



The Urgency of Criminal Law Reform in Indonesia in Law Enforcement of Corruption

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Abstract

This study aims to analyze the urgency of criminal law reform in Indonesia in law enforcement of criminal acts of corruption. Corruption comes from Latin, namely *Corruptus* and *Corruption*, meaning bad, depraved, deviant. Corruption is an act done with an intention to gain some benefit contrary to official duty and other truths, an act of an official or belief of a person who unlawfully and mistakenly uses some benefit for himself or others contrary to other duties and truths. Handling corruption while still seeking retaliation, which is basically the enforcement of corruption cases oriented towards paying state losses. The research method used is a normative research method using a statute approach and analyzed using content analysis.

Keywords: *Urgency; Criminal Law Reform; Corruption*

Introduction

Corruption has a detrimental impact on society at large, including harming the economy. Corruption results in abuse of power and use of public funds for private gain. [1] This can reduce funds that would otherwise be used for infrastructure development, public services, and social programs. Corruption also creates an unfair business climate, discourages investment, and harms the country's economic growth. Corruption exacerbates social and economic inequalities in society. Public resources that are supposed to be used to meet people's basic needs such as education, health, and housing are often diverted into the hands of corruptors. This exacerbates social inequality and leads to inequities in access to public services. [2] Undermining the legal system: Corruption can damage the judicial system and law enforcement. Corruptors who have power or political connections can evade legal accountability or receive lighter sentences. This creates public distrust of the legal institution and weakens trust in the justice system. [3]

Corruption hinders sustainable development by reducing the efficient use of resources, slowing down the process of infrastructure development, and hindering investment in key sectors. This impact is especially felt in sectors such as transportation, energy, and education, which are essential for the growth and progress of society. Corruption creates an environment that undermines the morals and integrity of society. When corruption becomes the norm in society, values such as honesty, ethics, and justice can be

eroded. This has a negative impact on the formation of character and morale of the younger generation and reduces social trust and solidarity. Corruption creates uncertainty and risk in the business environment, which hinders investment and economic growth. Foreign companies tend to avoid countries with high levels of corruption because they have the potential to harm their business interests. This can hinder job creation and sustainable economic development. Overall, corruption has far-reaching negative impacts on society, harming the economy, hindering development, and undermining social order and public trust in public institutions. Therefore, eradicating corruption is a challenge that must be addressed seriously to achieve inclusive and sustainable development. [4]

The harm caused by corruption cases can vary, including on a small scale, but it is still important to fight corruption at all levels. While the amount of harm directly related to petty corruption cases may be limited, the impact can have a broader impact on institutions, public services, and public trust in government and the legal system. Here are some reasons why enforcement of petty corruption cases remains important. Principles of justice and rule of law: In a fair legal system, there should be no partiality towards any violation of the law, including corruption. The principle of justice demands that all corruption cases, both large and small, be taken seriously and carried out fair law enforcement. Cracking down on petty corruption cases can prevent the spread of greater corruption. Therefore, by addressing small cases decisively, it can provide a deterrent effect and limit opportunities for corruption perpetrators to violate the law further.

When people see that there is zero tolerance for corruption, including in minor cases, they will have greater trust in the government and the legal system. Public trust is an important factor in building a transparent and accountable government. Although losses directly related to petty corruption cases may be limited, it is still important to recover state assets that have been harmed. Any prosecution of corruption cases can help return assets that have been fraudulently taken by corrupt actors. Consistent and serious law enforcement against all corruption cases, including minor ones, can set a good example to society, especially the younger generation. This can help build an anti-corruption culture and instill values of integrity in society. In the face of corruption, there should be zero tolerance for violations of any law, including petty corruption cases. With a comprehensive and consistent approach, positive changes in law enforcement and corruption prevention can be achieved.

Handling corruption cases requires significant resources in terms of finance and manpower. The cost of handling corruption covers various aspects, including the process of investigating and investigating corruption cases involving labor, facilities and infrastructure, as well as significant operational costs. This includes payment of salaries and facilities for investigators, official travel, evidence collection, expert examination, etc. Trial costs: The trial of corruption cases involves court costs, including judges' salaries and benefits, court administration costs, transportation and accommodation costs for witnesses, and trial costs such as technical equipment, security, and other equipment. [5] In some cases of corruption, efforts are made to recover assets acquired by corruption. Costs related to asset recovery efforts include research and identification of assets related to corruption, cooperation with other countries, and costs of managing and securing recovered assets. The Indonesian government has allocated significant budgets for corruption response, including funding law enforcement agencies and corruption prevention efforts. However, corruption has far-reaching economic impacts and can cause far greater losses than the cost of handling it. Therefore, corruption prevention is also an important focus in order to reduce costs associated with corruption cases. Based on the description above, the problem in this study is how the Urgency of Criminal Law Reform in Indonesia in Law Enforcement of Criminal Acts of Corruption. [6]

Methods

The research method used is a normative research method, using a *statute approach* related to the urgency of criminal law reform in Indonesia and the nature of law enforcement of criminal acts of

corruption. [7] The *statute approach* examines matters concerning legal principles, legal views and doctrines, and laws and regulations related to village fund corruption, and accurate and accountable data. In addition, an in-depth examination of the legal facts is also held to then seek solutions to the problems that arise in the symptoms concerned. [8]

Results and Discussion

1. The Ultimate Principle of Remedium in the Enforcement of Corruption Crimes

The current corruption enforcement mechanism involves several steps or stages including investigation. The enforcement mechanism for corruption begins with an investigation into suspected corruption crimes. Investigators or law enforcement agencies assigned to conduct investigations will collect evidence, analyze information, examine witnesses, and take other steps to uncover facts related to the corruption case. [9] In the corruption enforcement mechanism, the collection of strong evidence is very important. Investigators will collect physical evidence, documents, electronic data, and other information related to corruption cases. This process can involve searches, document checks, financial checks, and a thorough deepening of the investigation. [10]

After the investigation is complete, the next step is the prosecution of suspects allegedly involved in criminal acts of corruption. Prosecutions are carried out by public prosecutors or special prosecutorial agencies assigned to handle corruption cases. The prosecution will prepare the charges based on the evidence found during the investigation and involve the trial process in court. The enforcement mechanism for corruption crimes includes trial proceedings in court. In court, the public prosecutor will present evidence and arguments to prove the guilt of the accused. [11] The defendant and his lawyer had the opportunity to defend themselves and deny the charges raised. The judge will consider all evidence and arguments presented before making a final decision. After the trial is over, the judge will decide whether the defendant is guilty or not guilty of the corruption crime charged. If the defendant is found guilty, the judge will impose the appropriate sentence under the applicable criminal law. Such penalties may take the form of imprisonment, fines, confiscation of assets, or other sanctions deemed appropriate in such cases. [12] In addition to the above measures, current corruption enforcement mechanisms may also involve cooperation between law enforcement agencies, government agencies, and international organizations. This cooperation can include information exchange, legal assistance, and coordination in order to deal with corruption cases involving national borders.

The huge cost of tackling corruption that reaches 400 million is the reason why the principle of ultimate remedium must be emphasized. The principle of *Ultimum Remedium*, which literally means "last resort", is a legal principle that emphasizes that law enforcement actions must be the last step or last resort taken by the government or law enforcement agencies. This principle refers to the idea that law enforcement should consider and prioritize the least lenient solution or not restrict individual rights as much as possible. In the context of corruption enforcement, the principle of *Ultimum Remedium* means that the government or law enforcement agencies must consider and use law enforcement measures that are lighter or do not restrict individual rights before using more drastic law enforcement measures. In other words, the choice of law enforcement action must be balanced and proportionate to the crime committed. [13]

This principle is important in the context of corruption enforcement because it can involve complex and intensive enforcement efforts, such as in-depth investigations, sufficient evidence collection, and prosecution through the judicial system. However, before using such measures, governments or law enforcement agencies should consider milder alternative options, such as reprimands, warnings, negotiations, or other administrative measures. Although the principle of *Ultimum Remedium* serves as a guideline in the enforcement of criminal acts of corruption, it is important to remember that this principle

must also be in line with the principles of justice and public interest. [14] In cases of corruption involving large sums of public money or serious impacts on society, firmer and firmer enforcement measures may be required to ensure justice and provide adequate deterrent effect to perpetrators of corruption. In practice, the enforcement of corruption crimes often involves a holistic approach, taking into account the principle of *Ultimum Remedium* together with other principles such as the principle of proportionality, the principle of accountability, and the public interest. The goal is to strike the right balance between effective law enforcement and the protection of individual rights. [15]

2. The Urgency of Criminal Law Reform in Law Enforcement of Corruption

Corruption is one of the serious problems that plague many countries around the world. Corruption undermines governance, hinders economic development, and harms society as a whole. To overcome corruption, a good understanding of corruption hotspots, prevention efforts other than criminal offenses, and prevention goals that go beyond criminal enforcement is needed. Corruption hotspots refer to areas or sectors where the risk of corruption is higher. Some of the hotspots of corruption include government and public administration, the highly regulated private sector, the judicial system, and the health and education sectors. In these sectors, opportunities for corruption are often greater, whether through bribery, process manipulation, or abuse of authority. It is important for the government and relevant institutions to identify corruption hotspots and take effective preventive measures within them. [16]

In addition to law enforcement and crime, corruption prevention efforts also involve broader strategies. Corruption prevention aims to prevent acts of corruption before they occur, and not just rely on enforcement after acts of corruption are committed. Some corruption prevention strategies include transparency and accountability, institutional reform, education and public awareness, and strengthening the complaint system. [17] Transparency and accountability are important to reduce corruption risks. By increasing transparency in financial management and decision-making processes, and ensuring accountability of public officials and government institutions, opportunities for corruption can be reduced. Institutional reforms are also needed to change the structure and governance of institutions to be more efficient and avoid corruption. Measures such as reducing excessive bureaucracy, improving monitoring and auditing procedures, and implementing an effective complaints system can help create an environment that does not allow corruption. [18]

Education and public awareness also have an important role in corruption prevention. By providing education and training to the public about the adverse effects of corruption and the importance of integrity and transparency in daily life, it is hoped that attitudes and behaviors against corruption will be formed. In addition, strengthening a safe and secure complaint system is also needed so that the public feels comfortable reporting corruption they encounter, and gets adequate protection. [19] The main objective of corruption prevention is to reduce economic losses and increase public confidence. Corruption can lead to waste of public resources, diversion of funds that should be used for the public interest, and harm economic growth and sustainable development. [20]

With effective corruption prevention, public funds can be allocated more efficiently, resources can be put to good use, and economic growth can be improved. In addition, corruption prevention also aims to restore public trust in governments and institutions, which in turn will create a better environment for social and economic development. Overall, corruption is a serious problem that affects many aspects of people's lives and the development of a country. To fight corruption, it is important to identify corruption hotspots, involve prevention efforts other than criminal, and have broader goals than just criminal prosecution. With the right strategy, corruption prevention can reduce economic losses, increase public trust, and build a fairer and more transparent society. [21]

Considerations related to the importance of law reform in the enforcement of cruciferous cases are because there are still many corruption cases where small state losses are resolved penally which can waste state losses. The philosophy of corruption enforcement is oriented towards the return of state losses. Criminal law reform in law enforcement of corruption can cover various aspects, ranging from regulating the definition and types of corruption crimes, to increasing sanctions and more effective law enforcement mechanisms. Criminal law reforms that are commonly carried out in law enforcement of corruption include clearer regulations on corruption. Criminal law reform can involve refining the definition and types of corruption crimes to include various forms of corruption that arise with the times. [22] This helped improve the effectiveness of law enforcement against corruption. Increased sanctions and tougher penalties: Reform of the criminal code may involve increased sanctions and penalties for perpetrators of corruption crimes. Tougher sanctions are expected to be a deterrent for potential perpetrators of corruption and provide a greater deterrent effect

Establishment or improvement of specialized law enforcement agencies. To improve law enforcement of criminal acts of corruption, criminal law reform may also involve the establishment or improvement of specialized law enforcement agencies, such as anti-corruption agencies or corruption eradication commissions. [23] Such institutions have a special mandate to investigate, prosecute, and prosecute cases of corruption. More effective investigative and prosecution mechanisms. Criminal law reform may involve improving investigative and prosecution mechanisms related to corruption. This includes increasing the capacity of investigators and prosecutors, improving the investigation process, granting special powers, and the use of modern technology to support investigations. [24] Protection of whistleblowers or whistleblowers: Criminal law reforms may also include better protections for *whistleblowers*. By providing legal protection to those who report corruption, it is hoped that it will encourage more people to report corruption cases that they know about. Criminal law reform in law enforcement of corruption crimes aims to strengthen the legal system, increase the effectiveness of law enforcement, and provide stricter sanctions against perpetrators of corruption. However, different countries can have different approaches to these reforms according to their needs and legal context. [25]

Conclusion

Based on the description above related to the Urgency of Criminal Law Reform in Indonesia in Law Enforcement of Corruption Crimes, it can be concluded that enforcement of corruption crimes must have legal reform. This is because currently the law on corruption is emphasized on penal efforts with case handling costs reaching 400 million while many corruption cases cost the state did not reach the amount of case handling costs. Therefore, it is necessary to reform the law, for example by seeking preventive policies that can be carried out by law enforcement agencies.

References

- [1] Waluyo, Bambang. "Optimization of corruption eradication in Indonesia." *Juridical Journal* 1.2 (2014): 169-162.
- [2] Setiadi, Wicipito. "Corruption in Indonesia." *Faculty of Law, Universitas Pembangunan Nasional (UPN) "Veteran", Jakarta* (2018). 12-34.
- [3] Putri, Wiki Oktama, and Ridwan Arifin. "Law enforcement against legislators in cases of corruption in Indonesia." *Journal of Criminal and Constitutional Law* 8.1 (2019): 1-15.
- [4] Soetrisno, *Research Methodology*, (Yogyakarta, UGM, 1978), 49.
- [5] Peter Mahmud Marzuki, *Legal Research*, (Jakarta Kencana Prenada Media Group, 2011), 35.

- [6] Mukti Fajar and Yulianto Achmad, *Dualism of Normative & Empirical Legal Research*, (Yogyakarta, Pustaka Siswa, 2010), 34.
- [7] Abdulkadir Muhammad, *Law and Legal research*, (Bandung: Citra Aditya Bakti, 2004), 32.
- [8] Putri, Wiki Oktama, and Ridwan Arifin. "Law enforcement against legislators in cases of corruption in Indonesia." *Journal of Criminal and Constitutional Law* 8.1 (2019): 1-15.
- [9] Afif, Muhammad. "The Existence of Corruption Courts in Indonesia in Law Enforcement of Corruption Crimes in Indonesia." *Encyclopedia of Journal* 1.1 (2018): 97-106.
- [10] Dwiputrianti, Septiana. "Understanding Indonesia's Corruption Eradication Strategy." *Journal of Administrative Sciences: Media Development of Administrative Science and Practice* 6.3 (2009): 1.
- [11] Damayanti, Novy Septiana. "The Position of Extradition Treaties and Asset Returns in the Enforcement of International Criminal Law against Perpetrators of Corruption Crimes in Indonesia." *Criminal Law and Legal Development* 1.2 (2019). 23-32.
- [12] Susanti, Ino. "Reflections on Legal Science in Law Enforcement Analysis of Corruption Eradication in Indonesia." *Journal of Legal Dynamics* 14.1 (2014): 123-133.
- [13] Arifin, Ridwan, Indah Sri Utari, and Herry Subondo. "Efforts to return corruption assets abroad (asset recovery) in the enforcement of corruption eradication laws in Indonesia." *IJCLS (Indonesian Journal of Criminal Law Studies)* 1.1 (2017): 105-137.
- [14] Rachmawati, Amalia Fadhila. "The impact of corruption on economic development and law enforcement in Indonesia." *Examination: Law Journal* 1.1 (2021): 12-19.
- [15] Saifulloh, Prime Son. "The Role of Higher Education in Fostering Anti-Corruption Culture in Indonesia." *Journal of Law & Development* 47.4 (2017): 459-476.
- [16] Asmorojati, Anom Rev. "The Urgency of Anti-Corruption Education and KPK in the Eradication of Corruption in Indonesia." *URECOL* (2017): 491-498.
- [17] Muhtar, Mohamad Hidayat. "The Political Model of Corruption Eradication Law in Indonesia in the Framework of Harmonization of Law Enforcement Agencies." *Jambura Law Review* 1.1 (2019): 68-93.
- [18] Wiranti, Yenni, and Ridwan Arifin. "Challenges and Problems of Law Enforcement of Corruption in Indonesia." *Cosmic Law* 20.1 (2020): 45-55.
- [19] Syarief, Ridwan Arifin Oemara, and Devanda Prastiyo. "Collective Corruption (Congregational Corruption) in Indonesia: Between Causal Factors and Law Enforcement." *Respublica Law Journal* 18.1 (2018): 1-13.
- [20] Grace, Diding. "Formulation of criminal policies on fines and substitute money in the enforcement of corruption crimes in Indonesia." *IUS Journal of Law and Justice Studies* 8.1 (2020): 79-88.
- [21] Aji, Yogi Bayu. "The impoverishment of corruptors as an alternative punishment in law enforcement of corruption cases in Indonesia." *Indonesian Journal of Criminology* 9.1 (2017): 109-240.
- [22] Arianto, Henry. "Responsive Law and Law Enforcement in Indonesia." *Lex Jurnalica* 7.2 (2010): 18.

- [23] Pratiwi, Andjeng, and Ridwan Arifin. "Law Enforcement, Political Corruption in Indonesia: Contemporary Problems and Issues." *Justitia Pulpit Law Journal* 5.2 (2019): 144-163.
- [24] Wardani, Koko Arianto, and Sri Endah Wahyuningsih. "Death Penalty Law Formulation Policy Against Perpetrators of Corruption in Indonesia." *Khaira Ummah Law Journal* 12.4 (2017): 951-958.
- [25] Sosiawan, Ulang Mangun. "Handling the Return of State Assets Resulting from Corruption Crimes and the Application of the UN Convention Against Corruption in Indonesia." *De Jure Journal of Legal Research* 20.4 (2020): 587.

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