

Alternative Criminal Sanctions in Handling Corruption Crimes

Suparno¹, Andi M. Ilham²
suparno@borobudur.ac.id¹, ilofajar10@gmail.com²

Universitas Borobudur^{1,2}

Abstract. This research aims to understand the concept of thought and the basis of criminal law regarding the evils of corruption. Apart from that, it also aims to find out the criminal law implementing poverty for corruptors in Indonesia. The research method used in this research is normative legal research. Positive legal norms, or legal books whose data sources include primary and secondary legal documents, are the subject of this research. Primary and secondary legal sources are subjected to data analysis, which also compares the two. Based on the research results, it is revealed that poverty makes corruption a unified legal idea that can provide big lessons for actors and other people. Corruptors who commit criminal acts of corruption are increasing. The unfortunate part about coining the term "corruption" is that it may be used by providing compensation for damages coming from a criminal act of corruption or by expropriating property, which means seizing everything that results from an act of corruption. Above all, in its implementation, the impoverishment of corruption in Indonesia has not been implemented explicitly yet. Law enforcers to eradicate corruption have not taken any action that is detrimental to corruption as a matter of law.

Keywords: Corruption, Criminal Sanctions, Alternatives

1 Introduction

Corruption is a criminal act that is widespread in Indonesia. Corruption often occurs in Indonesian institutions, both in the legislature, executive, and judiciary. Corruption is seen as a criminal conduct that falls under the category of extraordinary crimes, or extraordinary crimes that have a negative impact on the economy of the nation and impede the advancement of the Indonesian state. Regulation Number 20 of 2001 about Changes to Regulation Number 31 of 1999 concerning the Annihilation of Debasement Violations, frequently known as the Defilement Regulation, oversees the destruction of criminal demonstrations of defilement. In this law, criminal sanctions are found whose application is cumulative.

The Corruption Law specifically regulates procedural law regarding law enforcement for perpetrators of criminal acts of corruption. In essence, the procedural law used in examinations at the Corruption Criminal Court is carried out by the applicable criminal procedural law, however, there are exceptions or specificities in the procedural law, namely regulating the confirmation of the division of duties and authority between the chairman and deputy chairman of the Corruption Criminal Court; regarding the composition of the panel of judges in

examinations at court hearings at the first level, appeal and cassation; the time for completion of investigations into criminal acts of corruption at each level of examination; evidence presented in court, including evidence obtained from wiretapping, must be obtained legally based on the provisions of laws and regulations; and the existence of a special clerkship for the Corruption Crime Court.[1]

Corruption is a crime that falls under special criminal law, which differs from normal criminal law in a number of ways, including procedural law exceptions and its relationship to regulated documents. Thus, the goal of both direct and indirect criminal actions of corruption is to reduce violations and leaks in the nation's economy and finances. It is intended that by anticipating these aberrations as early and completely as feasible, economic and development activities may go on as normal, eventually having a stimulating effect.[2]

Based on the principle that criminal acts of corruption are special crimes because they are systematic, local, can have a very wide effect (systematic and general), causing violations of public and social regulations in addition to hurting state finances. economic rights of the broader community. society must take necessary action.[3] Comprehensive efforts with specific measures, many regulations, institutions, and committees have been set up by the government to address it.

The Corruption Law's criminal penalties have not been successful in lowering the frequency of corrupt crimes. Alternative criminal sanctions are needed and concrete actions are discussed by legal experts using alternative sanctions, namely sanctions for impoverishing corruptors. The initial sanctions for impoverishing corruptors were discussed at the Jakarta Court for criminal acts of corruption committed by Gayus Tambunan by sentencing him to 6 (six) years in prison, a fine of 1,000,000,000.00 (one billion) rupiah and the confiscation of Gayus' assets, namely his large house. Gaius. The Gaius case was the initial momentum in discussing alternative sanctions, namely impoverishing corruptors.

One of the biggest opportunities for eliminating corruption in Indonesia is the impoverishment of corruptors. No one wants to be impoverished, in general. Naturally, unscrupulous individuals who are accustomed to living in luxury and who have a tendency to spend money will be terrified of becoming impoverished. To stay within the bounds of legal principles and prevent human rights breaches, the poverty of corruptors needs to be validated by explicit legislation. When a corrupt person becomes poorer, not only himself but also his family suffers the consequences. Corruption cases have become a problem that hinders the country's development. Additionally, corruption may erode the fundamentals of governmental, national, and social life. The author is interested in studying the idea of impoverishing corruptors as an alternative penalty for criminal acts of corruption and the legal foundation for doing so, as the number of corruptors rises year. She also wants to know how to apply criminal sanctions to impoverished, corrupt communities in Indonesia.

2 Methods

This study employed a form of normative legal research methodology. Legal research is defined as the study of legal standards and how the law is applied in society. It is guided by specific techniques, systematics, and procedures as well as by in-depth analysis, problem-solving, and critical thinking.[4] The process of locating legal doctrines, norms, and principles to address legal issues is known as normative legal research. Normative legal research is conducted to provide novel theories, conceptions, or arguments as recommendations for

resolving issues. [5] The legislative approach and the case approach are the research methodologies that are employed. Examining all laws and regulations pertaining to the legal matter under discussion (researched) is the statutory method. The case approach is a method that involves looking at cases that are relevant to the current topic and have resulted in court rulings with long-lasting legal effect.[6]

3 Discussion

The term corruption comes from Latin, namely *corruption* or *corruptus*, which means damage or dilapidation. Corruption is rottenness, badness, depravity. Corruption is bad deeds such as embezzling money, receiving money, and so on. The meaning of corruption can be bad actions (such as embezzling money, accepting bribes, etc.) as well as the theft or mismanagement of public funds (business, etc.) for one's own or others' benefit.

Extraordinary corruption crimes have more complexity than conventional crimes or even other special crimes. Especially in the investigation stage of this criminal act of corruption, several investigative institutions have the authority to handle the investigation process against perpetrators of criminal acts related to this criminal act of corruption. Including various institutions if they are associated with various crimes containing elements of corruption by their respective fields of duty and by the laws and regulations which form the basis of each law.

In view of Regulation Number 2 of 2002 concerning the State Police of the Republic of Indonesia and Regulation Number 8 of 1981 concerning the Criminal Strategy Regulation, otherwise called the Criminal System Code (KUHAP), the Police of the Republic of Indonesia is the policing that is approved to deal with criminal demonstrations of defilement. Criminal Methodology Regulation) enables agents to investigate explicit crook cases including defilement.

As per Article 27 of the Debasement Regulation, a joint group drove by the Principal legal officer might be laid out if a lawbreaker demonstration of defilement is revealed that is trying to demonstrate. This condition shows that the Head legal officer's Office is the element that is given need with regards to lawful implementation against criminal demonstrations of debasement. Thusly, the Examiner's Office can direct examinations concerning criminal demonstrations of defilement notwithstanding the Public Police, who are assigned as agents under Articles 6 and 7 of the Criminal System Code.

The twofold track framework is a two-track framework with respect to sanctions in criminal regulation, to be specific the sort of criminal approval from one party and the kind of activity endorse on the other party. Both start from various thoughts. Criminal assents depend on the essential thought: of "why discipline is done". In the interim, activity sanctions start from the essential thought: " What is the motivation behind the discipline". As such, criminal approvals are responsive to a demonstration, while activity sanctions are more expectant towards the culprit of the demonstration. The focal point of criminal assents is pointed toward bad behavior that an individual has carried out through the inconvenience of enduring so the individual concerned is dissuaded. The focal point of activity sanctions is more centered around endeavors to help the culprit so he changes.

Other approved foundations as per the extent of obligations or obligations and elements of the Head legal officer's Office of the Republic of Indonesia are directed in Regulation Number 8 of 1981 concerning Criminal Technique Regulation and Regulation Number 16 of 2004 concerning the Examiner's Office of the Republic of Indonesia. The expert in destroying

criminal demonstrations of debasement for the Head legal officer of the Republic of Indonesia incorporates improving endeavors to explore and arraign criminal demonstrations of defilement to rebuff culprits and set aside State cash; forestall and give severe assents against maltreatment of power did by Examiners/Public Examiners with regards to policing; furthermore, expanding participation with the Public Police of the Republic of Indonesia, the Monetary and Improvement Administrative Organization, the Middle for Monetary Exchange Detailing and Investigation and State Establishments connected with policing and recuperating state monetary misfortunes coming about because of criminal demonstrations of debasement.

The traditional methods used by law enforcement to combat illegal acts of corruption have so far shown to encounter a number of challenges. For this reason, extraordinary law enforcement methods are needed through the establishment of a special agency that has broad, independent authority and is free from any power to eradicate illegal actions of corruption, the enforcement of which is facilitated by the Law and is done so in an ideal, thorough, efficient, professional, and ongoing manner. The Corruption Eradication Commission was founded under Law No. 30 of 2002 which concerned it.

The Defilement Annihilation Commission has the position to arrange and manage, including leading requests, requests, and arraignments, while with respect to its development, hierarchical construction, work techniques and obligations, obligations and authority as well as its enrollment are directed by regulation.

Alongside Regulation No. 8 of 1981 concerning Criminal Strategy Regulation, formal criminal regulation is the establishment for the arrangement of proof in instances of criminal demonstrations of debasement. This is administered by Regulation No. 31 of 1999 concerning the Destruction of Defilement Wrongdoings, as altered by Regulation No. 20 of 2001 concerning Corrections to Regulation No. 31 of 1999 concerning Destruction of Debasement Violations, and Regulation No. 30 of 2002 concerning the Defilement Annihilation Commission. [7]

The Law on the Eradication of Corruption Crimes applies limited or balanced reverse evidence, meaning that the defendant has the right to demonstrate that he has not committed a corrupt crime and must disclose all of his assets as well as the assets of his spouse, children, and other relatives. individuals or organizations that are thought to be connected to the matter in question, but the public prosecutor is still required to provide evidence to support the accusations.

Criminal debasement can take various structures. A portion of the more normal kinds of defilement are those including monetary misfortunes to the state, pay off, misappropriation in open office, coercion, deceitful demonstrations, irreconcilable circumstances in obtainment, and satisfaction.

Factors that cause criminal demonstrations of debasement incorporate powerless strict and moral schooling; unfit to separate individual property from institutional property; colonialism; absence of training; poverty; nonattendance of brutal approvals; a shortage of prolific conditions for hostile to defilement entertainers; government structure; extremist change; what's more, the condition of society.

The consequences of corruption can hurt national development, namely national political and economic life; budget leaks in government organizations or administration; and corporatized weaknesses in monitoring national development.

In the Opiates Regulation, there is an article that manages sanctions for criminal demonstrations of defilement connected with state monetary misfortunes, in Article 2 passage (1) there is an approval of life detainment or detainment for at least 4 (four) years and a limit of 20 (twenty) years year and a fine of basically Rp. 200,000,000,- (200,000,000 rupiah) and

a limit of Rp. 1,000,000,000 (one billion rupiah), and section 2 (two) criminal demonstrations of defilement carried out in specific situations can be dependent upon capital punishment. Article 3 contains sanctions for life detainment or detainment for at least 1 (one) year and a limit of 20 (twenty) years or potentially a fine of basically Rp. 50,000,000,- (fifty million rupiah) and a limit of Rp. 1,000,000,000,- (one billion rupiah).

The concept of alternative sanctions for impoverishing corruptors is the discourse of impoverishing corruptors. The reason is first, because the corruptors do not seem to be deterred and as the years go by, the number of corruptors does not seem to decrease. Second, the existing penalties in the form of imprisonment, fines, and the obligation to pay compensation are considered less deterrent. Third, the uniqueness of corrupt behavior. Fourth, the discourse on impoverishing corruptors was triggered by the large number of judges' low sentences for corruptors.

Impoverishing corruptors is a new step and breakthrough in eradicating corruption. Many defendants in corruption cases can still enjoy many facilities, even though they have the status of prisoners. When imprisonment is felt to be ineffective and does not deter corruptors, breakthroughs, and concrete action are needed. It is deemed necessary to apply criminal sanctions to impoverish corruptors in several corruption cases in the hope of having a deterrent effect on perpetrators of criminal acts of corruption.

The impoverishment of corruption in Indonesia can be seen clearly in the Angelina Sondakh case. Angelina Sondakh was charged in connection with a corruption case involving budget transfers at the Ministry of Youth and Sports and the Ministry of National Education worth 3 (three) billion rupiah. The Jakarta Corruption Court's first ruling resulted in a 4-year, 6-month jail sentence for Angelina Sondakh. The Public Prosecutor (JPU) had demanded that Angelina Sondakh serve 12 (twelve) years in jail; the judge's punishment was far less harsh than that. Angelina Sondakh then filed a cassation which turned out that her sentence was increased from 4 years and 6 months to 12 (twelve) years in prison. Apart from that, to impoverish corruptors, Angelina Sondakh was ordered to pay compensation amounting to IDR 12.58 billion and USD 2.35 million. The cassation decision by Supreme Judge Artidjo was the demands of the Public Prosecutor (JPU) who had previously been charged against Angelina Sondakh. The Corruption Judge's decision which sentenced him was lower than the prosecutor's demand and the cassation decision led by Supreme Court Judge Artidjo confirmed the prosecutor's demand. The sentence for payment of compensation amounting to Rp. 12.58 billion and USD 2.35 million in the Angelina Sondakh case is certainly far from the figure for the amount of money corrupted by Angelina Sondakh. Angelina Sondakh was proven to have committed corruption amounting to 3 (three) billion rupiah, but the penalty for paying replacement money was very far from the amount of money that had been corrupted. The Angelina Sondakh case shows the faith and determination of law enforcers to eradicate corruption by punishing corruptors as severely as possible and also impoverishing corruptors who have taken people's money and plundered it. The impoverishment of corruptors is very clearly visible in the Angelina Sondakh case.

A well-defined and definite idea about criminal penalties for corruptors who cause poverty has not yet been established. Regarding this impoverished idea, anti-corruption campaigners have differing opinions. A number of political parties claim to support the poverty of corruption; however, some parties disagree, arguing that those who commit corrupt crimes should not benefit from corruption.

Up until now, the only way to financially ruin corruptors has been to seize their assets as a consequence of their illegal corrupt practices. Confiscation of these assets by the seizure of all items derived from corrupt activities and/or compensation of lost funds in an amount equal to

the state's financial losses as a result of corrupt activities. It cannot be stated that this makes corruptors poorer because they are still able to use their non-confiscated assets freely.

4 Closing

Corruption crimes in Indonesia are increasingly occurring and have an impact on the people. The repercussions of criminal actions of corruption fall on the public. The destitution of those who do corrupt activities is seen as a significant achievement in the fight against corruption-related crimes. By seizing assets obtained via corrupt activities and making up for losses sustained as a result of such acts, the idea of impoverishing corruptors may be put into practice. It is believed that the idea of making corruptors poorer serves as a deterrent and a way to lessen illegal acts of corruption.

The impoverishment of corruption in Indonesia has not been implemented firmly. The law enforcers in this research, namely prosecutors and judges, do not carry out criminal sanctions for impoverishing corruptors in eradicating criminal acts of corruption. Prosecutors in handing down criminal charges adhere to the law, as well as corruption judges in handing down sentences adhere to the law. The sole way to impose criminal penalties on corruptors who impoverish others is to seize their assets, the value of which is determined by the state's financial losses as a result of their corrupt actions. It is not possible to say that this will make corruptors poorer because only assets resulting from corrupt activities are seized, and there is no guarantee that the corruptor will fall into poverty. Corruptors are impoverished by having all items resulting from corrupt conduct seized and/or by having replacement money paid in an amount equal to the state's financial losses incurred as a result of corrupt activities. The poverty of corruptors has not yet resulted in a legal breakthrough for Indonesian law enforcement to eradicate corrupt activities.

References

- [1] Indra, P., Panjaitan, H. dan Hutahaean, A., "JURIDICAL ANALYSIS OF THE IMPLEMENTATION OF SANCTIONS FOR PEOPLE OF CRIMINAL ACTS OF CORRUPTION IN THE FORM OF ASSETS CONFIDENTIALITY AS AN EFFORT TO RETURN STATE LOSSES," *Mandalika Light Journal*, vol. 4, no. 3, hlm. 993–1000, 2023.
- [2] S. Hendrawati, F. Santiago, dan Z. Fakrulloh, "Reconstruction Implementation of the Prerogative of the President in the Appointment of Ministers Based on the 1945 Constitution is Associated with the Indonesian Constitutional Law System," dalam *Proceedings of the 2nd Multidisciplinary International Conference, MIC 2022, 12 November 2022, Semarang, Central Java, Indonesia*, Semarang, Indonesia: EAI, 2023. doi: 10.4108/eai.12-11-2022.2327283.
- [3] Muladi, Muhammad dan Suparno, "Indonesian Legal Reform Based on Pancasila," *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021*, vol. 1, no. 1, Mar 2021.
- [4] Ali Zainuddin, *Metode Penelitian Hukum*. Jakarta: Sinar Grafika, 2011.
- [5] Amiruddin, *Pengantar Metode Penelitian Hukum*. Jakarta: PT. Raja Grafindo Persada, 2006.
- [6] Ashsofa, Burhan, *Metode Penelitian Hukum*. Jakarta: Rineka Cipta, 2007.
- [7] Prasetyo, "Corruption Confiscation and confiscation of assets resulting from corruption as an effort to impoverish corruptors," *Journal of Legal Studies*, vol. 12, no. 1, 2011.