

## LEGAL ANALYSIS OF THE IMPACT OF THE CORRUPTION CRIMINAL ERADICATION SYSTEM ON THE ECONOMY IN INDONESIA

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### Abstract

It's not the ocean, it's just a pool of milk, fishing hooks and caulking are enough to support you, you meet no storms, no typhoons, fish and shrimp come to you, people say our land is heaven's land, sticks and stones become plants. This is a fragment of the lyrics of the song "Not Ocean Only Pond Milk" which was popularized by the band Koesplus, a band from Indonesia that existed in the 1980s. This song composed by Yok Koeswoyo describes how rich and abundant Indonesia's natural resources are. Apart from Koesplus which describes Indonesia as "the land of heaven" there are also other names for Indonesia such as: "Gemah Ripah Loh Jinawi, stay calm karta raharja which was said by the first Indonesian President Ir. Soekarno which means Abundant Natural Wealth and Peaceful Community Life, there is also the title "Nyiur Melambay" which describes how abundant coconut plants are in North Sulawesi and finally the title "Golden Mountain" which highlights the abundance of gold in the land of Papua. With all this wealth, it is not surprising that many nations in the world have fought over Indonesia since Indonesia was still under the Sriwijaya government. The Portuguese, Arabs, Chinese, Dutch and Japanese are nations recorded in history who tried to make a fortune in Indonesia either through trade routes or using colonial methods like the Dutch and Japanese did. it is not surprising that many nations in the world fought over Indonesia since Indonesia was still under the Sriwijaya government. The Portuguese, Arabs, Chinese, Dutch and Japanese are nations recorded in history who tried to make a fortune in Indonesia either through trade routes or using colonial methods like the Dutch and Japanese did. it is not surprising that many nations in the world fought over Indonesia since Indonesia was still under the Sriwijaya government.

Keywords: legal analysis, corruption, criminal, eradication system, economic

### INTRODUCTION

Controlled Ideology, Politics, Economy, Social, Culture, Defense and Security, or abbreviated as IPOLEKSOSBUDHANKAM is an absolute requirement for the survival of a country, because if IPOLEKSOSBUDHANKAM is controlled then the conduciveness of a country must also be controlled. We can see from an economic point of view, where the progress of a country can be determined from economic growth which of course requires good human resources, natural resources, capital, good social culture and technological developments that make all countries in the world compete to strengthen these aspects. Look at how China and India have developed their respective countries' economies,

Durkherim classifies a society with mechanical solidarity as a society that has the potential to be subject to repressive laws, while the law in a society with organic solidarity is more restitutive or restorative, so that the law becomes law relating to efforts to provide healing for acts of deviation suffered by victims. And from these two laws, the authorities can evaluate as a pattern to determine what punishment is best imposed on violators, starting from light sanctions to very heavy sanctions so that the imposition of sanctions is not carried out solely based on collective anger.

Indonesia is an archipelago country, which is inhabited by people with different ethnicities, religions, languages and cultures, in contrast to a homogeneous European society, Indonesian society is very heterogeneous, especially in legal culture, for example in the problem of cockfighting, if in Java it prohibits fighting cockfighting because it is a form of gambling that violates religious norms, so in Bali cockfighting is an activity that is part of the culture, as well as marriage law, if a Christian in Indonesia has more than one wife it is a form of adultery, Indonesian Muslims why having more than one wife is a religious teaching. From this discussion, the author argues that the most appropriate law to be applied in Indonesia, especially with regard to criminal liability, is the law as stated by Emil Durkhem, namely the rule of sanctioning

### **1. Lawrence M. Friedman (Legal system theory)**

There are three elements in the legal system (Tree Elements of Legal), the system is a factor that influences law enforcement, namely the structural component (legal structure), the substance component (legal substance) and the cultural component (legal culture). These three components form a unified whole and are interconnected, or commonly referred to as a system.

### **2. Van Hamel (Criminal Liability Theory)**

Criminal responsibility is a normal condition and psychological maturity that brings three kinds of abilities to (a) understand the meaning and consequences of one's own actions; (b) realizes that his actions are not justified or prohibited by society; (c) determine the ability to act

#### **A. Conceptual Study**

Corruption comes from the Latin, *corruptio*. This word itself has the verb *corrumpere* which means rotten, damaged, shaken, turned around, or bribed. According to Andi Hamzah in his book "Eradication of Corruption," from Latin it then descended into many languages in Europe, such as English, namely corruption, corrupt; French is corruption; and Dutch namely *corruptie*, *korruptie*. From this Dutch language, the word descended into Indonesian, corruption (KPK RI, 2015).

**The following is the definition of corruption in the opinion of experts:**

#### **1. According to Nurdjana (1990)**

The definition of corruption is a term derived from the Greek word "corruptio", which means an act that is not good, bad, fraudulent, bribeable, immoral, deviates from chastity, violates material, mental and legal religious norms.

#### **2. According to Juniadi Suwantojo (1997)**

The definition of corruption is the behavior or actions of a person or more that violates applicable norms by using and/or abusing power or opportunity through the procurement process, determining receipts or providing other facilities or services carried out in the activities of receiving and/or spending money or wealth, safekeeping of money or wealth as well as in permits and/or other services with the aim of personal or group gain so as to directly or indirectly harm the interests and/or finances of the state/society.

Factors that cause corruption are even very close to everyday life. Lack of knowledge about corruption keeps this practice going. Not even a few people who do not know what he has done is an act of corruption. Corruption is an act against the law with the intention of enriching oneself/others, both

individuals and corporations which can be detrimental to state finances/the state economy. According to the book Anti-Corruption Education for Higher Education compiled by the Writing Team for Anti-Corruption Education Books, in general, factors that cause corruption can include:

### **1. Political Factors**

Politics is one of the causes of corruption. This can be seen when political instability occurs, the political interests of power holders, even when gaining and maintaining power. Corrupt behavior such as bribery and money politics are frequent phenomena.

### **2. Legal Factors**

The legal factor can be seen from two sides, on the one hand from the aspect of legislation and on the other hand the weakness of law enforcement. This can include rules that are discriminatory and unfair, formulations that are not clear-cut (non lex certa) so that there are multiple interpretations, to sanctions that are too light.

### **3. Economic Factors**

The economic factor is also one of the causes of corruption. In addition to low employee salaries, many other economic aspects are the cause of corruption, including government power coupled with the opportunity factor for government employees to fulfill their wealth and that of their cronies.

Regarding economic factors and the occurrence of corruption, many opinions state that poverty is the root of the problem of corruption. However, in reality corruption is also carried out by people who are already rich. This makes corruption actually not caused by poverty, but on the contrary, poverty is caused by corruption.

### **4. Organizational factors**

The organization in this case is an organization in a broad sense, including the community environmental organizing system. Organizations that are victims of corruption or where corruption occurs usually contribute to corruption because it opens opportunities or opportunities for corruption to occur.

### **Internal factors cause corruption**

According to the KPK's Anti-Corruption Education Center, the causes of corruption are divided into two, internal and external factors. Internal factors are factors that cause corruption that come from oneself. This factor consists of two aspects of behavior, namely individual and social. Factors causing internal corruption include:

#### **1. The nature of human greed / greed**

Corruption is the crime of greedy professional people. Enough, but greedy. Have a great desire to enrich themselves. The elements that cause corruption in such actors come from within themselves, namely greed and greed.

#### **2. Morale is less strong**

A person who is not morally strong tends to be easily tempted to commit corruption. The temptation can come from superiors, peers, subordinates, or other parties who provide opportunities for it.

## **External factors cause corruption**

Internal factors are factors that cause corruption that come from external causes. This includes several aspects, namely:

### **1. Aspects of public attitudes towards corruption**

In general, management always covers up acts of corruption committed by a handful of elements within the organization. As a result of this closed nature, corruption violations continue to run in various forms. Values in society that are conducive to corruption include:

- People are not aware that the main victims of corruption are the people themselves.
- People are less aware when they are involved in corruption. The public is not aware that corruption can be prevented and eradicated if they participate actively in the prevention and eradication agenda.

### **2. Economic aspects**

In the life span, it is possible for someone to experience a pressing situation in terms of the economy. This urgency opens up space for someone to take shortcuts, including by committing corruption

## **RESEARCH METHODS**

### **A. Types of Research and Problem Approaches**

The research in this thesis uses the normative legal research method, which is one of the studies that is generally known in the field of law to study the substance of positive law textually (not only towards norms, but also principles, even the values contained in inside).<sup>1</sup>

In this research, the approach method used is adjusted to the type of research being conducted, where this research is a normative juridical research (legal research).<sup>2</sup>In the opinion of Peter Mahmud Marzuki there are 5 (five) approaches used in legal research, namely the statute approach, case approach, historical approach, comparative approach, and conceptual approach.

### **B. Legal Material Collection Techniques**

The legal materials needed are in the form of legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials. However, in order for all the problems that have been formulated to be solved properly, to complete them, information, information or opinions that are directly obtained from the stakeholders are also required. legal expert.

Thus the technique of collecting legal materials used in this study is a library research technique, namely collecting, studying and reviewing legal materials that have relevance to the issues formulated, both for primary legal materials, secondary legal materials and tertiary legal materials. .

### **C. Method of Presentation of Legal Materials and Analysis**

In this study, the legal materials obtained were presented, categorized, and systematically arranged to then be analyzed using the technique of abstracting existing laws and regulations in order to be able to answer questions or solve problems in this study. This analysis is a qualitative juridical analysis that refers to research materials that lead to theoretical studies regarding legal concepts, norms or principles. Analysis of legal materials that are descriptive analysis. In the qualitative juridical analysis method, legal materials or research objects are not only described as they are, but also will be given arguments about how the relationship between the legal system for the eradication of criminal acts of corruption and the process of recovering the country's economy.

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<sup>4</sup>Abdulkadir Muhammad. 2004. Law and Legal Research. Bandung: Citra Aditya Bakti. pg 155

<sup>5</sup>Peter Mahmud Marzuki. 2005. Legal Research. Jakarta: Prenada Media. p. 93

## RESEARCH RESULTS AND DISCUSSION

There is a small town called Refuge, this city is very quiet and far from the crowds like other cities in America, in this city the rule is not allowed to carry weapons, not to be violent, not allowed its citizens to consume alcohol, not even allowed to curse, curse and utter other dirty words, even the Serif or the Police Chief who is in charge of maintaining city security, is not allowed to carry weapons as Seriffs in general.

This city is inhabited by legendary criminals who were very feared in their time, among them was John Hanry or nicknamed Doc Holliday the dentist who was also a gambler, and fast shooters, there was also James Butler Hickok or who could be called Wild Bill the Serif who killed every criminals he faced, the number of which is estimated at a hundred people, and Hanry McCarty, also known as William H. Bonney or Billy The Kid, the killer sly. These three people lived and were known by people in different years, but why were the three of them together with other criminals able to live together in Refuge City. Apparently Refuge City is not just any city, Refuge is a "Purgatory" or a transit place for human souls after death before going to heaven or hell,

After returning to action and practicing their skills with the weapons that killed Black Jack and his gang, the soul breaker has come to Refuge City to take Wild Bill, Doc Holliday and Billy The Kid with him. Refuge city residents are sad because they think the three of them will be taken to hell by the soul picker because of their actions which are provoked into a mess created by Black Jack so that God will put aside the patience exercises carried out by the three during "Purgatory". However, contrary to what the townspeople thought, the Soul Picker apparently brought the three people to heaven in his chariot, saying "God is harsh but he is not blind."

The Purgatory film, as the synopsis that the author has described above, inspired the author's concept of thought to make a study of the corruption eradication system in Indonesia and its criminal responsibility-responsibility system, whose legal atmosphere is more or less the same as that in Refuge City in the film Purgatory, where the Indonesian state is the after the New Order era left the old system and adopted a new system described as the system implemented in Refuge City, the criminals who lived in the New Order era also lived in the reformation era which until then was still trying to adapt to the new system. exposed, depicted as Wild Bill, Doc Holliday and Billi The Kid. And Black Jack with his gang is a picture of criminals from the New Order era who still continue to commit crimes and fight against the new system implemented in the reform era, while the corruption eradication system and criminal accountability system in Indonesia, especially in the field of criminal acts of corruption, are expected to apply like an accountability system. - the answer implemented in Refuge City is not solely for revenge (lex talionis) but also to provide lessons by prioritizing corrective justice which is beneficial for the recovery of the national economy. It is hoped that it will act like the accountability system implemented in Refuge City which is not solely for revenge (lex talionis) but also to provide lessons by prioritizing corrective justice which is beneficial for the recovery of the national economy. It is hoped that it will act like the accountability system implemented in Refuge City which is not solely for revenge (lex talionis) but also to provide lessons by prioritizing corrective justice which is beneficial for the recovery of the national economy.

### **A. Are the Arrangements for the Corruption Crime Eradication System in Indonesia Effective?**

#### **1. History of the Development of Corruption in Indonesia**

If someone takes the property of a person without rights, then the goods taken without rights will be lost (confiscated) within six months. If it has not been lost (confiscated) within six months, it is warned that the item will be lost (confiscated) within six months.

If someone repairs yards, gardens, parks, ditches, fields, ponds, dams and fish ponds, it does not belong to him without being asked by the original owner. That person has no right to ask the owner for wages. But if he benefits from the repair, the owner has the right to sue, don't let it happen. So he was fined two laksa by the ruling king.

Whoever asks for permission to work on a rice field, but does not work on it so that the rice field is neglected, should be required to pay a food debt in the amount of rice yields that can be collected from the field that he will work on. The amount of the fine is determined by the ruling king to be the same as the fine for spoiling food.

Vereenigde Oostindische Compagnie or better known as VOC is a trade union formed by the Dutch government to monopolize trade in Asia. One of the most successful trade unions in the 17th and 18th centuries was founded in 1603. In the Dutch East Indies the VOC was first established in Banten led by Pieter Both who was none other than the first Governor General of the VOC. In addition to the welfare of the Dutch Kingdom, the VOC was also established to assist Balanda in its colonial mission, especially for logistical needs and war equipment

## **CORRUPTION IN THE OLD ORDER AND NEW ORDER**

In 1963 through Presidential Decree No. 275 of 1963 the state again promoted the eradication of corruption by reappointing General AH. Nasution as chairman assisted by Wiryo Prodjodikusumo, who later became known as "Oprasi Budhi" while the target of "Oprasi Budhi" was state companies and state institutions prone to corruption. At that time the efforts to eradicate corruption led by General AH. This Nasution, managed to save the state losses of IDR 11 billion in the 3 months they were on duty, which was a relatively large figure at that time. However, "Budhi's operation also could not run optimally because of President Soekarno's lack of seriousness in giving permission to leave the country to the Director of Pertamina to be examined.<sup>3</sup>

## **THE NEW ORDER**

After Ir. Soekarno stepped down and Suharto succeeded in taking over the government through a political process, Indonesia entered the New Order era which made Indonesian people associate the era of Ir. Soekarno as the Old Order. During this transitional period, to eradicate corruption, President Soeharto on April 30, 1966 formed a team for the State Financial Supervisory Agency (Pekuneg) led by Major General Suryo, but because the team assigned to prevent corruption was deemed not optimal, President Soeharto made Presidential Decree No. 28 of 1969 concerning the Establishment of the Corruption Eradication Team or TPK chaired by the Attorney General. At first the TPK had become the hope of the Indonesian people to eradicate corruption when the January 4, 1970 edition of the Merdeka Newspaper published news about the TPK's success in handling 177 corruption cases, one of which was corruption perpetrated by the Deputy Chief of Police, namely Siswadi and several members of the Indonesian National Police who served in the finance department. , for their actions the state suffered a loss of IDR

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<sup>11</sup>Journal of Public Administration Policy UGM 2 November 2008: Long History of Corruption in Indonesia & Efforts to Eradicate it

<sup>12</sup>Footprints & Milestones of Service to the Ministry of PANRB, 21 August 2013 [menpan.go.id](https://www.menpan.go.id)<https://www.menpan.go.id>

<sup>13</sup>History: The Rise and Fall of the Corruption Eradication Institute, [historia.id](https://historia.id)<https://historia.id>

<sup>14</sup>Presidential Museum Article December 13, 2022: Soekarno's sledgehammer in eradicating corruption

<sup>15</sup>Wikipedia: State Apparatus Retooling Committee<https://id.m.wikipedia.org>

4.8 billion. However, as time went on, the TPK's tasks began to appear not to be running optimally and were even considered to have failed to eradicate corruption, and received protests from the public which led to President Soeharta forming a Committee IV consisting of figures who were considered "clean", namely Prof. Johannes, IJ Kasimo, Mr. Wilopo and A. Tjokroaminoto who were in charge of analyzing the problem,

From the discussions above, it is known that corruption and the system of eradicating corruption in Indonesia have occurred since the Majapahit Empire ruled over the archipelago in the 13th century, and these are the forms of corruption, the nature of corruption,<sup>4</sup> factors causing corruption and inhibiting factors for eradication. Corruption crimes that occurred during the Majapahit Kingdom era also occurred during the Dutch colonization of Indonesia, during the Old Order and New Order periods, such as extortion and extortion,

So it is not an exaggeration to say that Indonesia has inherited a culture of corruption that has



been passed down from generation to generation since the Majapahit era. what about the culture of corruption and the corruption eradication system during the reform era, have they been running as they should?

## 2. Corruption Crime Eradication System Based on Corruption Crime Eradication Law.

Corruption at the Hambalang Athlete's House involving high-ranking Democrats, E-KTP Corruption involving members of the DPR-RI, Corruption in the procurement of Al-Quran by DPR-RI Member Zulkarnaen Djabar who was assisted by Golkar Politician Fahd El Fouz, Corruption in Hajj funds which involved the Minister of Religion of the Republic of Indonesia Suryadharma Ali, the bribery case in the regional election dispute for Lebak Regency, Banten Province which involved Constitutional Court Judge Akil Mochtar, the bribery case for Djoko Tjandra which involved Inspector General of

<sup>16</sup>Hardiansya Hamzah's article: Traces of Corruption History in Indonesia <https://www.hardi.web.id>

<sup>17</sup>Hukumonline Data Center: Law No. 3 of 1971 concerning Eradication of Corruption Crimes <https://www.Hukumonline.com>

<sup>18</sup>History 31 December 2018 ; Four Major Corruption Cases at the Beginning of the New Order, <https://historia.id>

<sup>19</sup>CNN Indonesia June 9, 2021: Corruption in the New Order Era and the Emergence of a New King After Reform <https://www.cnnindonesia.com>

Police Napoleon Bonaparte and Attorney Pinangki, Corruption in the lobster seed trade involving the Minister of Maritime Affairs and Fisheries Edhy Prabowo , Forest area corruption case involving the owner of PT. Duta Palma, Suryadarma Ali and the former Regent of Indragiri Hulu, R Tamsir Rahma who caused losses to the state finances and the country's economy of IDR 78 trillion, The rules regarding the eradication of criminal acts of corruption have been strengthened by Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, with the authority to eradicate corruption given to the Corruption Eradication Commission, the Attorney General's Office and the National Police, but all attempts made seem to be useless. What are the main causes of acts of corruption in Indonesia that cannot be eradicated? the weakness of the eradication system, what is the solution,

Based on Article 1 paragraph (3) of the 1945 Constitution, Indonesia is a country of law, where the order of life of the nation and state must be based on applicable law, however, sometimes the law in Indonesia sometimes runs ineffectively starting from laws that are contaminated with the political system which have an impact on the weakness of the rules that are made, the legal instruments that lack integrity, as well as the bad legal culture of the Indonesian people make the law unable to realize justice.

In the theory of the Legal System, Lawrence M. Friedman explained that the operation of a law can be determined by three things, namely:

1. Legal Structure

This structure is likened to a machine in which there are law-making and enforcement institutions, such as the Executive, Legislative and Judiciary. In Indonesia, in almost all aspects, the Legislative institution looks very superior and that is caused by the legislative and budgeting finances owned by the institution which seem to make the Judiciary institution have to "submit". This can be seen from various kinds of law enforcement problems in Indonesia which are still heavily contaminated with political interests, which make the law look powerless and subject to political wisdom. The memory of the Indonesian people has not yet been lost on how the chairman of the DPD RI, Setia Novanto, borrowed the name of President Jokowi and extorted PT. Freeport Indonesia Through the President Director of PT. Freeport Indonesia, Maroef Samsudin.

2. Legal Substance

Substance is what is done and produced by legislators, in the form of decisions and decrees, statutory regulations, and also includes rules that are outside the law book. The history of the formation of laws in Indonesia has noted about article 284 of the Criminal Code concerning adultery, where the legislators, namely the Dutch colonialists who have a European lifestyle that is not in accordance with Indonesian culture, include elements in article 284 of the Criminal Code which are difficult to prove. where adultery can be said to be adultery if sexual intercourse is known or seen or in other words the man's penis must enter the woman's vagina which is known by both male and female partners who are not husband and wife.

After independence, the things that were done by the Dutch colonialists in forming laws were still being carried out by the legislators, namely the legislature, and one example is Law Number 7 of 2017 concerning General Elections. There is no article in this law that makes it easy for law enforcers to prosecute candidates for legislative members. In the stages of the general election, article by article of the law demands more efforts to ensnare the winning team or successful team of legislative member candidates, and sure enough, in the 2019 general election,



none of the legislative member candidates was caught in the law for violating the law. No. 7 of 2017,

It's different for the legislators, there are also other problems with implementing the laws, where the executors of the laws in Indonesia are still not maximally implementing the laws. An example of Article 2 paragraph (1) of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption which reads "everyone, unlawfully, commits an act of enriching himself or another person or corporation, which is detrimental to state finances or the state economy, shall be punished with imprisonment for a minimum of 4 years and a maximum of 20 years and a fine of a minimum of 200,000,000.00 and a maximum of 1,000,000,000.00. In this article there is the phrase "everyone" which means anyone who commits corruption. So in this case law enforcers should be able to process anyone who unlawfully commits an act of enriching himself or another person or a corporation that is detrimental to the country's finances or economy, must be held criminally responsible. However, in reality law enforcement in Indonesia is still selective by not criminalizing minor roles or "assistants" in a corruption case under the pretext of "they only carry out orders from the leadership. Not to mention the phrase "acts against the law", the legislators made the phrase "acts against the law" because corruption is a disgraceful act which is the "mother" of all kinds of criminal acts that violate both written and unwritten laws in the form of living principles. in society. which is very different from Law No. 3 of 1971 concerning Corruption, where at that time the legislators required that there must be a violation that would harm state finances, so in this case investigators had to prove that there had been a violation of formal law first. discover corruption. From the culture of handling criminal acts of corruption like that, it is what makes law enforcers focus on formal acts against the law. For example in connection with a criminal act of corruption on an official trip which then harmed the State's finances. In investigating the case, law enforcers only focus on formal unlawful acts, in this case statutory regulations, Law enforcers do not take into account the principle of propriety of these official travel activities which are carried out when an area still requires funds for infrastructure, education, health and other needs for community welfare. When entering into Article 2 paragraph (2) the legislators include the death penalty for anyone who commits a criminal act of corruption in certain circumstances, but what happened to the Minister of Social Affairs of the Republic of Indonesia Juliari Batubara who misused basic food assistance to enrich himself when Indonesia was hit by the COVID 19 pandemic which is a category of certain circumstances as referred to in paragraph (2), Juliari Batubara only received a sentence of 12 years in prison and a fine of IDR 500,000,000, a subsidiary of 6 months in prison.

### 3. Legal Culture

Legal culture is the relationship between social behavior and its relation to law, for this reason efforts are needed to form a good community character so that it can carry out the principles and values contained in a statutory regulation.

With regard to legal culture, the author will tell about the legal culture of the Minahasa people which is a small example of KKN practices that have occurred in Indonesia so far. If there is a football match, football fans in Minahasa prefer to enter the football stadium for free by looking for their friends assigned to guard security to get free access, that's from the audience. how about from the point of view of the match organizing committee, the match organizing committee also has an interest in including as much as he can family and colleagues, in various ways ranging from entrusting people to the gatekeepers to taking tickets to give to family and colleagues for free. What is the economic impact of KKN activities that occur in football matches?

Spectator tickets are one of the main income of a football club, if tickets are not sold or purchased by spectators, it will greatly affect the direct financing of the football club which must

pay salaries to the players, pay for food, clothing, airplane tickets, hotels and equipment. other signs related to football. The impact of the KKN activities described above is the bankruptcy of a football club because the outgoing costs are greater than the income costs or in economics language, micro-activities are unable to support macro-activities. In addition to the legal culture of the Minahasa people at a football match, there is also a KKN culture that involves brokers in obtaining a driver's license (SIM),

From what the author has described above, it is clear how bad legal behavior in Indonesia is that causes KKN practices to flourish in Indonesia.<sup>5</sup>

## **FACTORS CAUSING CORRUPTION IN INDONESIA**

As the author stated at the beginning of this writing, namely in connection with "ipoleksosbudhankam" which, if controlled, a country will also run well, while if one of the "ipoleksosbudhankam" does not go well then it will not be good for a country either. Yes, control of ideology, politics, economy, social, culture, defense and security is an absolute requirement for a country to develop properly. and what can guarantee that "ipoleksosbudhankam" can be properly controlled in Indonesia are state tools in the form of law enforcers and the law itself.

In the economic field, if the law is not able to stand up straight, both law enforcers and the law itself, then the economy in a country will definitely not run well, and this has been proven from the post-independence era of Indonesia, namely the old order, where the economy was not going well which caused people to living in poverty which is inversely proportional to the life of officials who are luxurious and happy to celebrate, as well as during the New Order era where in 1997 the rupiah exchange rate plummeted, the Indonesian economy was devastated because foreign debt which should have been used for development and investment, was not used as safely as it should have been only used to enrich themselves state officials, children,as well as President Soeharto's cronies who caused the State of Indonesia to almost go bankrupt when the monetary crisis hit Asia which caused chaos everywhere, and one of the causes of all these problems was corruption.

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<sup>19</sup>CNN Indonesia June 9, 2021: Corruption in the New Order Era and the Emergence of a New King After Reform <https://www.cnnindonesia.com>

<sup>20</sup>Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Eradication of Corruption

<sup>21</sup>Antara News 7 December 2020: Rows of Ministers in the Reform Era in a Corruption

Maelstrom <https://www.antaranews.com>

<sup>22</sup>Republika Online Mobile 26 May 2021 Mahfud: Corruption in the Reform Era is More Widespread than the New Order <https://www.news.republika.co.id>

<sup>23</sup>El-Dusturie Journal Vol.1, No.1, June 2022 : Eradication of Corruption in Indonesia: Lawrence M. Friedman's Legal System Perspective

## **CAUSAL FACTORS 1**

### **EASTERN CULTURE CULTURE SERVING THE KING**

Before the sovereign became an independent and modern country, Indonesia was a country of kings, where there were so many kingdoms, namely Sriwijaya, Pajajaran, Majapahit and many other kingdoms, both small and large kingdoms spread throughout the archipelago. This is evidenced by the many historical relics that explain the kingdoms in Indonesia, even one of the causes of the United Nations recognizing Indonesia's sovereignty as a country, because of the history of the Majapahit kingdom recorded in Mpu Tantular's Kakawin Sutasoma which describes the archipelago, Binéka Tunggal Ika, brung Garuda and even the Red and White Flag which later made the United Nations put aside the arguments of the Dutch Kingdom which claimed to be the party that brought civilization to the Dutch East Indies like the Europeans who discovered America and Australia. Until now, in modern times, Indonesia has never been able or never wanted to let go of the identity or royal style that once existed in Indonesia. This can be seen from the Sanskrit language used to create philosophy, royal symbols which are also used as symbols of government institutions, there are also royal figures such as Patih Gaja Mada and his Bhayangkara troops who are currently attached to the Indonesian National Police. In addition to language, symbols and royal figures of the past,<sup>6</sup>

Submissive and obedient to the king's orders, respecting the king and the royal family, serving the king wholeheartedly and willing to sacrifice for the sake of the king are the characteristics of royal officials and also the people in the royal era, officials such as the Regent are willing to spend a lot of money to make a special event for the king's reception when the king will visit his territory, and to meet the needs in the framework of the reception, the efforts made by the officials are extorting the public or charging illegal fees to the farmers.

and this applies to almost all government agencies in Indonesia. The author takes the example of the Polri institution, especially the North Sulawesi Regional Police. The annual DIPA of each Polres does not budget or allocate funds for the visit of the North Sulawesi Regional Police Head, but look at how if there is a visit by the North Sulawesi Regional Police Chief at the North Sulawesi Regional Police, a very lively and special reception will be carried out by the Head of Police even though it must use DIPA funds which are clear - clearly the designation is not for welcome from the Chief of Police or also by seeking additional funds by utilizing the power of his subordinates to look for money which makes his subordinates approach businessmen and colleagues or even the most extreme is extortion and even extortion of the community in the interest of the Police Chief who will serve the Regional Police Chief. It's sad, but that's what happened. So it's not wrong if someone thinks that eastern culture is a KKN culture.

## **CAUSAL FACTOR 2**

### **THE CORRUPTIVE NATURE OF THE COMMUNITY AND APPARATUS IN INDONESIA HAS BEEN CULTIVATED**

Looking easy is perhaps the right word to use to describe how the behavior of some Indonesian people, while from a bureaucratic perspective, there is a phrase that is commonly heard by Indonesians. in the licensing process in Indonesia.

A driving license (SIM) is one of the main requirements for any driver who owns a motorized vehicle in Indonesia, the way for citizens to get a SIM is by coming to the police station and then

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<sup>24</sup>Article: Being Smart in Responding to Diversity for the sake of Unity: A History Lawsuit. writer Elsa Bima Bern ata

registering and taking both practical and written exams regarding traffic rules. SIM which is a Non-Tax State Opinion (PNBP) has been determined based on the level or level of the SIM to be taken care of. However, the facts on the ground show that most people who apply for a SIM do not pass the exam to get a SIM issued by the Police Traffic Unit.

In Indonesia, the practice of obtaining permits by means of bribery or even extortion has often occurred and not only in the management of driver's licenses, these dirty practices keep happening in other places and in other fields, as the author's experience in dealing with corruption cases.

1. The criminal act of extortion corruption in managing promotions at the Education and Culture Office of the Minahasa Regency in 2017.

At that time JOUNE MANDANG, who was an administrative officer at the Minahasa Regency Education and Culture Office, for the 2017 fiscal year, extorted all teachers within the Minahasa Regency Education and Culture Office who would take care of promotion. Each teacher was charged a rate of Rp. 3,000,000, and on public complaints the investigation conducted an investigation and then carried out a hand-catching operation on the JOUNE MANDANG woman along with evidence of Rp. 6,000,000 from the two teachers who took care of the promotion, so that based on Investigation Warrant Number :SP. Sidik/609.a/XI/2016/Reskrim, November 27 2016, investigators made legal efforts by naming JOUNE MANDANG as a suspect,

2. Corruption Crime Executors of retribution for non-metal mineral mining materials, for the issuance of a Building Permit (IMB) for the 2017 UNIMA Auditorium Development Project

In 2017, at the Manado State University (UNIMA) in Tondano, an auditorium building was built using the state budget, and the tender winner was PT Bumi Permata Kendari, which entrusted Bambang as the company's consultant in carrying out the company's work. In working on the construction of the auditorium, PT Bumi Permata Kendari took materials in the form of sand and stone in the Minahasa Regency area which of course had to pay a fee for each material taken as a condition for the issuance of an IMB. In dealing with the collection of materials, PT Bumi Permata Kendari coordinates with the Minahasa District Mining Office, which assigns its employee, MARLON SUMARAUW, whose daily office is at the Minahasa District One-Stop Permitting Office. In connection with the withdrawal of the said retribution, investigators together with the team received information from the public that there was an extortion attempt at the One-Stop Permit Office of the Minahasa Regency Government in every development project that uses materials in the form of minerals and non-metallic rocks as the main material for constructing buildings. Receiving this information, the author and the team conducted an investigation which in the investigation found out that the practice of extortion had been carried out several times by MARLON SUMARAUW against several companies, so based on the findings of the investigation, the authors and the team carried out a hand-catching scenario and succeeded in arresting the MARLON SUMARAUW man, by evidence of extortion of IDR 20,000,000.

The two cases that the author described above are concrete examples of how the legal culture is in society, where two civil servants who were extorted by the JOUNE MANDANG woman actually knew very well the procedures for obtaining promotion, but because they didn't want to be bothered following the procedure, they handed over the requested money. by a woman JOUNE MANDANG with the promise that promotion will be completed in a short time. Likewise with PT Bumi Permata Kendari who also knew about the levy for non-metallic rock minerals, but because they wanted the work to run smoothly and quickly, PT Bumi Permata Kendari was willing to be extorted by unscrupulous civil servants at the Minahasa Regency Mining Service, namely MARLON SUMARAUW.

## **CORRUPTION CRIMINAL ERADICATION SYSTEM IN INDONESIA AND WHAT IS THE IMPACT ON THE ECONOMIC GROWTH OF THE COUNTRY OF INDONESIA.**

in the book "man and his government, Carl D. Friedrich put forward a system definition, namely: If several parts that are different and different from each other form a unit, carry out a fixed functional relationship with each other and realize the parts with one another. So that damage to a part results in damage to the whole, then such a relationship is called a system

The theory put forward by Carl D. Freidrich very much describes the system for eradicating corruption in Indonesia, where the criminal justice system has not worked according to the expectations of the Indonesian people. From the function of investigation and prosecution, investigators and prosecutors do not strictly carry out the mandate of the law, especially the phrase "every person" contained in Article 2 of Law Number 31 of 1999 as amended by Law Number 20 of 2002, where there are still many selective logging treatment either because of political interests, friendship and also tolerance on the basis of the powerlessness of subordinates to refuse orders from superiors. Enter the justice system

The legal culture, the welfare of law enforcers, and the rules that seem to accommodate the corrupt nature of law enforcers, which makes many cases of corruption occur in Indonesia, make people wonder about the integrity of law enforcers in upholding the law, not to mention the problem overlapping authority in dealing with criminal acts of corruption and the authority to calculate state losses which are absolute elements that must be met in conducting investigations into criminal acts of corruption. For all the problems described above, the author argues that the system for eradicating corruption in Indonesia has not been effective

The long history of eradicating corruption in Indonesia has started since the Old Order era, as the author explained above. This can be seen from the various regulations made by the government, both criminal rules and regulations regarding who is authorized by the state to eradicate corruption, recorded since the Old Order era, the state has made various kinds of rules regarding eradicating corruption.

### **OLD ORDER ERA**

Regulation of the Military Authority Number 6 of 1957 or PRT/PM/06/1957 concerning Steps to Eradicate Corruption

the cause is related to the type of weapon carried or controlled whether it is included in the Elements of Article 2 paragraph (1) of the Emergency Law Number 12 of 1951 or not and those who know more about it are members of the National Police and not the general public, as well as the right to carry sharp weapons/ the stabber where it was the Polri members who identified the person who was reported as carrying a sharp weapon whether on agricultural land, in the forest, or at a dance party at an event. If it is related to criminal acts of corruption, not all members of the public, not even all members of the National Police, know about an act of corruption that violates Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning Eradication of Corruption Crimes.

The Head of the Culture and Tourism Office of the Minahasa district asked the author to make a study or analysis in connection with foreign official travel activities with this study making official travel to South Korea carried out according to the rules and not wasting state money on traveling to South Korea, as well as Manado State University (UNIMA) which often requests the Minahasa Police to supervise development work at UNIMA every fiscal year, and prevention activities like this are also carried out by Polda and Polres throughout Indonesia. What about the enforcement system? as well as the Manado State University (UNIMA) which often asks the Minahasa Police to supervise development works at UNIMA every fiscal year, and prevention activities like this are also carried out by Polda and Polres throughout Indonesia. What about the enforcement system? as well as the Manado State University (UNIMA) which often asks the Minahasa Police to supervise development works at UNIMA every fiscal year, and prevention activities like this are also carried out by Polda and Polres throughout Indonesia. What about the enforcement system?

The system for dealing with criminal acts of corruption carried out by the National Police cannot be separated from the system for recovering state financial losses due to criminal acts of corruption. As long as it moves from investigations and investigations of corruption crimes, where the system adopted is 80% investigation and 20% investigation, where activities to collect evidence of corruption are mostly carried out at the investigative stage which demands that the investigation must be able to determine the construction of the case which is then finalized by carrying out coercive measures when the case has been escalated to the investigation stage. This is of course different from the treatment of confessional crimes regulated in the Criminal Code, where investigators only need to find criminal events to be able to elevate the case from the investigation stage to the investigative stage.

However, starting in 2017 the Polri strategy in carrying out prosecutions for criminal acts of corruption has changed, by slightly setting aside Article 4 of the Corruption Crime Eradication Law, the Polri leadership has prioritized efforts to recover state financial losses rather than efforts to imprison people for committing criminal acts of corruption, with the proviso that cases are still pending. the investigation stage and have not yet entered the investigative stage, in addition to corruption cases where state losses are below Rp. 100 million, the Police are also putting forward efforts to recover state financial losses, considering that the cost of corruption cases is budgeted by the state, namely 1 case is budgeted at Rp. 150 million, or greater than state losses which will make the state's finances suffer more losses if cases with state losses below IDR 100 million continue to be handled, but the negative side of this policy is that it provides an opportunity for people to commit criminal acts of corruption whose value is below IDR 100 million.

In addition to the policy for recovering state financial losses that has been implemented by the National Police, there are also other policies related to state governance that were agreed upon through a memorandum of understanding (MOU) between the National Police, the Indonesian Ministry of Home Affairs and also the Indonesian Attorney General's Office. The MOU which was signed in 2017 was then resumed on January 25 2023. The MOU contains 11 chapters and 16 articles which emphasize coordination between the Government Internal Monitoring Apparatus (APIP) and Law Enforcement Apparatus (APH) in relation to complaints or public reports regarding the running of government including a report on alleged corruption, where in the MOU it is APIP not APH, so for example there is a presumption of alleged corruption being reported by the public to APH, before proceeding to the investigation stage, first APH must coordinate with APIP which then APIP will carry out an investigation then put forward efforts to recover state financial losses, later after state losses are still not recovered, then take the final step, namely law enforcement in this case will be carried out by APH. These steps are government policies in supporting economic growth, due to the fact that civil servants and state administrators have become too rigid and even afraid of being prosecuted by the law when given the task of managing state finances which of course has an impact on budget absorption and national economic growth. And the agreement in the MOU has been confirmed by the Minahasa Police which has stopped several cases of alleged corruption on the recommendation of APIP,

Of all that the author has described about the system for eradicating criminal acts of corruption carried out by the Police, corruption is still happening, including within the Police itself. Procurement of SIM simulators carried out by Kakorlantas Polri Inspector General Djoko Susilo, Corruption cases with DIPA deductions carried out by the Minahasa Police Chief AKBP Samsubair, Bribery cases for the removal of red notices carried out by the Head of International Relations of the National Police, Inspector General of Police Napoleon Bonaparte, there are also those related to the handling of criminal acts corruption, namely the bribery case from the suspect of corruption to AKBP Brotoseno when he served as head of Unit V Subdit III of the Directorate of Corruption Crimes Bareskrim Polri who was known not to be dismissed even though he had been convicted and sentenced to 5 years in prison ([ICW 31 May 2022 https://antikorupsi.org](https://antikorupsi.org)), and there are many more cases of corruption committed by members of the

National Police both in the capital city of Jakarta and in the regions, indicating that the members of the Police have not been good enough in carrying out their duties and also indicate that the efforts of the Police in eradicating criminal acts of corruption have not been maximized, besides That is, efforts to recover state losses do not have a direct impact on low-income communities who are direct victims of acts of corruption which, if viewed from an economic perspective, are micro-economic actors.

In addition to the Indonesian National Police, the institution that is also given authority by the state to eradicate corruption is the Republic of Indonesia's Attorney General's Office. 30 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office. The prosecutor's authority in eradicating corruption is the authority to carry out investigations, the authority to carry out investigations and also the main task of the prosecutor, namely the authority to carry out prosecutions in court hearings.

In addition to law enforcement agencies that are given authority by the state in eradicating corruption, there are also other institutions that support or assist law enforcement officials in eradicating corruption, and also help the government run well, especially in terms of financial management, and this institution is an auditor institution in this case the Supreme Audit Agency (BPK) and the Audit Agency for Finance and Development (BPKP). How do the duties of these two auditors work?

ITWASDA Polda Sulut allows the use of fuel oil notes to be included in vehicle rental accountability, while for BPK, this cannot be justified because the vehicle rental liability lease includes the cost of fuel oil and is not allowed to account for fuel notes. Oil. This illustrates that there is a need for an equalization of perceptions with regard to the management of state finances between the BPK RI and all internal ministries and institutions supervisors. In addition to the problem of differences in perceptions, in order to avoid the determination of a large Compensation Claim (TGR) from the BPK RI, a transactional relationship occurred between the Minahasa Police and another Polres who were also being investigated at that time, and the BPK RI. this cannot be justified since the vehicle lease liability includes the cost of fuel oil and is not allowed to account for fuel oil notes. This illustrates that there is a need for an equalization of perceptions with regard to the management of state finances between the BPK RI and all internal ministries and institutions supervisors. In addition to the problem of differences in perceptions, in order to avoid the determination of a large Compensation Claim (TGR) from the BPK RI, a transactional relationship occurred between the Minahasa Police and other Polres who were also investigated at that time, and the BPK RI. this cannot be justified since the vehicle lease liability includes the cost of fuel oil and is not allowed to account for fuel oil notes. This illustrates that there is a need for an equalization of perceptions with regard to the management of state finances between the BPK RI and all internal ministries and institutions supervisors. In addition to the problem of differences in perceptions, in order to avoid the determination of a large Compensation Claim (TGR) from the BPK RI, a transactional relationship occurred between the Minahasa Police and another Polres who were also being investigated at that time, and the BPK RI. This illustrates that there is a need for an equalization of perceptions with regard to the management of state finances between the BPK RI and all internal ministries and institutions supervisors. In addition to the problem of differences in perceptions, in order to avoid the determination of a large Compensation Claim (TGR) from the BPK RI, a transactional relationship occurred between the Minahasa Police and another Polres who were also being investigated at that time, and the BPK RI. This illustrates that there is a need for an equalization of perceptions with regard to the management of state finances between the BPK RI and all internal ministries and institutions supervisors. In addition to the problem of differences in perceptions, in order to avoid the determination of a large Compensation Claim (TGR) from the BPK RI, a transactional relationship occurred between the Minahasa Police and another Polres who were also being investigated at that time, and the BPK RI.

Anyone who unlawfully commits an act of enriching himself or another person or a corporation that is detrimental to the state's finances or the country's economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and/or a fine of at least IDR 200,000,000.00 (two hundred million rupiahs) and a maximum of IDR 1,000,000,000.00 (one billion rupiahs).

#### Paragraph (2)

In the event that the criminal act of corruption as referred to in paragraph (1) is committed under certain circumstances, capital punishment may be imposed.

#### Article 3 of the Law on the Eradication of Criminal Acts of Corruption

Lawmakers made these two articles the spirit of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Eradication of Corruption Crimes. However, the complexity of corruption cases, public pressure, and politically contaminated laws and the existence of conflicts of interest make the elaboration of this law carried out differently by law enforcement officials.

#### CONCLUSION

Yusril Isa Mahendra once said in a television show that "a good system will make bad people become good, while a bad system will make good people bad". Corruption is the main problem of the country which is detrimental to the country's finances and economy which of course has an impact on people's welfare. There must be clear and strict rules for anyone who commits a criminal act of corruption, which in addition to creating a deterrent effect, can also educate the public about the dangers of corruption which can then enable society and the bureaucracy to function properly, carry out their duties in compliance with applicable regulations and putting aside the legal culture that has been carried out in Indonesia, namely submission to the leadership and permissiveness towards corrupt acts. And then it becomes as good as Refuge City in the movie Purgatory. And the conclusion of this research is.

1. The Corruption Eradication System in Indonesia has not run well, where due to various inhibiting factors, law enforcers have not maximally implemented Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Eradication of Corruption Crimes;
2. Criminal accountability has not touched everyone who is a perpetrator of corruption, as mandated by law
3. Recovery efforts by law enforcers did not feel the impact directly by the community, nor did the impact on economic recovery be felt.

#### A. SUGGESTION

1. The state must make a breakthrough by making laws, especially the system for eradicating criminal acts of corruption, free from political interests
2. In order to avoid overlapping corruption handlers, the state must provide corruption banning funds to one law enforcement agency in Indonesia.
3. The criminal responsibility system must apply to everyone who commits a criminal act of corruption as safe as the law;
4. The government must immediately pass an asset confiscation law;
5. Property confiscated by the state must be used on target or truly felt by the general public, and to

accommodate this effort, the government can consider Robin Hood's way of working.



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Organizations and examples