



Currency Crime and Penal Proportionality: Indonesia's 2023 Criminal Code in Comparative Perspective

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ABSTRACT

The implementation of the Criminal Code (KUHP) of 2023 has implications for the criminal justice system in various laws and regulations, including Law No. 7 of 2011 on Currency. These changes must be examined and studied by comparing the financial protection of Japan and the United States. This is because the system of substantive criminal law reform must be aligned with the preservation of the value of currency and minimising currency-related crimes. This study aims to analyse the concept of symbolic protection towards proportional legal protection in relation to the implementation of the 2023 National Criminal Code. This study focuses on the differences in philosophy, the purpose of punishment, and the proportionality of sanctions applied in Indonesia, Japan, and the United States. The research method used is normative-comparative legal research, with a legislative approach, conceptual approach, and comparative approach. Data was obtained through a literature study of the 2023 Criminal Code, Law Number 7 of 2011, and currency regulations in several comparable countries. The results of the study show that the criminal system in the Indonesian Currency Law is still repressive and symbolic, with an emphasis on protecting the sovereignty of the Rupiah as a symbol of the state. This differs from common law systems (such as in the United States and the United Kingdom), which focus on economic functions and public confidence in monetary stability, and the civil law system in Japan, which combines social moral values and economic stability. The enactment of the 2023 National Criminal Code opens up opportunities for the harmonisation and reconstruction of criminal policy to be more proportional, humane, and in line with developments in the global legal system without reducing the value of the Rupiah's sovereignty.

Keywords: Criminal; Currency; Law; Punishment; System.

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INTRODUCTION

Indonesian criminal law has entered a new phase with the enactment of Law No. 1 of 2023 on the National Criminal Code (KUHP), which replaces the *Wetboek van Strafrecht* (WvS), a relic of Dutch colonial rule.¹ The enactment of the National Criminal Code is not merely an update in terms of criminal law substance, but also a monumental step in the effort to codify and unify national law based on the values of Pancasila, social justice, and human rights.² In this context, all laws and regulations containing criminal provisions, including Law No. 7 of 2011 on Currency, need to be reviewed to ensure they are in line with the new principles promoted by the National Criminal Code. Law No. 7 of 2011 on Currency is a legal instrument that plays an important role in maintaining monetary sovereignty and the stability of the national financial system. Article 1 Paragraph 1 explains that Currency is money issued by the Unitary State of the Republic of Indonesia, hereinafter referred to as the Rupiah. Law No. 7 of 2011 on Currency regulates the position of the Rupiah as the sole legal tender in the territory of the Unitary State of the Republic of Indonesia and imposes criminal sanctions for violations related to the use, counterfeiting, or destruction of currency.³ The existence of criminal sanctions in the Currency Law serves not only as an instrument of law enforcement, but also as a means of protecting symbols of state sovereignty, as currency is a symbol of public trust in the government and the national economic system.

The existence of criminal sanctions in the Currency Law not only serves as a means of law enforcement, but also as a means of protecting symbols of state sovereignty, because currency is a symbol of public trust in the government and the national economic system.⁴ Therefore, it is important to analyse the synchronisation and legal position of criminal sanctions in the Currency Law so that there is no legal disharmony in the Indonesian criminal law system. In addition, this legal analysis also has academic and practical urgency related to the transition from the 1946 Criminal Code to the 2023 National Criminal Code and its correlation with Law Number 7 of 2011 concerning Currency. Academically, this research contributes to the development of national criminal law and economic law through an intertextual study of the National Criminal Code and sectoral laws. Practically, the results of this study are expected to serve as recommendations for policymakers (legislators) in harmonising legislation in the field of special criminal law, so that law enforcement against currency violations can be effective, fair, and in accordance with national legal values.

The enactment of the 2023 National Criminal Code (KUHP) has brought about a paradigm shift in the national criminal justice system. The new Criminal Code introduces

¹ Afifah Firdaus and Indra Yugha Koswara, "Pembaharuan Hukum Pidana Di Indonesia: Analisis Tentang Pidana Pengawasan Dan Asas Keseimbangan," *Lex Renaissance* 9, no. 1 (2024): 1–22, <https://doi.org/10.20885/jlr.vol9.iss1.art1>.

² Nanda Sahputra Umara and Pathorang Halim, "Membangun Hukum Pidana Nasional Diatas Pondasi Keadilan Pancasila Dalam Wujud Nilai Ke Tuhanan Yang Maha Esa," *Al-Qisth Law Review* 5, no. 1 (2021): 171, <https://doi.org/10.24853/al-qisth.5.1.171-193>.

³ Sarah Marety Camelia, Siswantari Pratiwi, and Louisa Yesami Krisnalita, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Peredaran Uang Palsu Berdasarkan Pasal 245 Kuhp (Studi Kasus Putusan Nomor 381/PID.B/2014/PN.JKT.TIM)," *Jurnal Krisna Law* 1, no. 3 (2019): 99–108.

⁴ Umara and Halim, "Membangun Hukum Pidana Nasional Diatas Pondasi Keadilan Pancasila Dalam Wujud Nilai Ke Tuhanan Yang Maha Esa."

fundamental changes to the concept of the purpose of punishment, which is no longer solely retributive in nature but also emphasises restorative justice and the rehabilitation of offenders.⁵ This change certainly has implications for the existence and application of criminal sanctions contained in specific laws, including the Currency Law. Fundamental questions arise regarding the relevance and proportionality of criminal sanctions in the Currency Law after the enactment of the National Criminal Code, which is oriented towards corrective justice and humanity. Furthermore, from a comparative legal perspective, the regulation and application of criminal sanctions for currency law violations differ between countries that adhere to the civil law system, such as Indonesia and Japan, and countries that adhere to the common law system, such as the United States and the United Kingdom. Civil law countries tend to use criminal sanctions as a symbolic means of protecting currency sovereignty, while common law countries place greater emphasis on economic security and public confidence in the financial system. These differences in philosophy and orientation demonstrate the diversity in how legal systems understand the function of criminalisation in the monetary sphere.

Previous research deemed relevant includes, for example, research written by Dwiki Oktobrian concerning criminal policy in enforcing the sovereignty of the rupiah in accordance with Law Number 7 of 2011 concerning Currency. In particular, this research touches on the protection of the sovereignty of the rupiah as a symbol of the state.⁶ In addition, there is also research written by Zaheashafa Putri Mahardika, Rizky Banyualam Permana, and Nadia Maulisa related to Going Digital Rupiah: Some Considerations From Sovereignty And Cybersecurity Perspectives.⁷ This research focuses on the rupiah security system in relation to the era of globalisation, which is characterised by the use of technology, one of which is the cyber security system. Crime is constantly evolving and becoming more complex, necessitating a security system for the rupiah in the global era. The two studies above differ from the study currently being written, which concerns 'From Symbolic Protection to Proportional Penalty: Reconstructing Indonesia's Currency Law under the 2023 Criminal Code (Comparative Study with Japan and the U.S).' This study explains the efforts to move from symbolic protection to proportional criminal law protection as part of a review of the reconstruction of Indonesia's currency law based on the 2023 National Criminal Code. This study also examines comparisons between the legal systems in Japan and the United States, which are notable examples of developed countries. The concepts in both countries are suitable for application in Indonesia, which has aspirations to become a developed and sovereign country. This study is highly original, and there are no other studies that are exactly the same.

The selection of Japan and the United States as comparative jurisdictions in this study is not incidental, but rests on a set of methodological and structural considerations that make both countries particularly relevant for evaluating Indonesia's currency crime policy and its reconstruction under the 2023 Criminal Code. First, all three jurisdictions

⁵ Ramizah Wan Muhammad, "Keadilan Restoratif Dan Retributif Dalam Syariah Dan Di Malaysia: Satu Sorotan (," *Journal of Contemporary Islamic Law* 3, no. 1 (2018): 35–41.

⁶ Dwiki Oktobrian, "Criminalization Policy in Realizing of Rupiah Sovereignty," *De Lega Lata: Jurnal Ilmu Hukum* 7, no. 2 (2022): 303–13.

⁷ Zahrashafa Putri Mahardika and Banyualam Permana, "Going Digital Rupiah : Some Considerations From Sovereignty," *Journal of Central Banking Law and Institutions* 2, no. 1 (2023): 25–54, <https://doi.org/https://doi.org/10.21098/jcli.v1i2.15>.

share a strong commitment to monetary sovereignty and centralized monetary governance. Indonesia, Japan, and the United States place the issuance, circulation, and integrity of currency under the authority of an independent central bank, with criminal sanctions serving as a core instrument to protect public trust in the national currency. This institutional similarity provides a comparable baseline for assessing how criminal law is deployed to safeguard monetary stability, despite differences in economic scale and legal tradition.

Second, Japan and the United States represent two mature and influential legal families that have historically shaped Indonesia's legal development. Japan embodies a civil law system that has successfully integrated continental European doctrines with post-war constitutionalism and pragmatic judicial practices. This is particularly relevant for Indonesia, whose criminal law tradition is rooted in the civil law family and currently undergoing codification reform through the 2023 Criminal Code. By contrast, the United States represents the common law tradition, offering a contrasting yet instructive model in which proportionality is articulated through constitutional safeguards, judicial review, and sentencing guidelines. Together, these jurisdictions allow the study to examine proportionality across both civil law and common law frameworks, enhancing the analytical robustness of the comparison. Third, both Japan and the United States exhibit a high level of enforcement maturity in dealing with currency-related offences. Their legal systems demonstrate relatively stable jurisprudence, established prosecutorial practices, and transparent sentencing rationales in cases involving counterfeiting, misuse of currency, and threats to monetary integrity. This maturity enables the study to move beyond purely textual comparison and to assess how proportionality operates in practice an aspect that remains underdeveloped in Indonesia's currency crime enforcement. Fourth, Japan and the United States provide complementary comparative insights. Japan illustrates how restraint, consistency, and individualized sentencing can prevent the over-criminalisation of currency-related conduct while maintaining strong monetary protection. The United States, on the other hand, demonstrates how proportionality concerns are institutionalised through explicit sentencing frameworks and constitutional limits, even within a system known for relatively severe penalties. These contrasting yet convergent approaches offer valuable lessons for Indonesia in transitioning from symbolic penal protection toward a proportionate and rational sanctioning regime. Accordingly, the comparison with Japan and the United States enables this study to position Indonesia's currency law reform within a broader global spectrum of penal governance, rather than against arbitrarily selected jurisdictions. The choice strengthens the study's normative reconstruction by grounding it in systems that are institutionally comparable, doctrinally influential, and empirically mature in the enforcement of currency crime laws.

Philosophically speaking, if a nation wishes to become advanced and sovereign, it must reflect on the essential characteristics of nations that have already achieved this status.⁸ Philosophically speaking, currency is recognised as a symbol of the state that must be safeguarded at all costs. Therefore, the state, through its legal apparatus, must

⁸ Anggoro Yulianto, "Cybersecurity Policy and Its Implementation in Indonesia," *Law Research Review Quarterly* 7, no. 1 (2021): 69–82, <https://doi.org/https://doi.org/10.15294/lrrq.v7i1.43191> 70.

be able to protect it as best as possible. Through a comparison of legal systems, it can be seen how the orientation of criminal policy in various countries affects the enforcement of currency laws and their relevance to global economic dynamics. Therefore, a study of the position of criminalisation in the Currency Law after the enactment of the 2023 Criminal Code is important to assess the extent to which the regulation of criminal sanctions in Indonesia needs to be adjusted in line with the direction of national criminal law reform while taking into account best practices from other legal systems.

METHOD

This study employs a normative legal research method with a comparative law approach. The main focus of the research is to analyse the normative construction of currency crime regulations in Indonesian positive law, particularly Law No. 7 of 2011 on Currency, and its relevance to the principle of proportionality of punishment explicitly introduced in the 2023 Criminal Code. A normative approach is used to identify conceptual inconsistencies, weaknesses in the formulation of criminal sanctions, and the still symbolic orientation of criminal punishment policies.

To strengthen the analysis and test these normative claims, this study applies a functional comparative approach with the legal systems of Japan and the United States. These two countries were chosen because they share a commitment to monetary sovereignty and centralised monetary management, while also representing the two main legal traditions of civil law and common law that are relevant to the reconstruction of Indonesian criminal law.⁹ The comparison was conducted by examining how the principle of proportionality of sanctions is formulated, interpreted, and applied in the regulation of currency offences in each jurisdiction.¹⁰

The legal materials used in this study include primary legal materials, namely legislation, criminal law codification, and court decisions related to currency crimes in Indonesia, Japan, and the United States. These legal materials are supported by secondary legal materials in the form of academic literature, scientific journals, policy reports, and relevant comparative legal studies. To a certain extent, law enforcement practices and sentencing guidelines are also analysed to examine the relationship between legal norms and their implementation.¹¹

The analysis was conducted in a prescriptive and evaluative manner, focusing on key variables such as the perpetrator's level of guilt (*mens rea*), the amount of economic loss, the systemic impact on monetary stability, and the objectives of punishment. Through the integration of normative analysis and legal comparison, this study aims to formulate a model for the reconstruction of criminal sanctions for currency crimes that is more proportional, rational, and in line with the principles of punishment in the 2023 Criminal Code, without neglecting the need to protect national monetary sovereignty.

⁹ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum, Edisi Revisi* (Jakarta: Kencana, 2021).

¹¹ Margie Gladies et.al Deassy J.A. Hehanussa, *Metode Penelitian Hukum*, ed. Elan Jaelani, *Jurnal Widina Bhakti Persada*, vol. 4 (Bandung: Widina Bhakti Persada Bandung, 2023).

DISCUSSION

A. Overview of Criminal Offences Related to Currency

Crimes that occur are multidimensional and cross-sectoral events where various things can happen without any spatial or temporal boundaries. Similarly, crimes have become increasingly complex, ranging from general to specific types. Crimes that occur due to general circumstances and endanger the public interest are referred to as specific criminal acts. Meanwhile, specific crimes are crimes that have specific legal implications or consequences in certain aspects with extraordinary characteristics.¹² For example, criminal acts regulated in special laws are referred to as special criminal acts. Thus, criminal acts relating to currency are referred to as special criminal acts.

Currency is a legal means of payment issued by a country that is valid within that country's territory. Therefore, offences relating to currency are all crimes committed intentionally in violation of the law, such as refusing to use certain currencies, counterfeiting, forging, or creating counterfeit currency, damaging currency, possessing counterfeit currency, circulating counterfeit currency with certain currencies, and other acts contrary to criminal law principles may be subject to criminal liability. Criminal offences involving currency are classified as crimes that emphasise respect for currency as a national product intended as a legal tender. Such acts are a common problem in society, involving crimes or violations related to currency. Crimes or violations of this type have an impact on the essence and existence of the national currency in terms of national stability and also have an impact on global stability.

Factors that trigger currency-related crimes include economic and technological factors. From an economic perspective, the high population growth that is not balanced with attention and welfare from the state encourages some people to resort to various means to survive, including counterfeiting money.¹³ Meanwhile, from a technological perspective, advances and sophistication in modern technology have made it easier for perpetrators to print and produce counterfeit money that closely resembles the real thing.

In order to maintain financial stability and the use of the national currency, each country establishes regulations to prevent the misuse of currency for personal or group interests. The urgency of regulating currency in a law stems from the fact that money is a symbol of state sovereignty that must be respected and maintained in the national economy. This law regulates the types and prices of currency, establishes currency as a legal means of payment, and regulates the use and management of currency to maintain stability and support national economic development. In addition, currency laws also ensure coordination between the government and the central bank in managing the printing and circulation of money as part of the country's economic sovereignty. The important points of the currency law are to establish the rupiah as a legal tender in Indonesia, maintain the stability of the rupiah and the national economy, regulate the printing, issuance, and withdrawal of the rupiah, uphold the dignity of the rupiah as a symbol of state sovereignty, and regulate

¹² Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana* (Yogyakarta: Cahaya Atma Pustaka, 2016).

¹³ Melisa Sambur, "Pemberantasan Tindak Pidana Pemalsuan Mata Uang Dan Uang Kertas Menurut Undang-Undang Nomor 7 Tahun 2011 Tentang Mata Uang," *Lex Crimen VII*, no. 7 (2018): 38–45.

the obligation to use the rupiah in various transactions to support the domestic economy.

Criminal acts relating to currency are a qualification of specific criminal acts. Criminal acts relating to currency are different from money laundering, because Indonesian positive law literature explains that criminal acts relating to currency are still very limited. The potential for crime arises from bad human behaviour and legal culture, relating to the national currency being misinterpreted or misused unlawfully to facilitate actions that benefit oneself and cause harm to others.¹⁴

It is considered a special criminal offence because it has a specific and crucial urgency and impact. This is because the urgency of the criminal offence is specific to Indonesia's national currency and monetary system. Furthermore, currency is regulated by special laws that apply as *lex specialist*, even though the criminal proceedings are conducted in accordance with national criminal procedure law (KUHP). Criminal offences relating to currency in Law No. 7 of 2011 on Currency explain several important points, including that everyone is prohibited from refusing to accept Rupiah that is intended as payment or to settle obligations that must be fulfilled with Rupiah and/or for other financial transactions within the territory of the Republic of Indonesia. Furthermore, it is considered a currency crime if any person counterfeits the Rupiah, distributes or circulates counterfeit Rupiah, or intentionally damages, cuts, destroys or alters the Rupiah with the intention of demeaning the honour of the Rupiah currency. Every criminal act that is punishable must first fulfil the elements of a criminal act as stated in the formulation of legislation and general provisions in the Indonesian criminal law system.

The elements of currency offences in general according to the Criminal Code and Law No. 7 of 2011 on Currency are, first, related to the objective elements of the offence. When discussing the objective elements, the focus is on the *actus reus*, which correlates with unlawful actions and fulfils the elements in the law.¹⁵ The objective element is the act of counterfeiting or forging currency or banknotes issued by the state or bank, then distributing them as genuine currency or banknotes. Then, storing or bringing into Indonesia counterfeit currency or banknotes. This element also determines whether a person can be held criminally liable or otherwise.¹⁶

Objective elements are oriented towards actions, and therefore differ from subjective elements, which focus on criminal law subjects or anything originating from legal subjects. Subjective elements include intent, whereby the perpetrator consciously commits the forgery and distribution.¹⁷ Then, knowing that the currency circulated or stored is counterfeit. This subjective element leads to the condition of knowing and intending (*willens and wetens*) the occurrence of an event or otherwise.

¹⁴ Ahmad Sofian and Bambang Pratama, "Tindak Pidana Mata Uang Dalam Konteks Hukum Pidana Dan Hukum Siber," *Jurnal Hukum Pidana Dan Kriminologi* 2, no. 2 (2021): 49–63, <https://doi.org/10.51370/jhpk.v2i2.56>.

¹⁵ Andi Hamzah, *Hukum Pidana Indonesia* (Jakarta: Sinar Grafika, 2019).

¹⁶ Yasmon Chandra, Tofik Yanuar; Putra, *Hukum Pidana*, I (Jakarta: Sangir Multi Usaha, 2022).

¹⁷ Hanafi; Amrani and Mahrus; Ali, *Sistem Pertanggungjawaban Pidana Perkembangan Dan Penerapan* (Jakarta: Rajawali Press, 2015).

This element determines whether or not there are extenuating circumstances in criminal liability in the national criminal justice system.¹⁸

A common occurrence among the public is the use or recycling of damaged rupiah banknotes, which are then repaired and so on. Recycling money is included in the elements referred to in the currency law. Not only that, people who counterfeit rupiah, anyone who physically stores it in any way, knowing that the money is counterfeit rupiah, which is prohibited by law and can result in losses to others and violate the sovereignty of the national currency. Meanwhile, anyone who counterfeits rupiah, physically stores it and knows that the money is counterfeit can be subject to criminal sanctions. Beyond those who knowingly possess counterfeit currency, the most severe consequences apply to those who spend rupiah they know to be counterfeit. Criminal provisions regarding currency are stipulated in Articles 33 to 41 of Law No. 7 of 2011 on Currency.

B. The Position of Criminal Sanctions in Law No. 7 of 2011 on Currency after the Enactment of Law No. 1 of 2023 on the National Criminal Code

1. The basis for the revision of the Indonesian Criminal Code

In order to realise Indonesia's national criminal law based on Pancasila and the 1945 Constitution of the Republic of Indonesia, as well as the general principles of law recognised by the international community, national criminal law was formulated as national substantive criminal law to replace the Criminal Code inherited from the Dutch East Indies colonial government (*Wetboek van Strafrecht 1946*).¹⁹ That national criminal law must be adjusted to legal policy, circumstances, and developments in social, national, and state life with the aim of respecting and upholding human rights, based on belief in One God, just and civilised humanity, Indonesian unity, democracy guided by the wisdom of deliberation/representation, and social justice for all Indonesian people.²⁰

National criminal law must also regulate the balance between public or state interests and individual interests, between the protection of perpetrators and victims of crime, between acts and attitudes, between legal certainty and justice, between written law and living law in society, between national values and universal values, and between human rights and human obligations.²¹ The question of the existence and validity of positive law vis-à-vis the living law represents an ongoing dialogical debate between the sociological school of law

¹⁸ Muhammad Ramadhan and Dwi Oktafia Ariyanti, "Tujuan Pemidanaan Dalam Kebijakan Pada Pembaharuan Hukum Pidana Indonesia," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 5, no. 1 (2023): 1–6, <https://doi.org/10.52005/rechten.v5i1.114>.

¹⁹ Tongat et al., "Hukum Yang Hidup Dalam Masyarakat Dalam Pembaharuan Hukum Pidana Nasional," *Jurnal Konstitusi* 17, no. 1 (2020), <https://doi.org/https://doi.org/10.31078/jk1717>.

²⁰ Barda Nawawi Arief, *Pembaharuan Hukum Pidana (Dalam Perspektif Kajian Perbandingan)* (Bandung: Citra Aditya, 2005).

²¹ Noveria Devy Irmawanti and Barda Nawawi Arief, "Urgensi Tujuan Dan Pedoman Pemidanaan Dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana," *Jurnal Pembangunan Hukum Indonesia* 3, no. 2 (2021): 217–27, <https://doi.org/10.14710/jphi.v3i2.217-227>.

and the legal positivist tradition.²² The revision of Indonesia's Criminal Code (KUHP) is a fundamental requirement in the effort to build a sovereign, modern and just national legal system.²³ For more than a century, Indonesia has used the *Wetboek van Strafrecht (WvS)*, the Dutch colonial criminal code that has been enforced based on the principle of concordance since 1918.²⁴ Although the *WvS* has become the basis of positive criminal law in Indonesia, in substance many of its provisions are no longer in line with the values of Pancasila, the development of society, and national legal needs. Therefore, the revision of the Criminal Code is a necessity to create a criminal law system that characterises the Indonesian nation and reflects modern legal values.

2. The Position of Criminal Sanctions in Law No. 7 of 2011 on Currency

Law No. 7 of 2011 on Currency imposes criminal sanctions as the primary legal instrument to guarantee the sovereignty of the Rupiah as a symbol of the state and a legal tender throughout the territory of the Republic of Indonesia. The position of criminal sanctions in this law is not merely as a repressive tool, but also as a preventive measure to protect the stability of the national monetary system and maintain public confidence in the Rupiah currency.

Conceptually, the existence of criminal sanctions in the Currency Law has two main functions, namely:

1. Protective function

Criminal sanctions aim to protect the Rupiah from all forms of misuse, counterfeiting, or actions that could diminish its dignity as a symbol of state sovereignty. This is evident in the provisions that impose severe criminal penalties on perpetrators of counterfeiting (Articles 35 and 36), destruction of currency (Article 25(1)), and refusal to use the Rupiah as a legal tender (Article 23(1)).

2. Law enforcement and certainty function

Criminal sanctions also serve as a tool to enforce the law and deter violators of the provisions on the use of the Rupiah. With the threat of imprisonment and heavy fines, this law ensures that the use of the Rupiah is regulated consistently and has legal force. Of course, this concerns the legal certainty of the special law governing the Rupiah currency.

The position of criminal sanctions in the Currency Law also demonstrates the close relationship between criminal law and monetary policy. This means that violations of provisions concerning the Rupiah are not merely ordinary criminal offences, but also criminal offences that have an impact on the national economy. Therefore, the legislators have placed criminal provisions in a separate chapter as an important part of enforcing the country's economic sovereignty.

²² Orin Gusta Andini, "Membedah Living Law Dalam KUHP 2023 Dari Perspektif Pemidanaan Dan Jenis Sanksi," *Yuridis* 11, no. 2 (2024): 349–73, <https://doi.org/https://doi.org/10.35586/jjur.v11i2.9348>.

²³ Randy Pradityo, "Menuju Pembaharuan Hukum Pidana Indonesia: Suatu Tinjauan Singkat," *Jurnal Legislasi Indonesia* 14, no. 2 (2017): 137–44.

²⁴ Fahrizal S.Siagian and Edy Suranta Tarigan, *Tindak Pidana Aduan Dalam KUHP Nasional*, ed. Hendrik Tarigan, Ke-1 (Medan: Pustaka Pratama Edukasia, 2025).

The criminal provisions in Law No. 7 of 2011 on Currency mainly regulate criminal acts related to the use of the Rupiah currency.²⁵ The following are several important points related to criminal charges, namely in Article 33 paragraph (2) of the Law on Currency, which regulates the prohibition of refusing to accept the Rupiah as payment or settlement of obligations with a maximum criminal penalty of 1 year imprisonment and a maximum fine of 200 million rupiah. The following is the wording of the Article, namely Article 33(1) of Law No. 7 of 2011 on Currency, which states that any person who does not use the Rupiah in: a. Any transaction for the purpose of payment; b. The settlement of other obligations that must be fulfilled with money; and/or c. Other financial transactions as referred to in Article 21 paragraph (1) shall be punished with imprisonment of up to 1 (one) year and a maximum fine of Rp 200,000,000.00 (two hundred million rupiah).

Article 33 Paragraph (2) states that every person is prohibited from refusing to accept Rupiah that is intended as payment or to settle obligations that must be fulfilled with Rupiah and/or for other financial transactions within the territory of the Republic of Indonesia, except where there is doubt as to the authenticity of the Rupiah as referred to in Article 23, shall be punished with imprisonment for a maximum of 1 (one) year and a fine of up to Rp200,000,000.00 (two hundred million rupiah).

After the enactment of Law Number 1 of 2023 concerning the National Criminal Code, hereinafter referred to as the National Criminal Code, there are several implications for criminal sanctions during the transition period after the enactment of the National Criminal Code. Referring to Article 622 Paragraph (1) of the National Criminal Code, it states that when this Law comes into force, the provisions in: a) Articles 36 and 37 regulate criminal acts of counterfeiting the Rupiah, including counterfeiting, storing, distributing, bringing in or out counterfeit Rupiah, with a criminal penalty of up to 15 years' imprisonment and a fine of up to 50 billion rupiah. b) Article 25 regulates the prohibition of damaging the Rupiah with a penalty of imprisonment of up to 5 years and a fine of up to 1 billion rupiah. c) Article 39 regulates criminal sanctions for corporations that violate the law in the form of a criminal fine plus one-third of the penalty imposed on individuals. d) There are additional criminal provisions such as revocation of business licences and confiscation of the convicted person's property.

Broadly speaking, the criminal provisions in Law No. 7 of 2011 cover the prohibition of refusing the Rupiah, counterfeiting the Rupiah, destroying the Rupiah, and sanctions for corporations involved in Rupiah-related violations. These criminal provisions cover acts of damaging, refusing to use, and counterfeiting the Rupiah currency, with varying penalties ranging from imprisonment to fines, including specific provisions for corporations that violate this law. Articles 36 and 37 impose the most severe criminal penalties for counterfeiting and circulating counterfeit Rupiah, while Article 33(2) and Article

²⁵ Hendra Aringking, "Pemalsuan Uang Rupiah Sebagai Tindak Pidana Menurut Uu No. 7 Tahun 2011 Tentang Mata Uang," *Lex Crimen* 4, no. 6 (2015): 96–103.

25 regulate less serious violations with shorter maximum prison terms and smaller fines. Article 39 emphasises sanctions for corporations with additional fines.

3. The Position of Criminal Sanctions in Law No. 7 of 2011 on Currency after the Enactment of Law No. 1 of 2023 on the National Criminal Code

The revision of substantive criminal law from the *Wetboek Van Strafrecht* (Criminal Code) became Law No. 1 of 2023 concerning the National Criminal Code. Criminal law reforms are carried out to ensure that existing laws are in line with the conditions and demands of society.²⁶ Meanwhile, the old Criminal Code still adopts Dutch concepts, therefore regulatory reforms are needed, leading to the formation of Law Number 1 of 2023 concerning the Criminal Code. Article 613(l) of the National Criminal Code explains that when this law comes into force, every law and regional regulation containing criminal provisions must be adjusted to the provisions of Book One of this Law. (2) Provisions regarding the adjustment of criminal provisions as referred to in paragraph (1) are regulated by law.

Article 622 Paragraph 1 letter z of Law Number 1 of 2023 concerning the National Criminal Code explains that Article 36 paragraphs (1), (2), (3), and (4) (4) of Law No. 7 of 2011 on Currency (State Gazette of the Republic of Indonesia Year 2011 No. 64, Supplement to the State Gazette of the Republic of Indonesia No. 5223). Article 622 Paragraph 18 of Law Number 1 of 2023 concerning the National Criminal Code, which reads "In the event that the provisions of the Article concerning the criminal act of counterfeiting currency or banknotes as referred to in paragraph (1) letter z are referred to by the provisions of the relevant Article of the Law, the reference shall be replaced with the Article in Law Law No. 1 of 2023 on the National Criminal Code with the following provisions:

- a. The reference in Article 36(1) is replaced by Article 374;

That Article 36 Paragraph 1 of Law Number 7 of 2011 concerning Currency explains that anyone who counterfeits the Rupiah as referred to in Article 26 paragraph (1) shall be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp10,000,000,000.00 (ten billion rupiah). 000,000.00 (ten billion rupiah). According to Article 622 Paragraph 18 of Law Number 1 of 2023 concerning the National Criminal Code Chapter XI, which explains that the provisions in Article 36 Paragraph 1 of Law Number 7 of 2011 concerning Currency are revoked and the reference is replaced with Article 374 of the National Criminal Code (Law No. 1 of 2023), which states, 'Any person who counterfeits currency or banknotes issued by the state, with the intent to circulate or request circulation as genuine and non-counterfeit money, shall be punished with imprisonment for a maximum of 10 (ten) years or a maximum fine of Category VII.' Considering that Article 79 Paragraph 1 letter g of the National Criminal Code states that 'the maximum fine is determined based on Category VII, Rp5,000,000,000.00 (five billion rupiah).'

²⁶ Fachrizal Afandi, *KUHP Perbandingan Undang-Undang Nomor 1 Tahun 2023 Dengan Wetboek van Strafrecht Voor Nederlansch Indie (Terjemahan Badan Pembinaan Hukum Nasional)* (Malang: Setara Press, 2024).

In this provision, counterfeit or imitation money refers not only to Indonesian currency or banknotes, but also to foreign currency. This is based on the 1929 International Convention on Counterfeit Currency, which was ratified by Indonesia through Law No. 6 of 1981 concerning the Ratification of the International Convention for the Suppression of Counterfeiting Currency and its Protocol (International Convention for the Suppression of Counterfeiting Currency and Protocol Geneva 1929). The International Convention for the Suppression of Counterfeiting Currency and Protocol Geneva 1929 is an international convention ratified in Geneva in 1929 under the auspices of the League of Nations. This convention was born in response to the rise in currency counterfeiting crimes, which in the early 20th century had become a global problem involving transnational syndicates. The main objective of this convention is to strengthen international cooperation in preventing and prosecuting currency counterfeiting offences, both against national and foreign currencies. Under this convention, each participating country is required to criminalise currency counterfeiting as a serious offence in its national law and to make it an extraditable offence. In addition, participating countries are also required to establish a central office tasked with coordinating law enforcement efforts and cooperating with international institutions, particularly Interpol (then known as the International Criminal Police Commission). Through its additional protocol, this convention also regulates the mechanisms for signing, ratifying, and implementing cooperation between countries in law enforcement against counterfeiting. To date, the 1929 Geneva Convention is still considered an important international legal basis for combating currency counterfeiting and serves as the basis for many countries, including Indonesia, in formulating criminal provisions related to counterfeiting as stipulated in Law No. 7 of 2011 on Currency.

b. Article 36 paragraph (2) reference replaced with Article 375 letter b;

That in Article 36 Paragraph 2 of Law Number 7 of 2011 concerning Currency, which reads "Any person who physically stores in any manner that they know to be counterfeit Rupiah as referred to in Article 26(2) shall be punished with imprisonment for a maximum of 10 (ten) years and a fine of up to Rp10,000,000,000.00 (ten billion rupiah)." This provision, according to Article 622 of the National Criminal Code, is revoked and its reference is replaced with Article 375 letter b of the National Criminal Code, which reads: "Any person who circulates and/or spends currency that they know to be counterfeit as referred to in Article 374, shall be punished with imprisonment for a maximum of 15 (fifteen) years and a maximum fine of category VIII." Article 79 Paragraph 1 letter h of the 2023 National Criminal Code explains that the maximum fine is determined based on category VIII, Rp50,000,000,000.00 (fifty billion rupiah).

c. The reference in Article 36(3) is replaced with Article 375(a);

That in Article 36 Paragraph 3 of Law Number 7 of 2011 concerning Currency, which reads "Any person who circulates and/or spends Rupiah that they know to be counterfeit as referred to in Article 26 paragraph (3) shall be punished with imprisonment for a maximum of 15 (fifteen) years and a maximum fine of Rp50,000,000,000.00 (fifty billion rupiah)." This provision, according to Article 622 of the National Criminal Code, is revoked and its reference is replaced with Article 375 letter a of the National Criminal Code, which reads: "Any person who physically stores in any way that they know to be counterfeit currency as referred to in Article 374, shall be

punished with imprisonment for a maximum of 10 (ten) years and a maximum fine of Category VII." Article 79 Paragraph 1 letter g of the National Criminal Code states that the maximum fine is determined based on Category VII, RpS.000.000.000.00 (five billion rupiah).

d. Article 36 paragraph (4) is replaced by Article 375 letter b.

That in Article 36 Paragraph 4 of Law Number 7 of 2011 concerning Currency, which states that anyone who carries or brings counterfeit Rupiah into and/or out of the territory of the Republic of Indonesia as referred to in Article 26 paragraph (4) shall be punished with imprisonment for a maximum of 15 (fifteen) years and a maximum fine of Rp50,000,000,000.00 (fifty billion rupiah). Article 36 Paragraph 4 of the Currency Law as mentioned above, this provision is revoked according to Article 622 of the National Criminal Code and its reference is replaced with Article 375 letter b of the National Criminal Code which reads 'Any person who circulates and/or spends currency that they know to be counterfeit as referred to in Article 374 shall be punished with a maximum imprisonment of 15 (fifteen) years and a maximum fine of category VIII.' Article 79(1)(h) of the 2023 National Criminal Code explains that the maximum fine is determined based on category VIII, amounting to Rp50,000,000,000.00 (fifty billion rupiah).

C. Criminal Offences Related to Currency in Comparative Legal Studies

Criminal law and its relation to currency is known as currency crime, which is part of criminal offences related to violations of the law in the field of currency circulation and legal tender. Comparative legal studies allow for a deeper understanding of the extent to which various countries regulate and enforce criminal sanctions against currency crimes, such as counterfeiting, smuggling, money laundering, and embezzlement of foreign currency. In the context of comparing legal systems, currency crimes are a very important subject for analysis because of differences in legal regulations, with each country having a different legal framework and regulatory approach to the supervision and prosecution of currency crimes. For example, the Civil Law system tends to regulate criminal sanctions with detailed codification, while the Common Law System emphasises precedent and case law, giving full authority to the relevant court to issue a jurisprudential decision that will later be followed by subsequent judges and become law. This is the case in the United States, the United Kingdom, and several other countries. This is different from Indonesia, which adheres to the Civil Law System, where court rulings are not necessarily applicable as general laws, but only in certain rulings which are then used as jurisprudential rulings as a reference for subsequent judges in similar cases.²⁷

The Anglo-Saxon legal system based on English common law, and is based on a case or judicial precedent system, where legislation is traditionally not considered the main source of law, but is usually considered a means of consolidating or clarifying legal regulations and principles that are essentially derived from case law and laws made by court judges. This system employs inductive reasoning and analogy, with a concept of the Rule of Law that emphasises the supremacy of legal rules, in which there is no arbitrariness that violates the sense of justice, and equal standing before the law, a

²⁷ Raden Joa, Kansha Ramadhan, and Ladar Sirair, "Analisis Yuridis Terhadap Kedudukan Hukum Pidana" 11, no. 3 (2023): 196–207.

provision that applies to both ordinary people and officials.²⁸ The concept of equality before the law emphasises equal access to the law for all individuals, regardless of their differences, which is referred to as equality before the law. Finally, human rights are guaranteed by law and court decisions.

In the context of comparing legal systems, currency crimes are an important subject for analysis due to differences in legal regulations, as each country has a different legal framework and regulatory approach to the supervision and prosecution of currency crimes. For example, civil law systems tend to regulate criminal sanctions with detailed codification, while common law systems place greater emphasis on precedent and case law. Second, the role of the state and financial authorities, in that in some legal systems, state institutions such as central banks play a central role in the enforcement of currency crimes. Comparative studies reveal how the authority and coordination between institutions differ from one another. Third is the impact of globalisation and legal harmonisation, in that currency crimes tend to cross national borders, thus requiring the harmonisation of international and national legal principles. Comparative legal studies provide an overview of the adaptation of international regulations in various jurisdictions. Fourth, the Effectiveness of Enforcement and Victim Protection, whereby comparative studies can analyse how legal systems provide legal protection to victims of currency crimes and the applicable restitution mechanisms. Thus, currency crimes as an object of study in comparative legal systems not only reveal variations in legal procedures and criminal substance, but also provide strategic insights for more effective and responsive national legal reforms against transnational economic crimes.

Law No. 7 of 2011 on Currency (Currency Law) currently emphasises the symbolic protection of the Rupiah through severe criminal sanctions for counterfeiting, which can be reconstructed to be more proportional to the principles of the 2023 Criminal Code, which reduces criminal penalties and adds categories of fines. This reconstruction is based on comparisons with Japan, which applies minimum sentences of several years to maintain a balance between symbolism and proportionality, and the United States, which focuses on flexible federal sanctions of up to 20 years depending on the damage. This approach allows the Currency Law to be in line with the new Criminal Code, which will come into full effect in 2026. The Currency Law prohibits the counterfeiting of the Rupiah (Article 26) with penalties of up to 10 years' imprisonment and a fine of Rp10 billion for manufacturing, and up to 15 years and Rp50 billion for distribution. The old Criminal Code (Articles 244-245) stipulates imprisonment of up to 15 years, while the 2023 Criminal Code (Articles 374-375) reduces this to a maximum of 10 years' imprisonment or a Category VII fine (Rp5 billion) for counterfeiting, and 15 years plus a Category VIII fine (Rp50 billion) for distribution. A symbolic approach is evident in the life sentence for importing/exporting counterfeiting tools (Articles 36-37 of the Currency Law). A comparative study as applied in Japan regulates currency counterfeiting in Chapter XVI of the Penal Code (Articles 148-151), with life imprisonment or a minimum of 3 years for counterfeiting/distributing domestic currency, and a minimum of 2 years for foreign currency.

²⁸ Frefy Sugiarto and Datir Siregar, "Pembuktian Hukum Dalam Kejahatan Dunia Maya Berdasarkan Hukum Pidana," *Jurnal Ilmiah Publika* 10, no. 1 (2022): 216–23.

Proportional penalties are applied to procurement (maximum 3 years) and trials, with an emphasis on intent to distribute without a primary fine. This system balances state symbolism with minimum penalties that reflect the level of wrongdoing. In the United States, 18 USC § 2320 regulates federal counterfeiting with penalties of up to 10 years' imprisonment and a \$2 million fine for first-time offenders, increasing to 20 years and \$5 million for recidivists or if there is serious injury. A maximum penalty of 25 years to life applies if death results, with an emphasis on economic impact rather than pure symbolism. This approach is flexible, considering aggravating factors such as organisation or national damage.

Table 1 Comparison of Criminal Sanctions in Indonesia, Japan, and the USA

Aspect	Indonesia (Currency Law)	Criminal Code 2023	Japan Criminal Code	USA Criminal Code
Counterfeiting/Manufacturing	10 years imprisonment + Rp10 million fine	10 years or Rp5 million	Life imprisonment /min 3	10 years + \$2 million
Distribution	15 years + Rp50 million	15 years + IDR 50 million	Life imprisonment /min. 3 years	10-20 years + \$2-5 million
Import/Export	Life imprisonment + IDR 100 million	15 years + IDR 50 million	Min. 2 years (foreign)	Up to 20 years (injury)
Main Focus	Symbolic (Rp as sovereignty)	Proportional /fine	Minimum years + intent	Impact/recidivism

Integrate Articles 374-375 of the 2023 Criminal Code into the Currency Law by reducing symbolic sanctions (e.g., importing tools from life imprisonment to a maximum of 20 years as in the US) and adding gradation based on economic loss value as in Japan. This ensures proportionality (Article 51 of the 2023 Criminal Code) while maintaining the protection of the Rupiah as a national symbol. Reconstruction could also include restitution for economic victims, in line with the victimology study included in the new Criminal Code.

D. Judicial Practice and Enforcement of Currency Offences: Testing Proportionality in Practice

Indonesian courts impose proportionate criminal sanctions for counterfeit currency, taking into account the evidence and the role of the perpetrator, often below the maximum under Law No. 7/2011, although challenges in proving the case have led to acquittals in some cases. In Japan, enforcement is strict with heavy penalties but takes into account the perpetrator's awareness, while the US focuses on economic losses with an average sentence of 17 months in prison. This practice tests proportionality, where judges assess gradations based on trial facts rather than mere symbolism.

The Sungguminasa District Court sentenced the perpetrator to four years in prison and a fine of Rp50 million for counterfeiting Rp640 million (Decision 99/Pid.B/2025/PN Sgm), because the judge considered that the element of 'production' was not fulfilled and that the perpetrator was only involved in unlawful acts. In Decision 119/Pid.B/2022/PN Lbo, two defendants were acquitted due to inconsistencies in the evidence, such as the serial numbers on the counterfeit money, even though the prosecutor presented printing equipment, demonstrating the strictness of the evidence requirements under Article 184 of the Criminal Procedure Code. Enforcement often fails due to sophisticated counterfeiting techniques and weak coordination between agencies, although the maximum penalty of 10-15 years is rarely fully achieved.

The Kumamoto District Court acquitted a Vietnamese defendant of importing 176 counterfeit yen notes due to lack of evidence of awareness (2025), even though the prosecutor sought a 9-year sentence, with the judge considering the defendant's ignorance of the old yen design. Japan's Penal Code (Articles 148-151) is strictly enforced for syndicates, but proportionality is emphasised based on the intent of distribution, resulting in sentences ranging from a minimum of 3 years to life imprisonment. Meanwhile, the average federal sentence is 17 months imprisonment for 86.7% of counterfeiting offenders (18 USC §2320), with increases for production or losses exceeding \$40,000, focusing on aggravating factors such as recidivism or injury.²⁹ Historical cases such as *US v. Marigold* (1850) reinforce federal jurisdiction over coin counterfeiting, with penalties of up to 10 years adjusted for economic impact.

Table 2 about comparing the proportionality of protection by criminal law against currency in Indonesia, Japan, and the USA

Country	Average Sentence	Proportional Factors	Main Challenges
Indonesia	4-7 years (below maximum 15 years)	Role of perpetrator	evidence Weak evidence, acquittal
Japan	3 years minimum	variable Awareness	intent Import syndicates
USA	17 months imprisonment	Economic loss	Recidivism, production

²⁹ Jennifer Gibbs, "United States v. Marigold, 50 U.S. 560 (1850)," *The Massachusetts Review* 60, no. 1 (2019): 109–18, <https://doi.org/https://dx.doi.org/10.1353/mar.2019.0016>.

Indonesian practice tends to be proportional to the 2023 Criminal Code (graded fines), but is inconsistent due to weak evidence, unlike the US, which is scalable based on loss. Japan is balanced via a minimum term but flexible on mens rea. Suggested reconstruction add loss criteria like the US to align the symbolic Currency Law with the new Criminal Code. This reconstruction should involve the explicit incorporation of measurable criteria, including the level of intent, the scale of economic loss, the systemic impact on monetary stability, and the objectives of punishment. Such criteria would enable courts and policymakers to distinguish between minor, serious, and systemic currency offences in a principled and transparent manner. From a policy perspective, this study recommends the development of specialised sentencing guidelines for currency offences, aligned with the proportionality principles of the 2023 Criminal Code. Additionally, proportionality should be elevated as a standard of judicial and constitutional review, allowing courts to assess whether statutory penalties exceed reasonable limits. By moving beyond symbolic protection toward proportionate penal governance, Indonesia can enhance the legitimacy, predictability, and fairness of its currency law enforcement while preserving the core objective of safeguarding monetary sovereignty.

CONCLUSION

This study confirms that Indonesia's Currency Law has largely operated within a symbolic protection framework, where the assertion of monetary sovereignty is not consistently matched by a rational and proportionate penalty structure. Although the 2023 Criminal Code formally embraces proportionality as a guiding principle of punishment, this principle has yet to be systematically translated into the sanctioning architecture of currency-related offences. The absence of explicit proportionality benchmarks risks producing penalties that are either excessively punitive or normatively disconnected from the actual gravity of the offence. Comparative insights from Japan and the United States demonstrate that proportionality is most effective when it is supported by clear evaluative standards and structured sentencing mechanisms. Japan's model highlights the importance of judicial consistency and individualized assessment rooted in established jurisprudence, while the U.S. framework illustrates how constitutional safeguards and sentencing guidelines can provide concrete reference points for evaluating penal severity. Despite their differences, both systems underscore that proportionality must function as an operational standard rather than a rhetorical commitment. In light of these findings, the article argues that the implementation of the 2023 Criminal Code offers a strategic opportunity to reconstruct Indonesia's Currency Law toward a proportional penalty regime.

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