



Research Paper

Analysis of Corruption Law Enforcement by State Apparatus

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ABSTRACT : Corruption crimes committed by state apparatus are very difficult to eradicate because the law enforcement bureaucracy in Indonesia is an old bureaucracy that has inherited chronic corruption. Government institutions that are supposed to serve the people have become an arena for self-enrichment. The aim of the research is the application of corruption criminal law and the legal considerations of judges in passing decisions on corruption in decision Number 3691 K/Pid.Sus/2019. This research is a type of normative law with a normative descriptive approach. The data collection procedure was carried out using library techniques through literature studies with data analysis using normative juridical techniques. The results of the research on Law Enforcement of Corruption Crimes in the Middle Ciasem Village Fund in Subang Regency, the Subang State Prosecutor's Office and the Subang Resort Police In general, law enforcement is carried out in two ways, namely preventive and repressive. With the provisions of Law Number 20 of 2001 on amendments to Law Number 31 of 1999. Then the enforcement of the Criminal Act of Corruption in the Central Ciasem Village Fund in Subang Regency in its implementation has not run optimally in accordance with Law Number 20 of 2001. The decision that given by the judge was in accordance with the provisions where it was proven that there was an act of self-enrichment. However, there are still discrepancies in the weight of punishment in Law no. 20 of 2001 which states that there is a threat of life imprisonment or imprisonment for a minimum of 4 years and a maximum of 20 years and a fine of Rp. 200,000,000.00 and a maximum of Rp. 1,000,000,000.00

Keywords: Corruption, Legal Consideration, Legal Role

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I. INTRODUCTION

The State of Indonesia is a constitutional state that has Pancasila and the 1945 Constitution as the foundation of the state and nation. The concept of a rule of law state for Indonesia has actually been adapted to the culture, history and values that are ingrained in life. everything must refer to the law [1]. Government as a driving force for the life of the nation and state carries out various very important affairs, even though each affair does not run automatically but every decision made is carried out by human resources known as the state apparatus, so that it can be said that each state apparatus has an important role for every region in the world. Indonesia. Every state apparatus has a responsibility that is directly entrusted by the state and the people to regulate various government affairs according to their respective duties and functions, so that it is an obligation for every state apparatus to be able to carry out their duties with full trust and maintain the trust that the people have placed in them.

The main obligation carried out by the state apparatus is to develop their respective territories, which provide a role for the state apparatus as the spearhead in regional development and development. The various development programs established by the Central Government and Regional Governments for the benefit of the community are of course a big responsibility for the state apparatus in each region. However, in practice, negligence is often found which results in losses for the community [2]. Negligence committed by the state apparatus is a form of criminal action that is rife in the government and corporate systems. This negligence is in the form of criminal acts of corruption committed by state apparatus. The criminal act of corruption is the behavior of a person in giving or handing over to another person with the aim of obtaining benefits that are not

his but are used for personal gain. The criminal act of corruption is a crime that is very detrimental to the finances and economy of companies and the state [3].

Efforts to tackle corruption will continue to be carried out by the KPK as well as those who oppose corruption through legislation. In fact, the crime of corruption in the state apparatus has not been confirmed through laws, but the fact is that laws must also be balanced by consistent law enforcement, because when influenced by internal and external interests, law enforcement becomes weaker. Even though it is hoped that laws related to eradicating criminal acts of corruption can be an effective means of preventing and eradicating criminal acts of corruption, especially in the state apparatus [4]. This is because corruption crimes committed by state apparatus are no longer limited to structural crimes and moral violations, but have created "corruption banality" or made corruption crimes normal, ordinary and commonplace, especially for interested parties. , even corruption has become rooted in social life [5].

One case of criminal acts of corruption by state apparatus was found in Decision Number 3691 K/Pid.Sus/2019 which occurred at the Subang District Prosecutor's Office, where the Head of Ciasem Tengah Village, Subang Regency, with the initials SE, has been in the State Detention Center since July 20 2018 because he had committed a criminal act of corruption in accordance with Law Number 31 of 1999 Article 2 paragraph (1) jo. Article 18 jo. Law Number 20 of 2001 concerning Eradication of Corruption Crimes. Defendant SE had received a number of village funds as well as village fund allocations which were managed independently without involving other parties, namely the implementation team that had been formed by Defendant SE based on a Decree from the Head of Central Ciasem Village, Subang Regency. Based on the criminal act of corruption committed, the judge sentenced the Defendant to imprisonment for 2 (two) years and a fine of Rp. confinement for 3 (three) months. Imposing an additional penalty on the Defendant to pay replacement money of Rp. 104,667,400.00 (one hundred and four million six hundred sixty seven thousand and four hundred rupiah), provided that the Convict does not pay replacement money no later than 1 (one) month after the court's decision has permanent legal force, then the property can be confiscated by the Prosecutor and auctioned off to cover compensation for state financial losses and if the convict's assets are not sufficient to pay for the replacement money, it will be replaced with imprisonment for 6 (six) months. Then charged the Defendant with paying court costs at the cassation level of Rp. 2,500.00 (two thousand five hundred rupiah) [6]

Efforts to eradicate corruption must be continuously carried out by making various changes and improvements. These improvements and changes are related to institutions dealing with corruption so that they are always compact and not sectoral, prevention efforts are also being carried out, the quality of human resources needs to be improved, the welfare of law enforcers is a priority. Although this does not guarantee that corruption will decrease, it is necessary to think about revising comprehensively against the Law on Corruption Eradication [7]. Therefore, based on these two studies and several previous studies that are relevant to the criminal act of corruption in the state apparatus, further research will be carried out with the title "Legal Analysis of Corruption Crimes in Subang District Government Apparatus in Decision Number 3691 K/Pid.Sus/2019". The purpose of this study is to analyze the application of criminal law on corruption committed by State Apparatuses in decision Number 3691 K/Pid.Sus/2019 and to analyze the legal considerations of judges in making decisions on corruption crimes committed by State Apparatuses in decision Number 3691 K/Pid.Sus /2019

II. LITERATURE REVIEWS

Corruption Crime

The term corruption comes from a word in Latin, namely *corruptio* or *corruptus* which is copied into various languages. For example, it is copied in English to become *corruption* or *corrupt*, in French it becomes *corruption* and in Dutch it is copied to become the term *corruptie* (*korruptie*). Presumably from the Dutch language, the word *corruption* was born in Indonesian [8]. In various literatures, it is also stated that *corruptio* comes from the original word *corruptiere* or *corrupteia*, an older Latin word. From the original language, *corruption* can be interpreted as "bribery" which means bribery or "seduction". also interpreted as an act of giving, handing over to someone so that person does something for or for the benefit (of the giver) [9]

Village Fund

Village Funds are funds originating from the State Revenue and Expenditure budget earmarked for Villages which are transferred through the Regency/City Regional Revenue and Expenditure Budget and are used to finance governance, implementation of development, coaching, community and community empowerment [10].

Attorney

The Attorney General's Office is a government institution that exercises state power, especially in the field of prosecution in the power structure of law enforcement and justice agencies, led by the Attorney General who is directly responsible to the President [11]. In Indonesia, the Attorney General's Office of the Republic of Indonesia is a law enforcement institution whose position is within the executive power (government) which functions to exercise state power in the field of prosecution, as expressly stipulated in Article 2 paragraph (1) of Law Number 16 of 2004 concerning The Attorney General's Office of the Republic of Indonesia, in addition to carrying out other functions of power granted by law.

Corruption Court

The Corruption Court is a special court within the General Court environment. This means that there are no other general or special courts that have the authority to examine and adjudicate cases of corruption other than the special courts established under Law Number 46 of 2009 which are at the general courts. Unlike before, the Corruption Court was only at the Central Jakarta District Court.

Law Enforcement Theory

Law enforcement is a process of making efforts to uphold or function norms in real terms as guidelines for behavior in social life related to law. Law enforcement is a problem faced by every society. The word law enforcement has the connotation of upholding, implementing provisions in society, so that in a broader context law enforcement is an ongoing process of materializing abstract concepts into reality. The law enforcement process in fact culminates in its implementation by law enforcement officials themselves.

III. RESEARCH METHODS

Research Design

This research is designed to explain the criminal acts of corruption committed by state apparatus, especially those contained in Decision Number 3691 K/Pid.Sus/2019 at the Subang District Attorney's Office, where the Head of Ciasem Tengah Village, Subang Regency, with the initials SE, has committed a criminal act of corruption which violated Law No. 31 of 1999 Article 2 paragraph (1) jo. Article 18 jo. Law No. 20 of 2001 concerning the Eradication of Corruption Crimes. Based on this case, it will be analyzed in depth about how the criminal law for corruption in the state apparatus that occurred in Subang Regency will be applied, as well as analyzing the legal considerations of the judges in decision Number 3691 K/Pid.Sus/2019. This research approach is a normative descriptive approach because it describes a problem associated with an object/research subject and then observes its behavior, which in this study observes the behavior of criminal acts of corruption committed by state apparatus in Decision Number 3691 K/Pid.Sus/2019. This behavior is then studied and then related to the law [3]. The types and legal materials used in this research are divided into two, namely: a) Primary legal material, which was obtained directly from the Supreme Court Directory in the form of Decision Number 3691 K/Pid.Sus/2019 concerning not criminal corruption. b) Secondary Legal Materials, obtained by researchers from other parties as a complement to primary legal materials [12]

The data collection procedure is carried out using library techniques through literature study by reading, studying books, research results, writings and laws and regulations related to Decision Number 3691 K/Pid.Sus/2019 [13]. Data analysis was carried out through legal materials that were collected and then analyzed in a normative juridical manner. The analysis is carried out by evaluating the Law on the problem of corruption as a process to find answers to the main issues through several stages:

- a. Identify legal facts and eliminate matters that are irrelevant to the subject matter.
- b. Collection of legal materials that are relevant to the problem.
- c. Analyze the problems with the legal materials that have been collected.
- d. Conclude the discussion in the form of argumentation by answering the problem formulation.
- e. Submitting perceptions of what actually has to be done based on arguments that have been built consistently in conclusions.

IV. RESEARCH RESULTS AND DISCUSSION

Application of criminal law on corruption committed by State Apparatuses

Law enforcement is an integral part of law development, while law development itself is an integral component of national development. Law enforcement aims to create a sense of justice in society. Without law enforcement a country will be chaotic and can lead to destruction. Thus the law is so important to be upheld for

anyone, especially by law enforcement officers themselves, such as the police, court prosecutors and correctional institutions and other state institutions. One of the law enforcement that must and urgently needs to be upheld is the issue of corruption, especially corruption in village funds.

Optimizing the eradication of criminal acts of corruption is the right answer in addressing rampant corruption. The success of eradicating corruption has had a widespread positive impact on the people, nation and state because corruption shows corrupt, rotten, depraved, dishonest actions associated with finances. Corruption also poses a serious threat to stability and security which can undermine democratic institutions and values, ethical values and justice and jeopardize sustainable development (Waluyo 2014).

In the context of efforts to prevent corruption, it can be seen institutionally that several institutions have conducted socialization on corruption eradication through several programs such as honest canteens, providing anti-corruption education from an early age, and so on that lead to education on anti-corruption behaviors. The formation of an anti-corruption character must be nurtured from an early age. Our job is to build the perception that corruption is actually a disgraceful and dishonorable act (Adhayanto, Sucipta, and Irman 2017). In eradicating corruption, there are two important things that must be understood:

1. First, regarding positive law or statutory regulations governing criminal acts of corruption, and
2. An institution authorized to deal with criminal acts of corruption, both in the stages of investigation and prosecution.

This understanding is deemed necessary because in these two matters the specificity of the corruption crime regulations and the Criminal Procedure Code will be found. The criminal procedural law used in handling corruption crimes, apart from being regulated in the Criminal Procedure Code, is also regulated in the Law on the Eradication of Corruption Crimes, namely Law Number 31 of 1999 as amended by Law Number 20 of 2001. Meanwhile, from an institutional perspective namely the Investigation and Prosecution Agency other than as regulated in the Criminal Procedure Code, it is also regulated in statutory regulations such as Law Number 30 of 2002 concerning the Corruption Eradication Commission.

The institution authorized to deal with criminal acts of corruption, both in the investigative and prosecution stages, has a specialty, namely in the case of an investigation carried out by police investigators, the procedure for handling cases is the same as criminal acts in general, namely the results of the investigation are submitted to the Public Prosecutor at the Prosecutor's Office in accordance with the area the law. If the Public Prosecutor is of the opinion that the case file meets the formal and material requirements, the case file will be transferred to the Corruption Court.

The institution authorized to prosecute corruption is still carried out by the Public Prosecutor with the following mechanism (Kristiana 2018):

1. Regarding the case files resulting from the investigation by KPK investigators, the prosecution will be carried out by the Public Prosecutor assigned to the KPK.
2. Regarding the case files resulting from investigations by police investigators and prosecutor investigators, the prosecution will still be carried out by the public prosecutor at the attorney's office. Thus, outside of the investigations carried out by the KPK, the prosecution will still be carried out by the Public Prosecutor from the Attorney General's Office, while the results of the investigation by the KPK investigators will be carried out by the Public Prosecutor, which means that even at the Corruption Eradication Commission, prosecution must still be carried out by the Public Prosecutor.

In general, the implementation of law enforcement is carried out in two ways, namely preventive and repressive. Preventive law enforcement is to prevent crimes or violations from occurring by removing the opportunity factor. Repressive law enforcement is an act of taking action against a crime or violation that is a disturbance to security and public order. The action in question is the action taken by the officer if he finds a criminal act which is a disturbance to security and public order as stipulated in the Criminal Procedure Code (KUHAP).

However, in the implementation of law enforcement on corruption in village funds committed by the Subang Resort Police, it is reflective in nature, namely law enforcement is carried out by taking action against a crime or violation which is a disturbance to security and public order, this is evidenced by prevention efforts in the form of outreach which socialization related to village fund corruption was carried out or carried out after the criminal act of corruption in village funds occurred. This information was conveyed by one of the Penuba village officials, namely Zuhri. Law enforcement against criminal acts of corruption in village funds in the Subang Resort Police Legal Area is carried out based on the Operational Standards for Handling the Special Criminal Investigation Unit at the Subang Police, which is different from other crimes, if the criminal act of corruption in village funds has a specific SOP in law enforcement. There are several specific SOPs that are

carried out compared to the handling of ordinary crimes at the Subang Police Criminal Investigation Unit, these can consist of:

1. Reports from the Community, When investigators receive preliminary information about the alleged criminal acts of corruption in village funds, whether in the form of written or oral reports, whether carried out by individuals, institutions or ministries, NGOs, etc., these reports will be examined carefully with the available data. then followed by efforts to dig up additional information by utilizing information technology, for example by utilizing public data from the internet. In this author's research, the Police have received reports from the public by conveying them verbally while chatting with police colleagues that regarding development in Central Ciasem Village it appears that there are irregularities where there is a discrepancy between the development plan and the results shown.

2. Investigation, Article 1 point 5 of Law Number 8 of 1981 concerning the Criminal Procedure Code, an investigation is a series of investigative actions to seek and find an event suspected of being a crime in order to determine whether or not an investigation can be carried out according to the method stipulated in this law . So the Investigation is the act of investigators to seek and find events that are suspected of being a crime.

3. Investigation, Article 1 point 2 of the Criminal Procedure Code states that an investigation is a series of investigators' actions in terms of and according to the methods regulated in this law to seek and collect evidence with which evidence makes it clear about the crime that occurred and to find the suspect. So the investigation is more on finding and collecting evidence to make it clear about the crime and find the suspect.

4. Calculation of State Financial Losses Investigation of alleged corruption requires assistance from institutions that have the authority to calculate State financial losses such as the BPK, BPKP and District Inspectorate. Therefore coordination with these institutions is important to be able to estimate the possibility of loss of state finances. In this study, when the Police Investigation was carried out, the district inspectorate asked the district inspectorate to calculate the loss of state finances. As in the case of the Head of Central Ciasem Village, namely Budi Kurniawan, it was found that there was a state loss of Rp. 363,058,456.19 (three hundred sixty-three million fifty-eight thousand four hundred fifty-six point nine cents rupiah)

5. The title of the case is carried out at the Investigation stage. Usually a case title is carried out to determine who the suspect is. In this research, there were two suspects in Ciasem Tengah Village, namely Budi Kurniawan (as the village head) and Musrianto (as the village secretary).

6. Gathering Evidence. The initial step in an investigation is to collect evidence, while the types of evidence according to the Criminal Procedure Code consist of witness statements, letters, instructions, expert statements, and suspect statements, so evidence collection activities are also carried out based on these types of evidence. Summons against parties to be questioned as witnesses must already be mentioned in the list of investigation plans. In the corruption case in Central Ciasem Village, there were 20 witnesses summoned for questioning.

7. Examination of suspects

8. Detention of the suspect. The act of detention by the investigator must be accompanied by a warrant for detention and a minute of detention must be made. In this study, the suspect Budi Kurniawan, during the investigation process in the Central Ciasem case, we detained him here for 20 days, from the application for detention by the police, we continued to extend it to the prosecutor's office for 40 days and the first 30 days to court and the last 30 days in court as well, so the total number of them detained was 120 day.

With the provisions of Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning eradicating criminal acts of corruption, in this case the actions taken are investigations, investigations, and up to the prosecution stage. Then the implementation of the corruption crime against the Central Ciasem Village Fund in Subang Regency has not run optimally in accordance with Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning eradicating criminal acts of corruption because in exercising their authority as law enforcement officers both the Subang District Attorney and the Subang Resort Police see the facts on the ground that there are still practices of Village Fund Corruption in Subang Regency.

Legal considerations of judges in passing decisions on corruption crimes committed by State Apparatuses in decision Number 3691 K/Pid.Sus/2019

There are 3 institutions authorized to investigate corruption, namely the police, the prosecutor's office and the KPK. In the event that an investigation is carried out by a police investigator, the case handling procedure is the same as the procedure for handling criminal acts in general, namely the investigation results are submitted to the Public Prosecutor at the Prosecutor's Office in accordance with the jurisdiction. In the event that an investigation into a corruption case is carried out by an investigator from the prosecutor's office, the case file resulting from the investigation will be forwarded to the Public Prosecutor at the Attorney General's Office to be transferred to the Corruption Court.

Based on the author's interview with Mr. Yosua P.L. Tobing, SH. Related to the corruption case in Central Ciasem Village funds, namely the case of Budi Kurniawan (as Village Head) where this case was delegated from Subang Police. For the Budi Kurniawan case (as the village head) the corruption occurred in 2018 when the perpetrator held the position of head of Central Ciasem Village, Selayar District, Subang Regency in 2015-2018. Village funds sourced from the APBN to be delegated to the APBD in 2018 include being misused for their personal interests. The disbursement of these funds is for village physical development activities and village activities such as village road construction, greening and environmental preservation, boat mooring construction, posyandu empowerment, training/strengthening recitation capacity, and PAUD activities. However, the implementation of these activities is not through the correct mechanism. For the actions of Budi Kurniawan (as the village head) a state financial loss of IDR 363,058,456.19 was found.

Law enforcement against the criminal act of corruption in village funds at the Subang State Attorney's Office only accepts files from the police, continues the actions of the police and carries out orders that have been decided by the court, but prosecutors can also take steps to handle corruption cases as follows: 1) Investigation is a series of investigative actions to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method stipulated in the law, 2) Investigation is a series of investigative actions in matters and according to the methods regulated in this Law to seek and collect evidence with which evidence makes clear the criminal acts that have occurred and to find the suspects, 3) Prosecuting corruption crimes. Prosecution of corruption crimes at the Attorney General's Office in prosecuting corruption defendants is based on three main indicators, namely the amount of state financial losses, the amount enjoyed by the defendant, and the amount of return/rescue of state financial losses and 4) Legal Remedies and Execution, namely: The Prosecutor executes the order of the Court's decision. The implementation of the Court Decision which has permanent legal force is carried out by the Prosecutor, for which the Registrar sends a copy of the decision letter to him. The execution of the Court's decision can only be carried out by the Prosecutor, after the Prosecutor receives a copy of the decision letter from the Registrar.

The verdict given by the judge was in accordance with the provisions where it was proven that there was an act of self-enrichment. However, there are still discrepancies in the weight of punishment in Law no. 20 of 2001 which states that there is a threat of life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)

V. CONCLUSION

Based on the discussion of the research results that have been described, several conclusions can be drawn as follows: 1) Law Enforcement of Corruption Crimes in Central Ciasem Village Fund in Subang District, Subang District Attorney's Office and Subang Resort Police In general, law enforcement is carried out in two ways, namely preventive and repressive. With the provisions of Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning eradicating criminal acts of corruption, in this case the actions taken are investigations, investigations, and up to the prosecution stage. Then the implementation of the corruption crime against the Central Ciasem Village Fund in Subang Regency has not run optimally in accordance with Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning eradicating criminal acts of corruption because in exercising their authority as law enforcement officers both the Subang District Attorney and the Subang Resort Police see the facts on the ground that there are still practices of Village Fund Corruption in Subang Regency. 2) The decision given by the judge was in accordance with the provisions where it was proven that there was an act of self-enrichment. However, there are still discrepancies in the weight of punishment in Law no. 20 of 2001 which states that there is a threat of life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)

While research suggestions are: 1) In this case the author recommends that the Regional Government of Subang Regency, in this case, must play an active role in improving the mindset of the people, especially the village apparatus, that taking village fund money to be used for interests that are detrimental to state finances violates the law and there are criminal provisions which this is regulated in the regulation of Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning the Eradication of Corruption and for village apparatus so that they are not trapped in corruption cases, especially in carrying out activities both managing village finances and implementing development activities village by paying attention to the regulations in force. 2) In addition, the author recommends that the Subang District Attorney and the Subang Resort Police need to improve coordination and intense cooperation regarding supervision and law enforcement related to the Crime of Corruption in the Middle Ciasem Village Fund in Subang Regency and other villages where criminal acts of corruption have also occurred village, in this case the Prosecutor's Office and Subang Police should maximize

and prioritize Repressive Efforts (Prevention) in law enforcement such as conducting Counseling/Socialization of legal understanding related to rules and prohibitions on committing criminal acts of corruption in village funds to all areas of Subang Regency in order to increase Human Resources (HR), especially village officials in understanding corruption.

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