Criminal Law Reform Policy in Efforts to Overcome Corruption Crimes Committed by Regional Officials

Marthinus Mambaya[1]
marthinusmambaya@yahoo.com

Faculty of Law, Universitas Cendrawasih, Indonesia

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Abstract

The aim of the normative research currently being carried out is to find out how the implementation of efforts to overcome criminal acts of corruption committed by regional officials. Corruption is a threat to the principles of democracy which uphold transparency, accountability and integrity, as well as the security and stability of the Indonesian nation. The research method used is descriptive analysis which leads to normative juridical legal research, namely research carried out by referring to legal norms, namely researching library materials or secondary materials. Secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials. The research results show that legal efforts to eradicate criminal acts of corruption committed by regional officials can be carried out in two strategies, namely preventive and repressive efforts. And community participation must fully support all Government policies, especially in law enforcement efforts in the context of overcoming criminal acts of corruption committed by regional officials.

I. Introduction

The Regional Autonomy Law provides a role in assisting regional development in a fair, equitable manner and specifically to improve the welfare of the people in each region. However, the authority given by the Regional Head in the Region turns out to be misused through acts of corruption.[1] Law enforcement is the process of an effort to enforce or function real legal norms as guidelines for attitudes in social problems or legal relations in social and state life. Viewed from the perspective of the subject, law enforcement can be carried out by a broad subject and can also be referred to as law enforcement efforts by the subject in a limited or small sense.[2]

In a broad sense, the law enforcement process involves all legal subjects in each legal relationship. Anyone who implements normative rules or implements something or does not implement something based on the norms of applicable legal provisions means that he is implementing or enforcing legal rules. In a small sense, from the perspective of the subject, law enforcement is only defined as the efforts of certain law enforcement officials to guarantee and ensure that legal provisions are carried out as they should.[3]

The term 'the rule of law' contains the meaning of government by law, but not in its official meaning, but also includes the values of justice contained in it. For this reason, the term 'the rule of just law' is used. The term 'the rule of law and not of men' is intended to emphasize that in essence the government of a modern legal state is carried out by law, not by people. The opposite term is 'the rule by law' which is meant as government by people who use the law only as a mere tool of power. With the explanation above, it is clear that what is meant by law enforcement is more or less an attempt to make the law, either in a small formal sense or in a broad material sense, as a guideline.[4]

Corruption is a criminal phenomenon that erodes and limits the implementation of development, so that its handling and eradication must really be prioritized (priority). The sources of corruption are often found in modern society in this age, so that corruption is growing rapidly both in quality and quantity. Although overcoming criminal acts of corruption is also prioritized, it is recognized that criminal acts of corruption include a type of problem that is difficult to overcome and eradicate.[5] The problem of corruption is indeed a big and interesting problem as a legal case involving a type of crime that is complicated to overcome, because corruption has multiple aspects in relation to political, economic and socio-cultural (context). Various eradication efforts since the past have apparently not been able to completely eradicate the crime of corruption and it has been proven that eradicating corruption cannot be done with commitment alone.[6]

Corruption is systematic, organized, transnational and multidimensional in the sense that it is correlated with systemic, legal, sociological, cultural, economic, etc. inter-country aspect. Therefore, criminal acts of corruption can be seen not only from the perspective of criminal law, but also from other dimensions, for example the perspective of legal policy (law

[1] Kadri Husin dan Budi Rizki Husin, 2016, Sistem Peradilan Pidana di Indonesia, Sinar Grafika, Jakarta Timur, Hlm 75
[2] Ronald Imanuel Paura, dan Arie Purnomo, Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Tindak Pidana Korupsi Dipemerintahan Daerah Sorong Selatan, Journal Of Law Justice, Vol 1, No 1, Agustus 2023, Hlm 29
[3] Gerson W Bawengan., Hukum Pidana Di Dalam Teori dan Praktek, Pradnya Paramita, Jakarta, 2010 . Hlm 45
[4] H. Setiyono. 2003. *Kejahatan Korporasi*, Bayumedia, Malang. Hlm 45
[5] Adami Chazawi, Pelajaran Hukum Pidana Bagian I, Raja Grafindo Pesada, Jakarta, 2010. Hlm 34
[6] Erdianto Efendi, 2011, *Hukum Pidana Indonesia Suatu Pengantar*, Bandung: Refika Aditama, Hlm 28

making policy and law enforcement policy), Human Rights and State Administrative Law.[7]

Attention and efforts to eradicate criminal acts of corruption have become a top priority because they are seen to disrupt and hinder national development, hinder the achievement of national goals, damage the optimal use of national resources, threaten the entire social system, and damage the development of the State/Government apparatus.[8]

One factor that plays a strong role in law enforcement for criminal acts of corruption is the integrity of law enforcers. However, this weakness in the integrity of law enforcement in criminal acts of corruption does not stand alone. Weaknesses in law enforcement must be examined from the weaknesses of the criminal law system.[9] As we know, the criminal law system is divided into three elements, namely substance which concerns the legal material, structure which concerns the legal structure which in this case is the criminal justice system and culture which is the legal culture of society in the context of law enforcement. against criminal acts of corruption. Law enforcement elements or elements that implement the law can be one of the factors that influence and even determine the effectiveness of law enforcement for criminal acts of corruption.[10]

2. Research Method

The approach used in this research is to use a normative juridical approach, where data is collected and analyzed from other laws and regulations scattered in the Directory.[11] Apart from that, efforts to overcome criminal acts of corruption are supported by legal provisions relating to the Corruption Crimes Law and are only limited to punishment for regional heads who commit violations and are proven to have committed criminal acts of corruption.[12]

3. Results and Discussion

Government efforts include synchronizing legislation or structuring regulations, developing human resources, and digitalizing government. Etymologically, the language of corruption comes from the Latin corruption, from the verb corrumpere which means rotten, damaged, shaken, twisted back, bribe. Corruption is the behavior of public officials, both political and civil servants, who unreasonably and illegally enrich themselves or enrich those close to them, by abusing the public trust reposed in them to obtain unilateral benefits. Literally the word corruption refers to corrupt, rotten, dishonest actions associated with finances. [13]

Corruption is one of the causes of the nation's economic system declining very rapidly, because corruption in Indonesia is widespread, causing harm to the country's economy or the state's financial condition. It is necessary to overcome criminal acts of corruption in a very extraordinary way and it is necessary to create special methods. Corruption is an act carried out with the intention of giving an illegal advantage to the rights of another party in a wrongful manner, using his position or character to obtain an advantage for himself or another person, contrary to his obligations and the rights of the parties. other.[14]

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[7] Romli Atmasasmita, 2002 *Korupsi, Good Governance dan Komisi Anti Korupsi di Indonesia*, Badan Pembinaan Hukum Nasional Departemen Kehakiman dan HAM RI, Jakarta. Hlm 45
[8] Elias Leasa, Penyitaan Barang Bukti Dalam PElanggaran Lalu Lintas, Jurnal Sasi Vol. 21 Nomor 2 Tahun 2015 Hlm 1.
[9] Muhammad Yusuf, 2013, Merampas Aset Koruptor , Gramedia, Jakarta, Hlm 26
[10] Romli Atmasasmitha, Teori & Kapita Selekta Kriminologi, Eresco, Bandung, 2012. Hlm 25
[11] Rianto Adi, Metodologi Penelitian Sosial dan Hukum, Granit, Jakarta, 2014. Hlm 4
[12] Zainuddin Ali, Metode Penelitian Hukum, Sinar Grafika, Jakarta, 2019. Hlm 1
[13] J E Sahetapy, Teori Kriminologi, Citra Aditya, Bandaung, 1992. Hlm 2
[14] Andi Hamzah. 1991. *Korupsi di Indonesia Masalah dan Permasalahannya*, Gramedia Pustaka Utama, Jakarta.

Efforts that can be made are to establish a special court for Corruption Crimes as stated in Law No. 46 of 2009 article 2 which states that the Corruption Crime Court is a special court within the General Courts. In this case, the Corruption Crimes Court is the only court that has the authority to examine, try and decide cases of criminal acts of corruption. Mafia practices most often undermine the foundations of crime or the criminal justice system in Indonesia, starting from the process of investigation, prosecution, ending executions and serving the community.[15]

Countermeasures in eradicating criminal acts of corruption are carried out through two strategies, namely preventive efforts and repressive efforts:

1. Preventive efforts are the prevention of criminal acts of corruption which are directed at minimizing the causes and opportunities for corruption to occur.
2. A repressive strategy effort means that every directed action that is identified is processed quickly and precisely so that the perpetrator can be given sanctions in accordance with the statutory regulations.[16]

Efforts made to tackle non-penal crimes are preventive in nature but the main target is the conducive factors that cause them to occur which are centered on problem points that can directly foster crime. The increasing number of criminal acts of corruption means that it is very necessary to be firm in handling them, in this case preventive action and repressive action are very necessary because both can produce state administrators who are free from corruption.[17]

It is necessary to have a good understanding of the role and function of criminal law in overcoming criminal acts of corruption, which has factors that influence the implementation of criminal law, as well as the challenges and obstacles faced in its implementation. The aim of criminal law enforcement is to tackle crime and protect the interests of society. In order for criminal law enforcement to be carried out ideally, it must be carried out more effectively. Corruption has a very broad impact on the process of organizing and developing society. Corruption is categorized as an extra ordinary crime, which means that corruption has a local problem, a national phenomenon greatly affects society and the economy. It is important to carry out international cooperation to prevent corruption, so a comprehensive approach necessary at this time to prevent the effective eradication of corruption.[18]

Based on the description above, it is possible to analyze the law regarding efforts to overcome corruption crimes by regional officials. Currently, several efforts can be used, such as a comprehensive approach, to effectively prevent the eradication of corruption in the regions. Apart from that, these countermeasures can effectively enable officials to succeed in running a country free from corruption.

Criminal Law Reform Policy in Corruption Crimes

The Corruption Eradication Commission (KPK) will provide stricter punishments for those who commit criminal acts of corruption in the midst of the Covid-19 corona pandemic. The Corruption Eradication Commission (KPK) has collaborated with government goods/services procurement policy institutions. The Corruption Eradication Committee (KPK) emphasized that it will impose the death penalty for those who commit criminal acts

[15] Hartanti, 2009, Tindak pidana korupsi edisi kedua, Sinar Erlangga, Jakarta, hlm.12
[16] Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana, Citra Aditya Bakti, Bandung, 2002.
[17] Prianter Jaya Hairi, Penanggulangan Tindak Pidana Korupsi Pada Proyek Strategis Nasional, Info Singkat, Vol XVI, No 4/II/Pusaka/Februari/2024, Hlm 1
[18] Leden Marpaung, Asas Teori Praktik Hukum Pidana, SInar Grafika, Jakarta, 2005. Hlm 17

of corruption, especially as stated in Article 2, which in certain circumstances is intended as an aggravation for the perpetrators of such criminal acts which are committed when the country is in a state of danger in accordance with the applicable law which in when a national disaster occurs or when the country is in a state of economic crisis. Article 27 paragraph (1) regarding the costs that have been incurred by the government for handling Covid-19 are not state finances and this is the responsibility for managing state finances as contained in Law Number 17 of 2003 concerning State Finances and Law Number 15 of 2004 Concerning Auditing and Responsibility of State Finances.

The theory of punishment in the continental European system is absolute theory, relative theory, combined theory. The theory of punishment is known as the Anglo Saxon system, namely the theory of retribution, the theory of deterrence and the theory of rehabilitation. The absolute theory is that a person can receive punishment because someone has committed a criminal act, the criminal act occurs when the crime itself occurs. So this theory is considered as a legal basis and its aim is the thought of retribution.

The Criminal Code currently in force does not yet recognize what is called a sentencing guideline, therefore, when deciding on a case, judges are given the freedom to choose the type of punishment they want, in connection with the alternative system of punishments in the law. Furthermore, the judge can also choose the severity of the sentence (strafmaat) to be imposed, because only the maximum and minimum punishment is determined by law. In connection with this, what often causes problems in practice is regarding the judge's freedom in determining the severity of the punishment given. It is stated that the law only determines the maximum and minimum criminal limits, as a consequence of this problem, there will be something called criminal disparity which will be detrimental to the state and the country's economy.

Disaster management is the responsibility of the government because the main objective in providing treatment is to protect the community from the threat of natural disasters and ensure the implementation of planned, integrated, coordinated and comprehensive disaster management. Disaster management is an activity or effort carried out in the context of prevention, mitigation, emergency response and recovery.

Overcoming perpetrators of criminal acts of corruption is something related to the mental revolution of Indonesian society, this is not just dealing with law enforcement which is reflective and preventive in nature. The solution is that society must become a basis for forming policies. The damage caused by corruption is local in nature and has an impact felt by many developed countries, so the dangers caused by corruption are multidimensional.[19]

Penal policy can be interpreted as a behavior from all exhibitions to determine an act as a form of criminal act in a certain way, so in the law it is intended to guarantee legal certainty, avoid legal interpretation and provide protection for the social and economic rights of the community and guarantee justice. . In essence, penal facilities are part of law enforcement efforts, therefore law enforcement policies (Law Enforcement).[20] Overcoming corruption can be done by handing over cases of criminal acts of corruption that occur to law enforcement authorities, in this case the police, prosecutors and the Corruption Eradication Committee for processing in accordance with applicable legal provisions, where the

[19] B Arief Sidarta, 2008, Beberapa Aspek Kebijakan Penegakan Hukum Dan Pengembangan Hukum Pidana, Citra Aditya Bakti, Bandung, hlm. 72
[20] Gusti Kadek Sintia Dewi, Mencegah dan Memberantas Potensi Adanya Korupsi Melalui Pemberian Pendidikan Anti Korupsi DI Lembaga Pendidikan, Jurnal Ilmu Hukum Sui Generis, Volume 2 No. 4 Oktober 2022, Hlm 124

punishment is imposed on the perpetrator. Moeljatno stated that this act is a prohibited act and is punishable by criminal action for anyone who violates this prohibition. Handling criminal acts with a policy of penal measures by imposing sanctions on anyone who commits a criminal act of corruption is a reaction to the act committed, but in the process of dealing with the act This corruption crime uses penal measures that tend to be very reactive.

Non-penal policy is an effort to overcome crime by not committing crimes to improve certain conditions, and it includes the criminalization of certain acts that have become a social phenomenon in modern society. Non-penal policies are very necessary in overcoming corruption which provides an understanding that can create a broad range of knowledge that limits rational rules.

4. Conclusion

Based on the findings of this research, it can be concluded as follows:

a. Current efforts to overcome criminal acts of corruption by regional officials are through efforts to overcome criminal acts of corruption by regional officials. Currently, several efforts can be used, such as a comprehensive approach to effectively prevent the eradication of corruption in the regions.
b. The Criminal Law Reform Policy in Corruption Crimes states that in this juridical review it is necessary to reconsider legal efforts to eradicate criminal acts of corruption which are carried out with penal policies and non-penal policies.

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