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PARAMETERS OF CERTAIN CIRCUMSTANCES AS A BASIS FOR THE APPLICATION OF THE DEATH PENALTY IN THE PERSPECTIVE OF LEGAL CERTAINTY

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Abstract*: Every policy contained in a Law must provide clarity and firmness in order to create fair legal certainty for society. In this regard, although the meaning of the phrase "certain circumstances" in Article 2 Paragraph 2 of the Corruption Eradication Law is already clear and firm, further study and analysis of the measures or parameters of that meaning are necessary. This study aims to examine the characteristics of "certain circumstances" as a basis for applying the death penalty under Article 2 Paragraph (2) of the Corruption Eradication Law, as well as to examine the juridical parameters of each category of "certain circumstances" in Article 2 Paragraph (2) of the Corruption Eradication Law from the perspective of the principle of legal certainty. This research is a normative legal study that analyzes the characteristics and juridical parameters of "certain circumstances" as a basis for imposing the death penalty in corruption offenses. The results show that Article 2 Paragraph 2 of the Corruption Eradication Law possesses several inherent characteristics that distinguish it from other regulations. On the other hand, the phrase "certain circumstances" includes specific categories that still require stronger, clearer standards to aggravate capital punishment for corruption crimes. The meaning of each category can be clarified and analyzed through relevant laws and regulations. However, in this case, the Corruption Eradication Law must still accommodate clear parameters in interpreting each policy.*

Keywords: *Certain Circumstances; Legal Certainty; Anti-Corruption Law; Juridical Parameters*

I. INTRODUCTION

Fundamentally, law is established to provide justice, utility, and legal certainty for society. These three objectives work together to enable effective, equitable enforcement and implementation that aligns with societal needs. If even one of these objectives is not fulfilled, the execution of law, both material and formal, can be said to have failed to operate in accordance with the ideals and goals of the law itself.

Law represents a collection of policies formulated by the government by referring to the social, economic, political, and cultural conditions of society, which are then compiled and codified into a statutory statute. This implies that policies structured within a Law are a representation of what occurs within the social environment, reflecting the needs of the public, the private sector, and the state at that time. Consequently, all strata of society, private entities, government bodies, and law enforcement agencies should share a uniform perspective in interpreting every policy contained within the law, particularly during the law enforcement process.

Policies structured within a Law contain phrases that possess distinct meanings, although in practice individuals may interpret these phrases through diverse lenses. Such diversity in perspectives inevitably gives rise to varied actions among the public in implementing the law, particularly for law enforcement officers—specifically judges as the executors of law. When phrases in a Law are ambiguous or open to multiple interpretations, legal uncertainty can arise, making it difficult for judges to render just decisions.[1]

In the context of law and the criminal justice system, the principle of legal certainty encompasses core principles that play a vital role in the legal system and the enforcement of justice. This principle emphasizes that legal rules must be drafted clearly, comprehensibly, and accessibly to every member of society.[2] Especially for judges as executors, they naturally desire decisions that deliver justice to the disputing parties; such justice can be attained, among other ways, through the clarity and firmness of a rule. On the other hand, there remain regulations that fail to reflect legal certainty, thereby triggering excessive discretionary interpretation by judges. This creates the possibility of a perceived lack of fairness for disputing parties after a decision is rendered.

The provisions of Article 2 Paragraph 1 of the Law on the Eradication of Corruption Crimes (Anti-Corruption Law) stipulate that: "Any person who unlawfully engages in an act of enriching himself or another person or a corporation that can cause financial loss to the state or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiahs)". Furthermore, Article 2 Paragraph 2 of the Anti-Corruption Law further regulates

[1] Nurul Hasanah et al., *logika hukum frasa "alasan sangat mendesak" dalam dispensasi kawin melalui harmonisasi undang-undang nomor 16 tahun 2019 dan perma nomor tahun 2019*, no. 1 (2026).

[2] Jati Insan Pramujayanto, "implementasi prinsip kepastian hukum dan keadilan dalam penghentian penuntutan berdasarkan keadilan restoratif," *Jurnal Ilmu Hukum: ALETHEA* 7, no. 1 (2024): 49–66.

that: "In the event that the crime of corruption as referred to in paragraph (1) is committed under certain circumstances, the death penalty may be imposed".

The phrase "certain circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law was once a subject of intense debate, given the broad scope of the phrase within the context of capital punishment application. The Elucidation of Article by Article of the Anti-Corruption Law explains that "certain circumstances" refer to aggravating circumstances for perpetrators of corruption crimes if the crime is committed when the state is in a state of danger in accordance with applicable laws, during a national natural disaster, as a repetition of a corruption crime, or when the state is in a state of economic and monetary crisis.

Following the enactment of Law Number 20 of 2001 on the Amendment to Law Number 31 of 1999 on the Eradication of Corruption Crimes (Amendment to the Anti-Corruption Law), the meaning of the phrase "certain circumstances" shifted to conditions that serve as grounds for sentence aggravation for corruption perpetrators, namely if the crime is committed against funds designated for handling states of danger, national natural disasters, addressing widespread social unrest, overcoming economic and monetary crises, and the repetition of corruption crimes.

Several parties opposed this shift in meaning because it was considered to restrict the application of capital punishment for corruption crimes. On the other hand, corruption is a serious crime that requires distinct treatment compared to ordinary criminal offenses, including sentencing policies that should not merely focus on asset recovery but must also be directed toward deterrence and severe punishment for perpetrators.[3]

Decision 112/PUU-XIII/2015 illustrates how a petitioner challenged the modification of the meaning of "certain circumstances" in the Elucidation of the Amendment to the Anti-Corruption Law. This challenge was viewed as a concrete step to expand the scope for applying the death penalty to corruptors, particularly directing its application toward corruption committed when the state is in a state of danger. This argument served as the basis for the Petitioner to file a judicial review concerning the phrase "certain circumstances" and to reinstate its original meaning as stated prior to the amendment. However, the ruling declared the petition inadmissible. Consequently, the meaning of "certain circumstances" continues to refer to the amended text as set forth in the Amendment to the Anti-Corruption Law.

[3] Aryo Tri Revando dkk., *pengaruh sistem pemidanaan tindak pidana korupsi terhadap efektifitas pemberantasan korupsi: studi perbandingan hukum indonesia dan singapura*, 6, no. 1 (2025).

The above explanation illustrates how Article 2 Paragraph 2 of the Anti-Corruption Law imposes limitations on the phrase "certain circumstances", under which the death penalty can only be applied to funds designated for emergency management, national natural disasters, addressing widespread social unrest, handling economic and monetary crises, and repeat corruption offenses. However, these limitations are not yet fully accompanied by clear and measurable juridical parameters to determine whether each category is fulfilled as a basis for sentence aggravation up to capital punishment.

The first study conducted by Natasha Intania Sabila et al. examined the problems surrounding the application of the death penalty to corruption perpetrators under "certain circumstances". The study focused on the issues of multiple interpretations and the lack of clarity in applying the concept of "certain circumstances", the effectiveness of capital punishment as an aggravating factor, and the need to reformulate capital punishment provisions in corruption crimes. The discussion also addressed the application of these provisions during the COVID-19 pandemic and compared capital punishment regulations for corruption across several countries.[4]

A study conducted by Oktaviana Naibaho and Hisar Siregar examined corruption in natural resource management during non-natural disasters and national crises, focusing on reconstructing Article 2 Paragraph (2) of the Anti-Corruption Law within an emergency law framework. The study analyzed the characteristics and patterns of natural resource corruption during crisis conditions and the ambiguity of the phrase "certain circumstances", which impacts the effectiveness of sentence aggravation. Furthermore, the study proposed a normative reconstruction by integrating principles of legality, necessity, proportionality, temporariness, and oversight to clarify the application of Article 2 Paragraph (2) of the Anti-Corruption Law.[5]

Research conducted by Vavirotus Sholichah analyzed the feasibility of imposing capital punishment on perpetrators of corruption in COVID-19 social assistance funds pursuant to Article 2 Paragraph (2) of the Anti-Corruption Law. The study centered on whether corruption involving social assistance during the COVID-19 pandemic could be categorized as a crime committed under "certain circumstances", as well as legal remedies in the sentencing process of COVID-19 social assistance

[4] Natasha Intania Sabila et al., "Dilematika 'Keadaan Tertentu' Dalam Penjatuhan Sanksi Pidana Mati Terhadap Koruptor di Indonesia," *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 12, no. 2 (2023): 186.

[5] Oktaviana Naibaho dan Hisar Siregar, *Korupsi Sumber Daya Alam dalam Situasi Bencana Non-Alam dan Krisis Nasional: Rekonstruksi Pasal 2 Ayat (2) UU No. 20 Tahun 2001 Tentang Tindak Pidana Korupsi dalam Kerangka Hukum Darurat*, 15, no. 2 (2025).

corruptors. Employing a socio-legal approach, the study combined legal analysis with non-legal factors. The results concluded that the death penalty under Article 2 Paragraph (2) of the Anti-Corruption Law could be imposed on COVID-19 social assistance corruptors and offered regulatory, advocacy, litigation, and adjudication strategies for handling such cases.[6]

All three studies examined the ambiguity of the phrase "certain circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law, which makes capital punishment difficult to enforce. It is understood that the phrase "certain circumstances" signifies that the death penalty can only be imposed on corruptors targeting state funds allocated for handling states of danger, national natural disasters, widespread social unrest, economic and monetary crises, and recidivism in corruption. The meaning of the phrase "certain circumstances" will be further analyzed as the novelty of this research, ensuring that capital punishment can be targeted accurately according to the categories embedded within the phrase's meaning. Based on the introduction above, this research focuses on examining the characteristics of "certain circumstances" as a basis for applying the death penalty under Article 2 Paragraph (2) of the Anti-Corruption Law, as well as the juridical parameters of each category of "certain circumstances" in Article 2 Paragraph (2) of the Anti-Corruption Law evaluated from the principle of legal certainty.

II. RESEARCH METHODS

This study is a normative legal research aimed at analyzing the characteristics and juridical parameters of "certain circumstances" as a basis for applying the death penalty in corruption crimes pursuant to Article 2 Paragraph (2) of Law Number 20 of 2001 on the Amendment to Law Number 31 of 1999 on the Eradication of Corruption Crimes. This research employs a statutory approach, a conceptual approach, and a case approach. Primary legal materials consist of statutory regulations related to corruption crimes and the categories of "certain circumstances", as well as relevant court decisions, while secondary legal materials comprise books, academic journals, and previous research findings. Legal materials were collected through library research and analyzed qualitatively and juridically through interpretation, systematization, and synchronization of relevant legal provisions to derive the juridical parameters for each category of "certain circumstances" from the perspective of legal certainty.

[6] Vavirotus Sholichah dan Satria Unggul Wicaksana Prakasa, "analisis keadaan tertentu tentang penerapan pidana mati: studi kasus korupsi bansos covid-19," *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 173–98.

III. ANALYSIS AND DISCUSSION

a. Characteristics of "Certain Circumstances" as a Basis for Applying the Death Penalty under Article 2 Paragraph (2) of the Anti-Corruption Law

Every legal policy formulated in a Law possesses inherent characteristics that distinguish it from other matters, including Article 2 Paragraph 2 of the Anti-Corruption Law, whose primary characteristic concerns the aggravation of sanctions in the form of capital punishment for corruptors. In the context of this study, characteristics can also be understood as procedural prerequisites for applying the death penalty during specific situations.

Under normative procedure, the application of capital punishment to corruption perpetrators requires the prior satisfaction of the elements of acting "unlawfully", "enriching oneself or another person or a corporation", and being capable of "causing financial loss to the state or the state economy". This is affirmed in Article 2 Paragraph 1 of the Anti-Corruption Law, which states that "Any person who unlawfully engages in an act of enriching himself or another person or a corporation that can cause financial loss to the state or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiahs)".

Furthermore, it must be noted that capital punishment cannot be applied merely by fulfilling the subjective and objective elements in Article 2 Paragraph 1 of the Anti-Corruption Law; rather, it must align with the elements in Article 2 Paragraph 2. The categories embedded within the phrase "certain circumstances" constitute an essential prerequisite that must be satisfied as a foundation for imposing the death penalty.

On the other hand, the word "may" contained in Article 2 Paragraph 2 of the Anti-Corruption Law serves merely as a gateway enabling the potential imposition of the death penalty. It does not imply that fulfilling the elements in Article 2 Paragraphs 1 and 2 automatically leads to the immediate application of capital punishment. Ultimately, the application of the death penalty rests on judicial discretion guided by facts presented in court, the defendant's conduct and ethics during detention and trial, the scale of impact caused by the corruption, the perpetrator's official position determining whether the corruption occurred at a regional or national scale, and other factors considered by judges in deciding whether or not to impose capital punishment on corruption perpetrators.[7] This reasoning explains why the death

[7] Muhammad Rifky Rizani, *Pertimbangan Hakim dalam Penjatuhan Pidana Mati Ditinjau Dari Sudut Pandang Filsafat*, 5, no. 05 (2025).

penalty is rarely imposed, even when a perpetrator's actions appear at first glance to satisfy the elements of Article 2 Paragraphs 1 and 2 of the Anti-Corruption Law.

It should also be recognized that the phrase "certain circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law represents a special condition accompanying the crime of corruption as referred to in Article 2 Paragraph 1. This condition does not constitute a new criminal offense; rather, it serves as a basis for sentence aggravation marked by the possibility of imposing the death penalty on perpetrators.[8] Consequently, the presence of "certain circumstances" determines whether or not the sentence aggravation provision in Article 2 Paragraph (2) can be applied.

Moreover, the requirement of "certain circumstances" restricts capital punishment to situations where corruption occurs under special conditions.[9] In the Elucidation of Article 2 Paragraph 2 of the Amendment to the Anti-Corruption Law, "certain circumstances" are defined as conditions serving as grounds for sentence aggravation for corruption perpetrators—specifically when committed against funds designated for handling states of danger, national natural disasters, addressing widespread social unrest, handling economic and monetary crises, and repeat corruption offenses. These categories allow the death penalty to be applied as an aggravated sanction, provided that the elements in Article 2 Paragraph 1 are also satisfied. Nevertheless, meeting these elements does not guarantee the automatic execution of the death penalty, given that capital punishment under this article is extraordinarily difficult to impose and has never been handed down by courts due to strict parameters surrounding "certain circumstances" and the challenging burden of proof.

The Corruption Eradication Commission (KPK) recorded achievements in state asset recovery throughout 2025, where as of December 2025, corruption asset recoveries returned to the state treasury reached Rp1.531 trillion.[10] Meanwhile, during the first semester of 2026, the KPK recorded regional financial asset recoveries returned to the state treasury totaling Rp2.23 trillion.[11]

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[8] Santi Novia Ayu Kurniawati, "perlindungan hukum bagi pasien pada tindakan operasi dalam persetujuan tindakan medis (informed consent)," *Jurnal Hukum dan Pembangunan Ekonomi* 8, no. 2 (2021): 170.

[9] Salmon Latue et al., "Penjatuhan Pidana Mati Terhadap Pelaku Tindak Pidana Korupsi Dimasa Pandemi Covid-19," *MATAKAO Corruption Law Review* 1, no. 2 (2023): 151–61.

[10] KPK, 2026. *Rekor Baru KPK 2025: Pulihkan Aset Negara Rp1,5 Triliun Hingga Implementasi KUHP-KUHAP* https://www.kpk.go.id/id/ruang-informasi/berita/rekor-baru-kpk-2025-pulihkan-aset-negara-rp15-triliun-hingga-implementasi-kuhp-kuhap

[11] KPK, 2026. *Capaian Kinerja Semester I 2026 KPK: Kokoh di Tengah Transisi, Akuntabel Layani Negeri* https://www.kpk.go.id/id/ruang-informasi/berita/capaian-kinerja-semester-i-2026-kpk-kokoh-di-tengah-transisi-akuntabel-layani-negeri

The above data highlights the prevalence of corruption offenses whose handling remains limited to asset recovery, without accompanying repressive measures in the form of capital punishment. If the death penalty remains merely a formal provision on paper, certainty regarding capital punishment loses its practical existence. To realize the implementation of capital punishment, legal certainty in its application must be strengthened. In accordance with national legal standards, a law must be valid (legal), fair (just), and rational (reasonable) to preserve the existence of capital punishment, particularly for corruption occurring during emergency situations. Such crimes require decisive action; extraordinary problems demand extraordinary measures, given their potential to devastate millions of lives. Therefore, future anti-corruption efforts are expected to decisively target corruptors who harm the public interest.[12]

b. Juridical Parameters of Each Category of "Certain Circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law Evaluated from the Principle of Legal Certainty

In the context of the phrase "certain circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law, literal clarity and firmness are insufficient to build legal certainty, particularly in ensuring that capital punishment is applied appropriately. Specific categories are embedded within "certain circumstances", necessitating an examination of normative parameters for each individual category. These categories include states of danger, national natural disasters, management of widespread social unrest, management of economic and monetary crises, and recidivism in corruption.

Article 12 of the 1945 Constitution grants discretionary authority to the President to declare a state of danger. The requirements for declaring a state of danger and its legal consequences are determined by law. On this basis, Indonesia previously enacted Law Number 74 of 1957 on the Declaration of a State of Danger, which was subsequently revoked by Government Regulation in Lieu of Law (Perppu) Number 23 of 1959 on the Revocation of Law Number 74 of 1957 and the Declaration of a State of Danger (Perppu 23/1959).[13]

[12] Natasha Intania Sabila et al., "Dilematika 'Keadaan Tertentu' Dalam Penjatuhan Sanksi Pidana Mati Terhadap Koruptor di Indonesia," *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 12, no. 2 (2023): 186.

[13] Muhammad Yasin, 2019. *3 Aturan Ini Jadi Rujukan Utama dalam Hukum Tata Negara Darurat* https://www.hukumonline.com/berita/a/3-aturan-ini-jadi-rujukan-utama-dalam-hukum-tata-negara-darurat-lt5cb7dd8f09254/

Under Article 1 Paragraph 1 of Perppu 23/1959, a state of danger is divided into 3 (three) levels: a state of civil emergency, a state of military emergency, and a state of war. These three levels represent statuses of danger that occur when security or legal order throughout or in part of the territory of the Republic of Indonesia is threatened by rebellion, riots, or natural disasters, creating fear that ordinary apparatuses cannot handle it; when war or danger of war breaks out or territorial violation is feared; or when the state's existence is endangered or special conditions indicate symptoms threatening the state's existence.

A state of danger need not satisfy all three categories simultaneously; if factual conditions reflect any single level, the government should be entitled to declare a "state of danger". The declaration and revocation of a state of danger are executed by the President/Commander-in-Chief of the Armed Forces pursuant to Article 1 Paragraphs 1 and 2 of Perppu 23/1959. Thus, the parameters for measuring clarity regarding states of danger in sentence aggravation can be derived from these three conditions set forth in Perppu 23/1959.

The category of national natural disaster within "certain circumstances" in Article 2 Paragraph 2 of the Anti-Corruption Law also warrants normative analysis based on applicable laws, as this category has sparked debate among government officials and scholars. Some argue that the word "national" in "national natural disaster" restricts capital punishment unfairly, as it might be interpreted *a contrario*—meaning non-national disasters would exclude the death penalty.[14]

Article 7 Paragraph 1 letter c of Law Number 24 of 2007 on Disaster Management (Disaster Management Law) grants authority to the government to determine disaster status and levels. This is specifically regulated in Presidential Regulation Number 17 of 2018 on Disaster Management under Certain Circumstances, specifically Article 2 Paragraphs 1 and 2, which govern the declaration of disaster emergency statuses by central or regional governments. National disaster status is declared by the President, provincial status by the Governor, and regency/city status by the Regent/Mayor.

Article 7 Paragraph 2 of the Disaster Management Law further provides that disaster status declarations consider indicators including casualty counts, property losses, infrastructure damage, geographical coverage, and socio-economic impact. However, pursuant to Constitutional Court Decision Number 261/PUU-XXIII/2025 reviewing Article 7 Paragraph 2 of the Disaster Management Law, the Court altered

[14] Agus Sahbani, 2019. Pemerintah Jelaskan Makna 'Bencana Nasional' dalam UU Pemberantasan Tipikor https://www.hukumonline.com/berita/a/pemerintah-jelaskan-makna-bencana-nasional-dalam-uu-pemberantasan-tipikor-lt5c7431e3cf033/?page=1

the requirements for declaring a national disaster. Previously requiring all five indicators cumulatively, national disaster status can now be established using three indicators, with casualty count as the primary indicator. No rigid numerical threshold exists for casualties; rather, casualty count serves as a mandatory primary indicator among the five criteria.[15]

Accordingly, the parameters for measuring clarity regarding national natural disasters in applying capital punishment involve identifying who declares the status and what disaster types qualify. National natural disaster status can be established by prioritizing casualty counts as the main indicator, declared formally by the President. Fulfilling these criteria enables potential capital punishment application, though judicial discretion and courtroom evidence remain decisive.

Furthermore, the Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law includes "widespread social unrest" as a specific condition for sentence aggravation. However, the provision lacks further parameters to determine when social unrest qualifies as "widespread". To establish juridical parameters, social unrest can be linked to social conflict management under Law Number 7 of 2012 on Social Conflict Management.

Article 1 Paragraph 1 of the Social Conflict Management Law defines social conflict as physical clashes with violence between two or more community groups over a period, producing widespread impacts that cause insecurity and social disintegration, thereby disrupting national stability and development. The element of "widespread impact" serves as a normative reference for understanding widespread unrest.

Based on this provision, the extent of social unrest is measured not merely by geographic scale or affected population, but by consequences regarding security, social order, national stability, and development. The law manages conflict through legal mechanisms, including halting physical violence and declaring Conflict Statuses. Thus, juridical parameters for evaluating "widespread social unrest" include group violence, temporal duration, widespread impact, social disintegration/insecurity, and effects on national stability and development. However, since the Social Conflict Management Law uses "Social Conflict" while the

[15] Susana Rita Kumalasanti, 2026. *MK: Jumlah Korban Jadi Indikator Utama Penetapan Status Bencana Nasional* https://www.kompas.id/artikel/mk-jumlah-korban-jadi-indikator-utama-penetapan-status-bencana-nasional

Anti-Corruption Law uses "widespread social unrest", the former serves as a reference framework rather than a direct definition.

Legal uncertainty arises because the Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law does not explicitly specify whether "widespread" relies on geographic scope, affected population, violence intensity, social impact, or cumulative conditions under the Social Conflict Management Law. Objective parameter construction remains necessary to prevent subjective application. The Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law incorporates "economic and monetary crisis" as an aggravating ground. However, it fails to define when economic conditions constitute a crisis, necessitating reference to financial sector legislation.

A relevant provision is Law Number 9 of 2016 on the Prevention and Handling of Financial System Crises (PPKSK Law). Article 1 Paragraph 3 defines a Financial System Crisis as a condition where the financial system fails to perform effectively, evidenced by deteriorating economic and financial indicators. A crisis is thus tied to systemic failure and indicator deterioration rather than general economic downturns. The PPKSK Law includes monetary stability under financial system monitoring, evaluated by the Financial System Stability Committee (KSSK). Under specific conditions, KSSK formally declares whether financial stability is normal or in a crisis state. Consequently, juridical parameters for "economic and monetary crisis" involve severe disruptions to financial system functioning, deteriorating economic indicators, and formal assessment by authorized stability bodies. Temporary downturns do not automatically qualify as legal crises.

A normative distinction exists: the Anti-Corruption Law uses "economic and monetary crisis", whereas the PPKSK Law uses "Financial System Crisis". The PPKSK Law serves as a constructive reference rather than an exact definition. Legal certainty depends on whether crisis parameters clearly demonstrate that corrupted funds were specifically allocated for crisis mitigation pursuant to the Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law. The relationship between systemic crises and designated fund usage must be established. The Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law lists "repetition of corruption crimes" (recidivism) as an aggravating condition. However, it lacks parameters defining what constitutes repeat corruption, requiring reference to general criminal law principles. In national criminal law, recidivism aggravates sentencing. Article 58 letter c of Law Number 1 of 2023 (National Criminal Code / KUHP) recognizes recidivism as an aggravating sentencing factor.

In the context of Article 2 Paragraph 2 of the Anti-Corruption Law, corruption recidivism involves parameters: prior corruption offenses, judicial decisions, final legal status (inkracht), subsequent corruption by the same perpetrator, and temporal proximity between offenses. Legal uncertainty persists because the Elucidation fails to clarify whether prior binding judgments, completed sentences, or specific time limits are required. Clear parameter construction is essential to prevent conflicting interpretations.

IV. CONCLUSION

The Elucidation of Article 2 Paragraph 2 of the Anti-Corruption Law possesses distinct characteristics regarding capital punishment for corruptors. Key characteristics include: requiring fulfillment of objective-subjective elements in Article 2 Paragraphs 1 and 2; the word "may" acting as an entry point rather than automatic imposition, leaving sentencing to judicial discretion and evidence; and "certain circumstances" serving as specific aggravating conditions for capital punishment. Furthermore, individual categories require normative parameters for legal certainty: "state of danger" applies during civil emergency, military emergency, or war under Perppu 23/1959; "national natural disaster" prioritizes casualty counts as primary indicator per Constitutional Court Decision 261/PUU-XXIII/2025; "widespread social unrest" considers group violence, duration, impact, insecurity, and stability disruption; "economic and monetary crisis" requires severe financial system disruption and formal authority assessment; and "repetition of corruption crimes" requires prior offenses, court decisions, legal status, same perpetrator, and temporal relation. Statutory clarity within the Anti-Corruption Law itself is necessary to establish clear parameters for "certain circumstances" and ensure fair legal certainty.

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