law becomes part of the mechanism of perpetuating symbolic dominance that is shrouded in formal legitimacy. In major corruption cases in Indonesia, such as the Century Bank, BLBI, and

¹⁸ MANGUNSONG, N. (2025). *PENATAAN REGULASI PENYELENGGARAAN PERIZINAN BERUSAHA DI DAERAH ISTIMEWA YOGYAKARTA MENUJU TATA KELOLA YANG EFEKTIF* (Doctoral dissertation, Program Studi Hukum Program Doktor Fakultas Hukum UII).

¹⁹ Wijaya, H. (2021). *Evolusi Oligarki di Indonesia*. *Wijayanto, AP Budiatri, & HP Wiratraman, Demokrasi tanpa Demos: Refleksi*, 100, 822-830.

²⁰ Maliki, Z. (2018). *Sosiologi politik: makna kekuasaan dan transformasi politik*. Ugm Press.

²¹ Hajaruddin, A. (2022). *Relasi Kekuasaan Eksekutif Dan Legislatif Dalam Penyusunan Anggaran Pendapatan Belanja Daerah (APBD) 2020 Kabuapten Luwu= Executive and Legislative Relation in the Preparation of Regional Budget (APBD) 2020 Luwu Regency* (Doctoral dissertation, Universitas Hasanuddin).

Jiwasraya scandals, it is clear that the law works discriminatorily: lower-level perpetrators are arrested and prosecuted, while key figures with strong political affiliations are often untouched.

Critical legal theory was also developed by figures such as Duncan Kennedy and Roberto Unger who criticized the positivistic view of law. They argue that law is a political battleground, not a neutral entity separate from social reality. Legal education and legal practice often reproduce unequal social structures, and that legal elites consciously or unconsciously support the status quo.²² In this sense, the law in Indonesia can be read as the result of a compromise between the dominant political interests and the public need, where the latter is often defeated.

Oligarchy, as a system in which power is controlled by a handful of economic-political elites, is the main context of the problem of legal neutrality. The oligarchy maintains its power not only by economic power, but also by controlling legal and political instruments.²³ In Indonesia, this phenomenon can be seen from the large number of politicians or businessmen involved in legislation and legal policy, both directly as lawmakers and indirectly through lobbying and political funding. This phenomenon of state capture by oligarchs causes the law to become a tool to protect narrow interests, not an instrument of social justice.

Criticism of legal neutrality has also received support from empirical studies. Research from Indonesia Corruption Watch (ICW) and Transparency International shows that law enforcement against corruption is very uneven. ICW data in their annual report reveals that the punishment for elite corruption perpetrators tends to be lighter than for those who do not have political power. In fact, not a few major cases have stopped at the investigation level or have not been resumed due to "lack of evidence", which in many cases is strongly suspected to be related to political intervention. This further confirms that law enforcement runs in selective enforcement choosing who should be acted upon based on political interests, not legal justice.

As a concrete illustration, in the case of corruption in SOEs, many technical actors or lower-middle employees are made suspects, while the president commissioner or large capital owners remain free. This suggests that there is a systemic mechanism that protects the key figures behind corporate crime. Furthermore, the Indonesian judicial system is also inseparable from transactional practices. A number of judges, prosecutors, and lawyers have been arrested for accepting bribes or engaging in judicial mafia practices. If law enforcement agencies alone can be bought, then the law no longer functions as a tool of justice, but rather as a commodity that can be negotiated according to the interests of the ruling party.

In such conditions, legal reform that only focuses on improving norms or procedures is not enough. There needs to be a structural transformation that touches the root of the problem, namely the power relationship between law and politics. Efforts to strengthen the independence of the judiciary, open public access to the legal process, and strengthen civilian control through the media and civil society are important steps. In addition, critical legal education must be developed in order to produce not only legal

²² Sholahudin, U. (2020). Membedah Teori Kritis Mazhab Frankfurt: Sejarah, Asumsi, Dan Kontribusinya Terhadap Perkembangan Teori Ilmu Sosial. *Journal of Urban Sociology*, 3(2), 71-89.

²³ Ismayani, I., Yusri, Y., & Sianturi, P. (2022). Analisis Pengaruh Oligarki Terhadap Demokrasi dan Hak Asasi Manusia di Indonesia. *All Fields of Science Journal Liaison Academia and Society*, 2(2), 385-395.

technocrats, but also legal actors who understand the socio-political complexities behind formal regulation.

Thus, the understanding of law cannot be separated from the context of power. Law is not an empty field, but a field filled with ideological battles, interests, and power. Legal neutrality is only an illusion if the political and economic system remains dominated by oligarchs. It is important, then, that we deconstruct the myth of legal neutrality and build a critical understanding so that the law truly becomes a tool of liberation, not a perpetuation of oppression. In today's Indonesian context, criticism of the law as an instrument of power is not only academic, but also a prerequisite for substantive democracy and true social justice.

2. The Erosion of the Legitimacy of Legal Institutions and Their Impact on Public Trust and Democracy

The erosion of the legitimacy of legal institutions in Indonesia is not a stand-alone phenomenon, but rather a reflection of systemic cracks in the legal state order that is supposed to ensure justice and equality. This phenomenon is evident when the law is no longer perceived as an instrument of justice, but as a tool of power that protects political and economic elites. When institutions such as the KPK, the Prosecutor's Office, and the Court visibly show a bias in the treatment of corrupt perpetrators from the elite, then there is a public perception that the law is only sharp downwards but blunt upwards. This perception, as stated by David Beetham (1991), is a form of failure of normative legitimacy, in which society no longer views law as a representation of the value of justice, but as an instrument of hegemony.²⁴

In the Indonesian context, these failures are exacerbated by various legal reforms that actually weaken the independence of law enforcement agencies. The revision of the KPK Law No. 19 of 2019 is a concrete example where the function of eradicating corruption is weakened through the establishment of the Supervisory Board and changes in the investigator recruitment system. This weakening not only reduces the capacity of the KPK to carry out repressive actions against elite corruption, but also erodes its credibility in the eyes of the public. Based on the LSI survey (2022), public trust in the KPK has decreased drastically from around 70% in 2015 to less than 30% in 2022. This data shows a drastic decline in institutional legitimacy, which is the main foundation of a democratic state.

Theoretically, Max Weber underlined that the legitimate authority of the state can only be enforced through laws that are rational and accepted by society. When the law fails to show impersonal and neutral nature, the state's authority as an organizer of justice becomes weak. This is in line with the findings that emphasize the importance of quality of government, namely clean, fair, and equitable government as a prerequisite for democratic legitimacy.²⁵ Within this framework, the impunity of the elite not only undermines the law normatively, but also undermines the democratic system itself from within.

Inequality in law enforcement also gives rise to a symptom of "legal cynicism", in which people no longer believe that the legal system is able to protect them. In a study conducted by ICW (2023), it was found that the majority of major corruption cases involving political elites are not resolved transparently and fairly. This phenomenon gives

²⁴ Bayo, L. N., Santoso, P., & Samadhi, W. P. (Eds.). (2018). *Rezim lokal di Indonesia: memaknai ulang demokrasi kita*. Yayasan Pustaka Obor Indonesia.

²⁵ *Ibid*

rise to the impression that there are two legal systems that run in parallel: one for the elite who are immune from the law, and the other for the common people who are the main target of the law. This inequality clearly violates the principle of equality before the law guaranteed in the 1945 Constitution Article 27 Paragraph (1) and the principle of justice in the Criminal Code. When these principles are harmed, society begins to lose faith in the formal legal process and tends to seek justice through non-institutional channels.

In the context of democracy, the decline in trust in legal institutions has very serious implications. Healthy democracy requires horizontal accountability between institutions.²⁶ When institutions such as the prosecutor's office or the courts lose the capacity to carry out supervisory functions independently, democracy becomes purely procedural, devoid of substance. As a result, society will experience two extreme possibilities: political apathy or social resistance. Political apathy is reflected in declining participation in elections and the legislative process, while social resistance appears in the form of demonstrations, civil resistance, and even anarchist movements that lead to national instability.

Furthermore, this distrust creates opportunities for the emergence of authoritarian populism. When people are disillusioned with the formal legal system, they tend to support political figures who promise fast and hard law enforcement even though it is contrary to the principles of due process of law. This symptom is "illiberal democracy", in which the government gains electoral legitimacy, but substantially undermines democratic institutions such as the judiciary and civil liberties.²⁷ In such conditions, democracy becomes empty, and the law no longer stands as a protector of rights, but rather as a tool of repression wrapped in populism.

This phenomenon must also be read through the perspective of Critical Legal Studies (CLS), which views law not as a neutral normative system, but as a contested power field. Pierre Bourdieu called law a "field of struggle", a space controlled by dominant interests through symbols of legal neutrality. In reality, legal institutions are often used by elites to reproduce social and political dominance, not to protect the public interest. Therefore, criticism of the law is not only procedural (for example, in laws and regulations), but structural and ideological.

To restore the legitimacy of legal institutions, reforms must be comprehensive, targeting not only bureaucratic aspects, but also power structures within and around legal institutions. Some concrete steps that can be taken include: strengthening institutional independence through transparent and participatory election mechanisms, opening up the law enforcement process for public officials online and accountably, and increasing civil society participation in monitoring the legal process. In addition, there is a need for a thorough evaluation of the integrity of the legal apparatus with an ethical and professionalism approach based on meritocracy.

In conclusion, the erosion of the legitimacy of legal institutions is not only a crisis of public trust, but also a threat to the sustainability of democracy itself. When the law loses its substantive meaning as the guardian of justice, the entire political system is threatened. The rule of law can only survive if the law is seen as fair, consistently enforced, and not subject to power. Without it, democracy will become a mere formal stage, where justice will never really be present before the people.

²⁶ Ra'is, D. U. (2022). Mewujudkan Tata Kelola Pemerintahan Desa Yang Baik Melalui Penerapan Akuntabilitas Sosial. *Journal of Urban Sociology*, 5(2), 109-118.

²⁷ Plattner, M. F. (2020). Illiberal Democracy and the Struggle on the Right. In *The Emergence of Illiberalism* (pp. 43-57). Routledge.

CONCLUSIONS

The inequality of law enforcement in the case of elite corruption in Indonesia reflects the incompatibility between ideal legal norms and manipulative legal practices. Although normatively the Indonesian legal system has a strong tool to eradicate corruption, reality shows the dominance of political and economic power that intervenes in the legal process, weakens law enforcement institutions, and maintains a culture of impunity. As a result, the principle of equality before the law is damaged, the legitimacy of the judiciary is eroded, and public trust in the legal system is weakened. This situation is exacerbated by structural obstacles such as regulatory revisions that weaken the KPK, multiple interpretations in the new Criminal Code, and the absence of an effective system of checks and balances. In the perspective of critical legal theory, law has been co-opted by oligarchic forces and functions more as a tool for perpetuating power than as an instrument of justice. This inequality causes a democratic crisis and opens up space for the emergence of populism and legal cynicism in society. Overcoming this condition requires transformative and integrated legal reform, including revision of regulations that are in favor of the people, strengthening the independence of legal institutions, and the establishment of an ethical and critical legal culture. Only by dismantling the power relations in the law and consistently upholding justice can a democratic and substantive state of law be realized.

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