



Law Enforcement of the Criminal Action of Corruption in the Time of the Pandemic Covid-19

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Abstract

This research is a legal research that examines the law enforcement of criminal acts of corruption during the COVID -19 pandemic. This study aims to analyze the model of law enforcement against corruption which is one type of extraordinary crime (extraordinary crime). Corruption is a very serious problem, because it can endanger the stability and security of the State, endanger social and economic development, politics, and can even damage democratic values and national morality. Law enforcement was highlighted during the Corona Virus Disease 2019 (covid-19) pandemic, where the World Health Organization (WHO) declared COVID-19 a global pandemic. President Joko Widodo also declared the spread of the deadly epidemic a national disaster. This emergency status comes into effect as of April 13, 2020. The determination of the spread of this virus as a disaster is stated in Presidential Decree (Kepres) No. 12 of 2020 concerning Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 Covid-19. This type of research is a normative legal research (doctrinal), with several approaches used, among others; the statute approach, both conceptual approaches, and the data analysis method used in this paper is the deductive analysis method. Research result This refers to law enforcement of corruption in Indonesia The covid-19 pandemic period is still quite bad, and it can be seen from the increasing percentage of state losses and the increasing number of cases that are increasing from previous years. Report from Indonesian Corruption Watch (ICW). said that there was no openness information from APH, especially the police and the prosecutor's office regarding the handling of corruption.

Keywords: Covid-19 9; Corruption; Law Enforcement; Crime

Introduction

Law enforcement is the process of making efforts to enforce or actually function legal norms as guidelines for behavior in traffic or legal relationships in social and state life. Law enforcement aims to improve order and legal certainty in society. This is done between others by controlling the functions,

duties and authorities of the institutions tasked with enforcing the law according to the proportions of their respective scopes, and based on on a good cooperation system and supports the goals to be achieved. (1)

Criminal acts, namely actions that are prohibited and are threatened with punishment for anyone who violates the prohibition, in this case includes a criminal act of corruption. which includes one type of extraordinary crime (extraordinary *crime*). (2) The crime of corruption is a very serious problem, because corruption can endanger the stability and security of the State in society, endanger social and economic development, politics, and even destroying democratic values and national morality because it can have an impact on the culture of the criminal act of corruption. This is as stated in *the 4th preamble of the United Nations Convention Against Corruption (UNCAC)*. (3)

Constitution No. _ 20 of 2001 in conjunction with Law No. 31 of 1999 on the Eradication of Corruption Crimes defines corruption as the act of any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy. In the general Dutch-Indonesian dictionary compiled by Wijowasito, *corruptie* means corrupt acts or bribery. (4)

In the context of the covid 19 pandemic, more than one month after the World Health Organization (WHO) declared *Corona virus Disease 2019 (Covid-19)* as a global pandemic, President Joko Widodo finally declared the spread of the deadly epidemic a disaster national. This emergency status comes into effect as of April 13, 2020. The determination of the spread of this virus as a disaster is stated in Presidential Decree (Kepres) No. 12 of 2020 concerning the Determination of Non-Natural Disasters Spreading *Covid-19* as a National Disaster. Non-Natural Disasters are disasters caused by non-natural events or series of events, which include technological failure, failure of modernization, epidemics, and disease outbreaks. This emergency status comes into effect as of April 13, 2020. The determination of the spread of this virus as a disaster is stated in Presidential Decree (Kepres) No. 12 of 2020 concerning the Determination of Non - Natural Disasters Spreading *Covid-19* as National Disasters. (5) The spread of the Corona Virus has a very widespread impact on the life of the state, not only having an impact on the health aspect, but also on the economic, political, educational, legal and various aspects. other.

The Covid-19 pandemic has an impact on society not only in in the health sector, but also in the economic, religious, social and cultural, and political. All of that, strictly speaking, if you can't manage properly, it will potentially disrupt the situation Kamtibmas. That's where the role of the Police is needed so that potential disturbances Kamtibmas did not develop into a real nuisance. Whole Police members must work extra hard by prioritizing preemptive and preventive action. (6) From the description of the background , the author formulates the problem, "*how is law enforcement against corruption during the Covid-19 pandemic?*"

Research Methods

In this study the author uses a normative (doctrinal) research method. Ormative research is understood as research to test a norm or applicable provision. With the approach used, the first approach is the Law, the concept approach, and the analytical approach. This approach basically focuses on examining all laws and regulations related to the problems (legal issues) that are being faced Both conceptual approaches, this approach is carried out by testing concepts, theories and opinions of experts that are related to the object under study and the views or doctrines that develop in legal science can be the basis for building legal arguments when solving legal issues at hand. (9) The data analysis method used in this paper is the deductive analysis method, according to Suri Asumari, deductive analysis is a series of new forms of thinking activities, formulating general problems and then drawing specific conclusions. (10).

Results and Discussion

1. Law Enforcement of Corruption Crimes During the Covid-19 Pandemic

The law enforcement system is essentially a law enforcement system (in the field of criminal law, it includes material criminal law, formal criminal law, and criminal law enforcement). (1) Law enforcement against criminal acts of corruption is an effort made by law enforcement officials to eradicate criminal acts that are detrimental to the State.(11) As for the elements of a criminal act of corruption, namely: Every person, enriching himself, another person or a corporation, can harm the state's finances or the state's economy, and is against the law. A brief explanation of the elements of a criminal act of corruption, namely : (12)

1) Each person

The meaning of each person explains to everyone that those who have to do the act of responsibility because of their actions, then they will be charged or who should be accused and the word for each person is identical with the word whoever. In Article 1 point 3 of Law Number 31 of 1999, what is meant by everyone is every person, whether it is an individual or a corporation . In particular, in the case of a criminal act of corruption by and on behalf of a corporation, the prosecution and imposition of a criminal offense which can be carried out against a corporation and the entire management has been regulated in Article 20 paragraph 1 of Law Number 31 of 1999, the meaning of the word management itself is an individual corporation which explains about the management of the corporation which is in accordance with the person concerned, which is also in accordance with the articles of association of the household.

Which includes k to in corporations is everyone. Where the corporation is a collection of organized wealth or a collection of people, both legal and non-legal entities, and is clearly regulated in Law Number 31 of 1999 concerning the eradication of corruption in article 1 paragraph (1).

2) Enriching Yourself, Others Or A Corporation

Enriching oneself, another person or a corporation the words "enrich oneself" or "other people" or "an entity" which, when linked to Article 18 paragraph 2 of Law No. 3 of 1971 is an attempt to accumulate wealth that is not balanced with income or additional income. his wealth from unauthorized sources, which gives the defendant an obligation to provide information on the source of wealth in such a way.

Basically, the meaning of "Enriching Yourself" can be interpreted that the perpetrators increase in wealth or become richer because of the corrupt acts committed. The word no is what is meant as written in Article 1 paragraph (1) of Law Number 31 of 1999 is an act where the action is carried out by oneself, another person, a legal entity or a corporation or a corporation that abuses authority, an opportunity or means that basically because of his position or position which has an impact on the loss of a state finance and the state economy. And given a criminal sanction with a minimum imprisonment of 1 year and a maximum of 20 years or a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). The modus operandi of enrichment Self-defense can be done in various ways, for example by buying, selling, transferring accounts, signing contracts and other actions so that the perpetrators increase their wealth.

3) Can Harm State Finances Or State Economy a

State finances in question are all state assets in any form, separated or not separated, including all parts of state assets and all rights and obligations arising from, among other things , following:

- a) Being under the supervision, management and accountability of State-owned enterprises/regional-owned enterprises/foundations, legal entities, and companies that include third parties based on agreements with the State.
- b) Being in the control, control and responsibility of state agency officials both at the central and national levels regional level.

4) By Going Against the Law

Article 2 paragraph 1 of Law No. 31 of 1999 also explains the meaning of the word against itself and its meaning against the law. Against the law, the purpose of fighting itself is any act which in its application is deemed to have violated the relevant laws, in Article 1 paragraph 1 an act cannot be punished unless the act is already deemed to have violated the provisions of the laws and regulations that have been bound, we can see this in the Criminal Code.

Based on Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Corruption is also formulated in thirty forms The thirty forms of corruption crimes can then be simplified to into seven major groups, namely state losses, bribery, embezzlement in office, extortion, fraudulent acts, conflict of interest in procurement, and gratuities. The seven forms can be described as follows : (6)

1) State Financial Losses

As previously described in the article on the Corruption Law Embracing State Loss in a Formal Meaning, Professor of Criminal Law at the University of Padjadjaran Komariah Emong Supardjaja, explained that the Anti-Corruption Law adheres to the concept of state crime in the sense of a formal offense. The element "can harm state finances " should be interpreted as harming the state in a direct or indirect sense. This means that an automatic action can be considered detrimental to the state's finances if the action has the potential to cause state losses. Article 2 paragraph (1) of the Anti-Corruption Law jo. The Constitutional Court Decision No. 25/ PUU -XIV/2016 stipulates that: " Everyone who unlawfully commits an act of enriching himself or another person or a corporation that is detrimental to the state's finances or the state's economy, shall be sentenced to imprisonment for life or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of 1,000,000,000.00 billion (one billion rupiah) .

The word can before the phrase detrimental to the state's finances or economy indicates that a criminal act of corruption is a formal offense. The existence of a criminal act of corruption is sufficient to fulfill the elements of an action that has been formulated, not with the emergence of consequences (Constitutional Court Decision No. 003 /PUU-IV/2006).

2) Bribery Bribe

Examples of bribery in the Anti-Corruption Law and its amendments Among them are regulated in Article 5 of Law 20/2021, which reads: (1). Sentenced to a minimum imprisonment of 1 (one) year and a maximum of 5 (five) years and or a minimum fine of 50,000,000.00 (fifty million rupiah) and a maximum of 250,000,000.00 (two hundred and fifty million rupiah). everyone: (a) give or promise something to a civil servant or State administrator with the intention of bribing the said civil servant or State administrator or not doing something in his position, which is contrary to his obligations; or (b) give something to a civil servant or state administrator because of or in connection with something that is contrary to his obligations, carried out or not carried out in his position. For civil servants or state administrators who receive gifts or promises as referred to in paragraph (1) letter a or letter b, shall be subject to the same punishment as referred to in paragraph (1).

3) Embezzlement in Job

An example of embezzlement in office is regulated in Article 8 of Law 20/2001 which reads: "The punishment is a minimum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years and a minimum fine of Rp. 150,000,000.00 (one hundred and fifty million). rupiah) and a maximum of Rp.750,000,000.00 (seven hundred and fifty million rupiah), a civil servant or other civil servant assigned to carry out a general position continuously or temporarily, intentionally embezzles money or securities kept because of their position, or allowing the money or securities to be taken or embezzled by other people, or assisting in carrying out such acts" . According to R. Soesilo in his book, we b the Criminal Code (KUHP) and its comments are complete article by article.

Embezzlement is a crime similar to theft. The difference is that in the case of theft, the property is not yet in the hands of the thief and must still be "taken". Meanwhile, in embezzlement, when he had it, it was already in the hands of the maker, not by way of evil. Embezzlement in office The Anti-Corruption Law and its amendments, in our opinion, refer to embezzlement by weight, namely embezzlement committed by the person holding the goods in connection with his job or position (beroep) or because he gets wages.

4) Extortion

The Corruption Law takes the form of actions (article 12 letters e, g, and h of Law 20/2001): (1). Civil servants or state administrators who with the intention of unlawfully benefiting themselves or others, or by abusing their power to force someone to give something, pay, or receive payment, with a discount or to do something for themselves; (2). A civil servant or state administrator who, when carrying out his duties, requests or accepts work, or delivers goods, acts as if he is in debt, even though it is known that this is not a debt; or (3). A civil servant or administrator who, while carrying out his duties, has used State land on which there is a usufructuary right, as if in accordance with statutory regulations, has harmed the person with the right even though he knows that the act is contrary to the statutory regulations.

5) Cheating

The Anti-Corruption Law and its amendments take the form (Article 7 paragraph (1) of Law 20\2001): (1). The contractor, construction expert at the time of constructing the building or the seller of building materials at the time of handing over the building materials commits a fraudulent act that may endanger the security of people or goods, or the safety of the State in a state of war; (2). Everyone who is in charge of supervising the construction or delivery of building materials, intentionally allows the fraudulent acts above; (3). Anyone who delivers goods for the Indonesian National Army and/or the Indonesian National Police commits a fraudulent act that can endanger the safety of the State in a state of war; or (4). Everyone who supervises the delivery of goods needed by the Indonesian National Armed Forces and/or the Police of the Republic of Indonesia intentionally allows the fraudulent acts above.

6) Conflict of Interest in Procurement

A conflict of interest in the procurement of government goods/services is a situation where a civil servant or state administrator, either directly or indirectly, intentionally participates in chartering, procurement, or leasing, which at the time of the act, is assigned wholly or partly to manage or supervise it (Article 12 letter i Law 20/2001).

7) Gratification

Every gratuity to a State employee or State administrator is considered a bribe, if it is related to his position and is contrary to his obligations or duties, with the provisions (article 12B paragraph (1) of Law 20/2001): (1) . If the value is Rp. 10 million or more, the proof that the gratification is not a bribe is carried out by the recipient of the gratification. (2). whose value is less than Rp. 10 million, the proof of

the gratification is bribery is proven by the public prosecutor. The punishment for civil servants or state administrators who receive gratification is life imprisonment or a minimum sentence of four years and a maximum of 20 years, and a minimum fine of Rp. 200,000,000.00 and a maximum of Rp.1,000,000,000.00 (Article 12B paragraph (2) of Law 20/2001). However, this provision does not apply if the recipient reports the gratuity he has received to the corruption eradication commission, no later than 30 days from the date the gratification is received (article 12 C paragraph (1) and (2) of Law 20/2001).

In a difficult situation where the whole world is being hit by the COVID -19 pandemic, it is still revealed that rogue officials have committed massive corruption, robbing the rights of small people who are struggling to survive after most of the people lost their jobs.(6) A number of capture operations (OTT) is done by the Commission Eradication of Corruption (KPK) during the pandemic, including two ministers in the cabinet of President Joko Widodo's government. Since the beginning of the pandemic in March 2020, KPK Chair Firli Bahuri emphasized that his party was still working to sniff out and find corruption.

The phenomenon of corruption has entered various places and does not recognize differences in race, ethnicity, ethnicity, religion, or class, including during the pandemic. The strategy for handling corruption during the Covid-19 pandemic cannot be separated from the strategy for dealing with corruption in general, although the handling of corruption during the Covid-19 pandemic needs to pay attention to the special characteristics that apply in handling corruption in the Covid-19 pandemic environment. There are special characteristics that apply in the era of the Covid-19 pandemic because a pandemic is an emergency that requires a quick emergency response. Rapid emergency response usually prioritizes speed that can use discretionary powers consciously and in a planned manner that is possible above administrative order. The state of emergency also opens up opportunities for conscious administrative disorder if there are premeditated corrupt intentions. This situation has become difficult because the policy to overcome the Covid-19 pandemic contains two-sided challenges in dealing with the Covid-19 pandemic, namely health and the economy which cannot be chosen from each other which is the priority. (14)

The handling of the Covid-19 pandemic also did not escape the supervision of the KPK. Wrong one, the prosecution of former Maritime Affairs and Fisheries Minister Edhy Prabowo through a hand arrest operation (OTT) on November 25, 2020. Not only Edhy, dozens of other people were also caught by OTT in different locations. Meanwhile, Juliari is a suspect along with Matheus Joko Santoso and Adi Wahyono as commitment-making officials (PPK) at the Ministry of Social Affairs, as well as Ardian IM and Harry Sidabuke as private parties. Social assistance corrupted by former Minister of Social Affairs Juliari Peter Batubara shocked us all regarding the corrupted funds. According to Indonesia Corruption Watch (ICW) Corruption, which has cost the state up to 56.7 trillion, has made the political situation hot. This allegation also came from a former senior investigator of the Corruption Eradication Commission (KPK) Novel Baswedan who said the alleged corruption reached 100 trillion, of course this made us even more irritated with the perpetrators of corruption. (15) Not only the Minister, the KPK also arrested the Governor of South Sulawesi Nurdin Abdullah in a hand arrest operation (OTT) on Friday, February 26, 2021. The KPK also arrested the head of the district head level related to allegations of corruption in the procurement of emergency goods for the Covid-19 pandemic disaster at the Social Service West Bandung Regency Regional Government in 2020.(7)

Refers to the Corruption Perception Index (GPA) which is published annually by Transparency International. This index rates a country from 0 - 100 based on the level of perception of corruption in the public sector according to the assessment of experts and business people as well as opinion polls . Indonesia is one of the most corrupt countries among other G20 countries with a score of 37 on a scale of

0-100. Report from Indonesian Corruption Watch (ICW) shows, state losses due to corruption reached Rp . 26.83 trillion in semester 1 2021. This number increased by 47.63% compared to the same period last year which was Rp . 18.17 trillion. Number of cases Law enforcement officers (APH) found 209 corruption cases with a total of 482 suspects who were processed by law.

This trend assesses the losses experienced by the state have actually increased from year to year. According to ICW, the reason is because the government's oversight of budget management for handling corruption cases is getting worse. ICW also stated that there was no disclosure of information from APH, especially the police and the prosecutor's office regarding the handling of corruption. Overall, ICW assessed that the performance of handling corruption cases in APH, which consisted of the National Police, the Prosecutor's Office, and the Corruption Eradication Commission (KPK) in the first semester of 2021 only reached 19% or received an E rating (very bad).(8)

Closing

1. Conclusion

Law enforcement of criminal acts of corruption during the *ciovid-19 pandemic* is still very poor, and it can be seen from the increasing percentage of state funds due to corruption and the increasing number of cases that are increasing from previous years. Whereas in terms of the formulation of offenses regulated in Law No. 20 of 2001, amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption are quite good and very complex , but have not been able to provide a sense of deterrence and anxiety for perpetrators of criminal acts of corruption. In the enforcement of criminal acts of corruption in During a pandemic, it is not enough just to have strong and complex rules or laws, but also to be supported by APH with integrity. Law enforcement can run well and effectively if it is carried out by law enforcement officers who are competent, have high integrity, are honest, and are responsible . fair and consistent in carrying out their duties and functions as law enforcers. Because it is in their hands that will determine whether or not a law enforcement is good or bad.

2. Recommendation

It is necessary to reformulate the threat that is more severe against corruption perpetrators during the covid-19 pandemic to create a sense of deterrence, Judges must dare to impose maximum penalties on corruption crimes committed during and/or related to the covid-19 pandemic. In addition, it is necessary to continuously improve the moral capacity and integrity of APH who are competent, have high integrity, are honest, responsible , fair and consistent in eradicating corruption, especially during the COVID-19 pandemic

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