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THE EFFECTIVENESS OF THE APPLICATION OF LAW NUMBER 20 OF 2001 AGAINST COOKING OIL CORRUPTORS

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Abstract: Corruption is internationally recognized as an extraordinary crime. According to a report by Transparency International, Indonesia's Corruption Perception Index (CPI) score will be 34 on a scale of 0-100 in 2022, making Indonesia the 5th most corrupt country in Southeast Asia. In the end, corruption that stems from greed will only cause great harm to the country and its people. Therefore, this study aims to provide information related to the impact of corruption on the life of the nation and state and how the government resolves the cooking oil corruption case. By using normative juridical research methods, the results show that corruption has a significant impact on the quality of people's welfare. To anticipate the occurrence of corruption, the President emphasized that the bureaucratic mechanism must be guided by a good governance system, and prioritize community participation through social change as a preventive measure to increase the number of corruptors in Indonesia.

Keywords : Corruption, Greed, and Loss

I. INTRODUCTION

Based on Article 2(1) of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Second Amendment to Law Number 31 of 1999 states that the crime of corruption is, "Every person who unlawfully commits an act of enriching himself or herself or another person or a corporation that may harm the state finances or the state economy shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp200,000,000.00 (two hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah)". Article 3 states that, "Any person who with the aim of benefiting himself or herself or another person or a corporation, abuses the authority, opportunity or means available to him or her due to position or position that may harm the state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 twenty) years and or a fine of at least Rp 50,000,000.00 (fifty million rupiah) and a maximum of Rp 1,000,000,000.00 (ne billion rupiah) for a minimum of 1 (one) year and a maximum of 20 twenty) years and or a fine of at least Rp 50,000,000.00 (fifty million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah)". This

regulation outlines that indications of corruption are manifested in the misuse of legitimate power/resources such as facilities and devices based on the power and authority inherent in the perpetrator. Corruption itself can be interpreted as a criminal act that is at the same level as terrorism, narcotics and narcotics precursors, psychotropic substances, crimes against state stability, crimes against gross human rights and other transnational organizational crimes.¹

In the end, corruption will only lead to huge losses for the country and the people themselves, such as bankruptcy of the relevant corporation, absolute poverty, a decline in the quality of human resources, a decrease in industrial growth and capitalization, poor quality of public products and services, a decline in state revenue, and an increase in public debt. According to a report by Transparency International, Indonesia's Corruption Perception Index (CPI) score will be 34 on a scale of 0-100 in 2022. This score indirectly declares Indonesia as the country with the 5th highest level of corruption cases in the Southeast Asia region. It can be seen that there are 30 types of corruption crimes, which can be simplified and classified into 7 types of corruption crimes based on Law No. 31 of 1999 jo. Law No. 20 of 2001, namely:

- 1. {Article 2 (1): 3} Corruption related to state financial losses, which is an unlawful act to enrich oneself by abusing the authority that may harm the state;
- 2. {Article 12 letter e. f. g} extortion is an act committed by a public servant with the intention of unlawfully enriching himself or herself or another person by abusing power, requiring a person to give something, to pay, or to accept payment;
- 3. {Article 7(1) letter a. b. c. d., Article 7(2), Article 12 letter h} Fraudulent acts are intentionally fraudulent acts to obtain personal or group benefits;
- 4. {Article 5(1) a. b; Article 5(2); Article 6(1) a. b; Article 11; Article 12 a. b. c. d; Article 13} Bribery is an act of giving goods, money, promises, and other forms with the aim of influencing decisions related to the authority that is being held;
- 5. {Article 8, 9, 10 a, b, c} Embezzlement in office is the act of embezzling money, falsifying administrative examination documents, destroying evidence or allowing others to destroy evidence in order to enrich oneself;
- 6. {Article 12 letter i} A conflict of interest in procurement is where a public servant has a personal interest in knowingly, directly or indirectly, participating in the procurement of goods administered by the institution;
- 7. {Article 12B jo Article 12C} gratification is an act of bribery in disguise related to his position and contrary to his obligations, and does not report to the KPK within 30 days of the gratification received.

Corruption is internationally recognized as an extraordinary crime which is also one of the serious problems faced by many countries. The causes of corruption are inevitable. To summarize the problems faced by Indonesia, corruption itself stems

¹ Habaora, F., Riwukore, J. R., Manafe, H. et. all (2020). Strategi Pencegahan dan Pemberantasan Korupsi di Pemerintah Kota Kupang, Provinsi Nusa Tenggara Timur, Indonesia. Aspirasi: Jurnal Masalah-Masalah Sosial, 11(2), p.230.

from the low wages received by workers. The salary they receive each month is at most only enough to fulfill half a month's needs, so other efforts are needed to cover the shortfall. Corruption also stems from a sense of greed, in order to gain personal or corporate benefits through collusion involving a number of actors in an agency or among them. The World Bank argues that the cause of corruption is a personal drive influenced by one's own desire to gain as much as possible in a quick way because of the fear of not meeting their living standards due to insufficient income, uncovered credit payments, family education costs, and avoiding tax fines or penalties. Meanwhile, the poor system is created by weak accountability of government agencies, poor budget management and law enforcement.²

In terms of overcoming and eradicating corruption, there are three authorized institutions. Article 14 paragraph (1) letter g of the Police Act, states that, "conducting investigations and investigations into all criminal acts in accordance with criminal procedural law and other laws and regulations." This is one of the bases for police authority over corruption cases. Police authority in investigations is based on Article 6 of the Criminal Procedure Code and police investigators are regulated in Article 7 paragraph (1) of the Criminal Procedure Code. The prosecutor's office in this case has the authority to investigate certain criminal offenses based on the law, which in this case is corruption (Law Number 31 of 1999). In terms of handling corruption crimes, the prosecutor's office is guided by Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.³

Based on its regulations, the KPK is tasked with overseeing the government and public institutions to prevent corruption, as well as educating the public about integrity. Furthermore, the KPK's authority to handle corruption cases is regulated as Article 6 (e) of Law Number 19 of 2019, namely, "investigation, investigation, and prosecution of Corruption Crimes." Furthermore, as Article 11 paragraph 1 and paragraph 2 of Law Number 19 of 2019, it is explained that "(1) In carrying out the duties as referred to in Article 6 letter e, the Corruption Eradication Commission is authorized to investigate, investigate, and prosecute Corruption Crimes that: a. involve law enforcement officials, State Administrators, and other persons related to Corruption Crimes committed by law enforcement officials, State Administrators, and other persons related to Corruption Crimes committed by law enforcement officials. involves law enforcement officials, State Officials, and other persons related to the Corruption Crime committed by law enforcement officials or State Officials; and/or b. involves state losses of at least Rp1,000,000,000.00 (one billion rupiah). (2) In the event that the Corruption Crime does not fulfill the provisions as referred to in paragraph (1), the Corruption Eradication Commission is obliged to hand over the investigation, prosecution, and investigation to the police and/or prosecutor's office." From the beginning, the KPK was designed with superpowers to expose dirty practices and penetrate even the strongest bastions of corruption. This is evidenced by strong powers such as wiretapping phone calls, investigations without going through licensing procedures and the use of modern investigative techniques such

² *Ibid.*, p. 234

³ Abdullah, J. (2014). Tugas dan Wewenang Lembaga-lembaga Penanganan Tindak Pidana Korupsi di Indonesia. YUDISIA, 5(1), p.113.

as surveillance and forensic audits. KPK is also tasked with supervising institutions that have the mandate and power to eradicate corruption. In carrying out this supervision task, according to Article 10A(1) of the KPK Law, "In exercising the authority as referred to in Article 10, the Corruption Eradication Commission is authorized to take over the investigation and/or prosecution of perpetrators of Corruption Crimes that are being carried out by the police or prosecutors." If there is a corruption case but the KPK has not yet conducted an investigation, while the case has been investigated by the police or prosecutor's office, the agency must notify the KPK no later than 14 working days from the date of commencement of the investigation, and the police must continue to cooperate with the KPK. On the other hand, if the KPK has initiated an investigation, then the police or prosecutor's office is no longer authorized to conduct the investigation.⁴ Case handling data from the KPK shows that corruption such as bribery, budget abuse, licensing, procurement of goods/services, and so on, remains a serious problem that has not faded until now.⁵ The evaluation report on the implementation of Stranas-PPK in the previous period stated that coordination with stakeholders at both the central and regional levels was not optimal. In addition, the concept of corruption eradication was not clearly translated into actions and performance targets. The lack of civil society involvement in the preparation of actions, monitoring and evaluation of action programs, is evidence that the existence of a national strategy to eradicate corruption in Indonesia is still unable to significantly reduce the number of corruption cases.⁶

Indonesia Corruption Watch or ICW for short is a non-governmental organization (NGO) established during the reformation period in May 1998. An anti-corruption non-governmental organization (NGO) whose mission is to monitor and report to the civilian population on the actions of corruptors who are rampant in Indonesia. Based on ICW data, there were 579 corruption cases that have been prosecuted in Indonesia throughout 2022. The number increased by 8.63% compared to the previous year which amounted to 533 cases. It can be seen from the existence of weak law enforcement, policies that are not pro-corruption eradication agenda, failure to apply the principles of legal interaction by the government properly, widespread conflicts of interest, transactional practices, and the use of legal instruments to silence civilian voices. Therefore, it is important for ICW to create a perspective of democracy and corruption eradication in 2023 as an effort to criticize the authorities and prevent actions that could harm the civilian population. On the other hand, this complaint is expected to open the eyes of government officials that running a state is not the same as running a profit-based business. The state must take sides and move away from crony interests towards the public interest.⁷

⁴ Lubis, M., M. "Jika Polisi Korupsi, Lembaga Apa yang Berwenang Menangani Kasusnya?" Hukumonline.com, 16 Agustus 2022, https://www.hukumonline.com/klinik/a/polisi-korupsilt50269adb024b6/

⁵ Wijayanti, A., & Kasim, A. (2021). Implementasi Strategi Nasional Pencegahan Korupsi di Indonesia: Perspektif Collaborative Governance. Integritas : Jurnal Antikorupsi, 7(2), p.293.

⁶ *Ibid.*, p. 294.

⁷ OUTLOOK 2023: Kemunduran Demokrasi dan Runtuhnya Agenda Antikorupsi, ICW, 06 Jan 2023, https://antikorupsi.org/id/outlook-2023-kemunduran-demokrasi-dan-runtuhnya-agendaantikorupsi

The purpose of this article is none other than to provide input to anyone who feels the need to read it. As well as for the presence of this research, it is hoped that law enforcement in the government will be firmer against individuals whose actions have the potential to harm the state so that the community is saved from the impact of corruption. The approach method applied in this research is the normative juridical method, which focuses on the rules or norms in positive law as the basis of research. The investigation of this article sticks to Law No. 20/2001 on the Amendment to Law No. 31/1999 on the Eradication of Corruption and the Criminal Code. The specification of the nature of the research uses descriptive qualitative to explore the law in a real sense, by including official documents as library materials related to the research. The data collection method was conducted through a literature study, by reviewing various journals, books, previous research, program implementation reports, regulations, and other secondary data, such as government cooperation and national strategic sectors in the field of anti-corruption. With this literature review, it is hoped that readers can get an overview of the theoretical review and research findings so that it can become a reference in implementing the national strategy to eradicate corruption appropriately and effectively in the perspective of collaboration between the government and the people in order to achieve the ultimate goal of reducing corruption in Indonesia

II. DISCUSSION

The Impact of Corruption on the Life of the Nation

Transparency International's 2018 survey shows that corruption is common in countries with poor democratic roots.⁸ Undemocratic and populist politicians can be a way to utilize their positions to take personal advantage. Various perpetrators of corruption themselves admit that their bad character is born from the damage to their morals and integrity as individuals living in the middle of the state system. However, moral decay usually occurs because it is supported by external influences such as the environment, family, culture of the surrounding community, and lack of education. Moreover, corruption is often caused by various factors, such as the support of irregularities by the government and bureaucratic system, weak supervision and inadequate legal force. Corruption in Indonesia has long been a problem that greatly impacts the lives of Indonesian people.⁹ These social phenomena are considered the reality of human behavior in interaction that is considered deviant and poses a danger to society and the state. Therefore, such behavior in all its forms is condemned by society. Social condemnation of corruption in the view of the law is manifested in legal wording as a form of criminal offense. In the politics of Indonesian criminal law, corruption is even considered a criminal offense that needs to be dealt with specifically and the perpetrators should be punished with severe penalties.¹⁰

⁸ Suyatmiko, W. H., & Nicola, A. (2019). Menakar lembaga antikorupsi: studi peninjauan kinerja komisi pemberantasan korupsi. Integritas : Jurnal Antikorupsi, 5(2), 35-56.

⁹ Putra, N. R., & Linda, R. (2022). *Korupsi di Indonesia: Tantangan perubahan sosial.* Integritas : Jurnal Antikorupsi, 8(1), 16.

¹⁰ Marzuki, I. (2017). *Rekonstruksi penegakan hukum dalam upaya pemberantasan tindak pidana korupsi di Indonesia.* IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia, 3(1).

All countries in the world agree that corruption is a criminal offense that has a wide range of destructive consequences. Increasing cases of corruption have a significant impact on the quality of public welfare. In terms of revenue, corruption can reduce government revenue through taxes, as payments can be compromised. The corruptive nature of the breakdown of individual integrity is supported by a poor system, as well as indifferent law enforcement oversight of state budget leakage. Efforts to improve education and training in moral principles over 20 years from primary school to university have failed to regulate the behavior of Indonesians in preventing corruption.

Based on data from Transparency International Indonesia, nearly 30-40 percent of the State Budget (APBN) and Regional Budget (APBD) is lost due to corruption.¹¹ The most cases of corruption arise from government procurement activities, which account for 70 percent. The President of Indonesia, Joko Widodo, emphasized that corruption causes financial losses to the country and also to humanity.¹² Therefore, to anticipate corruption, the president emphasized that bureaucratic mechanisms must be guided by a good governance system. This is expected to make the bureaucracy more efficient to improve services to the civilian population and strengthen the openness and integrity of the government. President Jokowi also emphasized that the main focus of corruption prevention and eradication is to prioritize community participation through social change in accordance with Law Number 30 of 2002 on the Corruption Eradication Commission and Government Regulation Number 71 of 2000 on Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption. Social change is a national development process that has been planned by the government to improve the standard of living of the Indonesian people as a preventive measure to increase the number of corruptors in Indonesia.

Chronology of the Cooking Oil Scarcity Case as a Form of Corruption Crime

Cooking oil is one of the basic needs of the community. Cooking oil is one of the processed palm oil products that receive special attention from the government. As a strategic food, palm oil contributes to the Indonesian economy. The scarcity of cooking oil is the unavailability of goods in the market. The supply of goods to be sold is deliberately limited by shop owners with the aim of manipulating the availability of goods. The scarcity then creates social inequality because only people who have a lot of money can buy cooking oil, while people who live modestly can only wait for market operations from the government or private parties.

The domestic cooking oil chaos in 2022 had a long tail, with three palm oil industries named as suspects in a cooking oil corruption case. The case was tried at the Central Jakarta District Court and has been legally binding at the cassation level. The panel

¹¹ (Zaenudin, Z., Sudarsono, s., Budiono, A.R., & Winarmo, B. (2018). *Norm of recovery of state financial loss because of criminal act of corruption in Indonesia*. Journal of Law, Policy and Globalization, 71, 159.

¹² Suyatmiko, W. H. (2021). Memaknai turunnya skor indeks persepsi korupsi Indonesia tahun 2020. Integritas: jurnal Antikorupsi. 7(1)

of judges stated that the actions of the convicts were corporate actions that stemmed from greed. The five defendants were sentenced to 5-8 years in prison. The five people are Defendant Indrasari Wisnu Wardhana (Echelon I Official of the Ministry of Trade), Defendant Pierre Togar Sitanggang (General Manager in the General Affair Section of Musim Mas), Defendant Dr. Master Parulian Tumanggor (Commissioner of PT Wilmar Nabati Indonesia), Defendant Stanley Ma (Senior Manager Corporate Affair Permata Hijau Group), and Defendant Weibinanto Halimdjati alias Lin Che Wei (private party seconded to the Ministry of Trade). The Panel of Judges stated that the corporation, where the convicts worked, was the one that benefited from the implementation of the illegal actions. Therefore, the corporation must be responsible for returning state losses incurred as a result of its criminal acts. The AGO, he continued, then took law enforcement action by investigating the three companies. "From the results of the investigation, three corporations were named as suspects, namely Wilmar Group, Permata Hijau Group, and Musim Mas Group," he said. This case surfaced in 2022, when there was a spike in the scarcity of cooking oil.

At the same time, the government had imposed several policies to address the crisis, including a domestic market obligation (DMO) for palm oil exporters. In a hearing held on Wednesday, January 4, 2023 at 13.00-16.00 WIB at the Corruption Court at the Central Jakarta District Court, the panel of judges handed down prison sentences and fines to the five defendants. The defendants were found guilty of violating Article 3 of Indonesian Law Number 31 of 1999 on the Eradication of Corruption as amended by Indonesian Law Number 20 of 2001 on the Amendment to Indonesian Law Number 31 of 1999 on the Eradication of Corruption jo. Article 55 paragraph (1) to 1 of the Criminal Code as charged in the subsidiary charge." The actions of the convicted person caused a significant impact, namely the occurrence of cheap and scarce cooking oil. State losses related to this case amounted to Rp 6.47 trillion. Head of the Legal Information Center of the Attorney General's Office, Ketut Sumedana in this regard said, "we have not frozen the three companies that are suspects in the alleged corruption of crude palm oil (CPO) export licenses and their derivatives, including cooking oil". Ketut explained that if the three industries were suspended, there would be several consequences that could ultimately cause losses to the state. "Because they don't pay taxes, don't pay employees, they can all be laid off, so it is better for the three companies that are suspects to continue operating, so that the profits obtained are handed over to the state," he said.¹³ "Therefore, to maintain people's purchasing power for cooking oil, the state was forced to disburse funds to the community in the form of direct cash assistance from the Ministry of Social Affairs amounting to Rp6.19 trillion," Ketut said. This is expected to at least help the community to get the availability of cooking oil in a short time, while waiting for the availability of cooking oil to return to its balance point.¹⁴

¹³ Dirgantara, A. (2023). 3 Perusahaan Tersangka Korupsi Minyak Goreng Tak Dibekukan, Kejagung Ungkap Alasannya. Kompas.com. <u>https://amp.kompas.com/nasional/read/perusahaan-</u> <u>tersangka-korupsi</u>

¹⁴ Emeria, D., C. (2023). Korupsi Wilmar, Musim Mas, Permata Hijau, Begini Modusnya. CNBC Indonesia. <u>https://www.cnbcindonesia.com/news/korupsi-wilmar-musim-mas-permata-hijau-begini-modusnya/amp</u>

III. CONCLUSION

Law Number 20 of 2001 concerning the Second Amendment to Law Number 31 of 1999 states that the crime of corruption is, "Every person who unlawfully commits an act of enriching himself or herself or another person or a corporation that may harm the state finances or the state economy shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp200,000,000,000.00 (two hundred million rupiah) and a maximum of Rp 1,000,000,000.00 (one billion rupiah)". Corruption is present in 30 types of corruption crimes which are then simplified and classified into 7 types of corruption crimes. In terms of overcoming and eradicating corruption, there are three authorized institutions, namely, the Police, the Attorney General's Office, and the KPK. Indonesia Corruption Watch or abbreviated as ICW in this case also has a mission to monitor and report to the civilian population on the actions of corruptors who are rampant in Indonesia.

In one example of a case that surfaced in 2022, three corporations were named as suspects in cooking oil corruption, namely the Wilmar Group, Permata Hijau Group, and Musim Mas Group. In a hearing held on Wednesday, January 4, 2023 at 13.00-16.00 WIB at the Corruption Court at the Central Jakarta District Court, the panel of judges sentenced the five defendants to prison and fines. The defendants were found guilty of violating Article 3 of Law No. 31/1999 on the Eradication of Corruption as amended by Law No. 20/2001 on the Amendment to Law No. 31/1999 on the Eradication of Corruption as amended by Law of the Republic of Indonesia Number 20 of 2001 on the Amendment to Law of the Republic of Indonesia Number 31 of 1999 on the Eradication of Corruption jo. Article 55 paragraph (1) to 1 of the Criminal Code as charged in the subsidiary indictment." The actions of the convicted person caused a significant impact, namely the occurrence of luxury and scarcity of cooking oil. State losses related to this case amounted to Rp 6.47 trillion. "Therefore, to maintain people's purchasing power for cooking oil, the state was forced to disburse funds to the community in the form of direct cash assistance from the Ministry of Social Affairs amounting to Rp6.19 trillion," said the Head of the Attorney General's Office's Legal Information Center, Ketut Sumedana. This is expected to at least help the community to get the availability of cooking oil in a short time, while waiting for the availability of cooking oil to return to its balance point.

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