IMPOVERISHMENT AS A RECOVERY EFFORT FOR CORRUPTORS IN INDONESIA

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Abstract
Corruption is one of the symptoms that we often encounter in Indonesia. The difficulty of knowing the wealth of corruption proceeds of corruptors and the weakness of law enforcement in Indonesia is one of the causes of the high level of corruption in Indonesia. Because until now there is still a lack of judges’ decisions that are deterrent to corruptors, while corruption is increasingly rampant among state officials, both in the legislature, executive, and judiciary, especially among law enforcement officials themselves. The type of data used by the author is normative juridical where this research examines the legal norms contained in the law and the norms that exist in society. It can be concluded that the prevention and eradication of corruption are not enough just to rely on the Corruption Eradication Act but must continue to be promoted until the corruptors are powerless and deterred. One of the preventions of the occurrence of criminal acts of corruption is "Corruption Impoverishment". Even though the case is still a bit of impoverishment, it should be appreciated because it provides a deterrent effect for the corruptors with the loss of property can be an unpleasant result which is one of the important elements of prosecution as a result of this kind of treatment life can change if at first, the perpetrator can live comfortably with their wealth after being convicted the perpetrators can fall into poverty

A. Introduction
Indeed, without realizing it, corruption arises from habits that are considered normal and reasonable by the general public. Such as giving gifts to state officials or their families in return for services. This habit is seen as commonplace as part of eastern culture. This habit has long been the seeds of real corruption. Likewise, the crime of money laundering was originally more related to drug trafficking crimes. Now the crime is associated with the process or the proceeds of criminal acts in general in large amounts. In several countries, including Indonesia, the proceeds of corruption are categorized as criminal, so money laundering is also associated with...
acts of corruption. The handling of corruption cases is still marked by inconsistent facts. Corruption is related to behavioral power, as long as there is absolute power, it cannot be denied that there is corruption in it. Corruption committed by state officials cannot be dealt with firmly by the police and prosecutors. So it is not possible if the police can take action against middle-ranking officials who commit corruption with the principle of proportionality because the agency certainly does not want to humiliate in public by having corrupt members.

The word "Corruption" comes from the Latin "Corruptio" or "Corruptus" (Webster Student Dictionary: 1960). Furthermore, it is said that "Corruption" comes from the word "Corrumpere", an older Latin language. From the Latin language, the terms "Corruption, Corruptie" (English), "Corruption" (France), and "Corruptie/Korruptie" (Netherlands) became known. The literal meaning of the word corruption is rottenness, ugliness, depravity, dishonesty, bribery, immorality, and deviation from chastity. According to Robert Klitgaard, "Corruption is behavior that deviates from the official duties of a state office because of personal gains of status or money (individuals, close family, own groups), or violates the rules for carrying out some personal behavior".

From a legal perspective, the definition of corruption is stated based on Law Number 30 of 1999 which has been amended in Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The law explains that there are types of corruption which are simplified into 7 groups. The main purpose of punishment imposed on corruptors is to create a deterrent effect on the corruptors themselves. The law is given not only to corruptors but also to teach the wider community not to commit corruption. The impact of corruption is to make a loss for a person and the country. Of the various problems that have arisen, of course, breakthroughs as previously mentioned, and, concrete actions are needed to overcome corruption. Lately, there are alternative ways from enforcers, legal experts, and the public that law enforcement officers use impoverishment sanctions against corruptors.

Similar to the term and meaning of the errant effect, the term and meaning of "impoverishment" is also not found in the formulation of the law. Therefore, it is necessary to look for it in the science of criminal law (doctrines). This effort can make people think twice about committing corruption because the sanctions given can make the perpetrators of corruption poor instantly. In other words, the impoverishment of corruptors aims to impoverish the accused or convicted in corruption cases.

B. Discussion
Perpetrators of corruption crimes are people who are educated and have positions of power. When the integrity, and ethics of administrators, and state apparatus are weak, it becomes the main cause of deviations and abuses of power and or authority. Political power that is achieved by corruption will produce illegitimate government and community leaders in the eyes of the public. Thus the situation, then the people will not trust the government and leaders, as a result, they will not obey and submit to their authority. In addition, such a situation will trigger socio-political instability and social integration, because there is a conflict between the rulers and the public. Additional sources include [1], [2], [3], [4], and [5].

1. NHT Siahaan, Money Laundering & Kejahatan Perbankan, Jala Permata, 2008, hal.3.
2. Pendidikan anti Korupsi untuk Perguruan Tinggi, Kementerian Pendidikan dan Kebudayaan RI Dirjen Dikti hal 23.
people. In fact, in many cases, this has led to a dishonorable fall of government power, as happened in Indonesia.\footnote{Kencana, Ulya. "KORUPSI DALAM PANDANGAN EKONOMI ISLAM."}

Barriers stem from the lack of supporting instruments in the form of laws and regulations that make the handling of corruption crimes not run properly. Included in this group are the overlapping laws and regulations\footnote{Setiadi, Wicipto. "Korupsi di Indonesia penyebab, hambatan, solusi dan regulasi." Jurnal Legislasi Indonesia 15.3 (2018): 249-262}. So that it causes corrupt actions in the form of embezzlement of funds within government agencies; the absence of a “single identification number” or an identification that applies to all public needs (driving license, taxes, banks, etc.) can reduce opportunities for misuse by every member of the community; weak law enforcement in dealing with corruption; and the difficulty of proving corruption\footnote{Waluyo, Bambang. "Optimalisasi pemberantasan korupsi di Indonesia." Jurnal Yuridis 1.2 (2017): 169-162}.

Consistent and integrated law enforcement is very important for the realization of the pillars of justice and legal certainty. The pillars of justice and legal certainty are the main foundations of the democratization process. Democratization is one of the principles of good governance because democratization opens up space for the public to participate in the administration of the state. In addition, legal certainty is also very necessary for businesses in investing in a country. Because without legal certainty, the risk of doing business cannot be predicted so it can reduce the investment climate. The small number of investments will reduce new job opportunities for the community so that there will be a lot of unemployment which has the potential to pose a threat and disturbance to security\footnote{Waluyo, Bambang. "Optimalisasi pemberantasan korupsi di Indonesia: Pemenuhan Hak Asasi Manusia dalam Negara Hukum." Supremasi Hukum: Jurnal Kajian Ilmu Hukum 2.2 (2013)}.

In the case of Angelina Sondakh, there are two interesting things in law enforcement related to eradicating corruption, namely\footnote{Ibid.}:

1. The courage of the Supreme Court judge to decide the sentence for Angelina Sondakh based on Article 12 Letter a of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption. With this ruling, Angie must pay compensation of Rp 12.58 billion and US$ 2.35 million. This sentence is much different from the court’s decision in the first instance, which was “only” 4 years and 6 months in prison, as well as a fine of IDR 250 million, without any compensation. It can be said that the application of Article 12 has never been applied by a judge before. The penalties are high and the fines are equal. Therefore, the public hopes that the decision can become jurisprudence at all levels.

2. Attorney General Basrief Arief’s instructions to his staff to use Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (PPTPPU) in dealing with corruption. The effort is to impoverish the corrupt\footnote{Ibid.}.

One of the efforts to prevent corruption is the method of impoverishing corruptors. The impoverishment of corruptors is one of the ideas that has developed in the community and has received support from the community. Punishment as a social society that is responsible for crime needs to be considered. This is in line with what Ronny Nitibaskara (2006: 14) said that the renewal of the idea of treatment of violators of the law is inseparable from the concept that developed in the country concerned with crime and crime\footnote{Asnawi, Habib Shulton. "Membongkar Paradigma Positivisme Hukum dalam Pemberantasan Korupsi di Indonesia: Pemenuhan Hak Asasi Manusia dalam Negara Hukum." Supremasi Hukum: Jurnal Kajian Ilmu Hukum 2.2 (2013)}. 

\footnote{Kencana, Ulya. "KORUPSI DALAM PANDANGAN EKONOMI ISLAM."}
The Corruption Eradication Commission itself in its strategy to combat corruption has emphasized that one of the goals of handling corruption, apart from creating a deterrent effect and shock therapy, is the impoverishment of corruptors. The indicators are as follows:

a. The demands of the KPK prosecutors in handling corruption cases are always followed by demands for compensation for state losses, and fines which, if not met, are replaced with corporal punishment.

b. Investigators, public prosecutors, or judges may ask the bank to block a deposit account belonging to a suspect or defendant suspected of being the result of corruption.

c. Confiscate property suspected of originating from the proceeds of a criminal act of corruption to be subsequently returned to the state for the welfare of the community.

Former Chairman of the Constitutional Court Currently Member of the House of Representatives of the Republic of Indonesia Jimly Asshiddiqie said impoverishment of penalties would allow the state to get back the money corruption committed by the convict. In different cases with sentencing, the burden of imprisonment by the state budget. He also cites research showing that only 30% of inmates admit to being deterred by their actions after serving their prison sentence. Marc Galanter's research in an American framework is not just because the rich can bribe or power can offer something that promises prosperity, higher worldly happiness, and life of pleasant collusion, as in the case of gays. The facts that Galanter explained are related to the ability to use the caliber of an advocate, to use witnesses who meet expert requirements. However, some oppose the idea of impoverishing corruptors, such as the Head of the Drafting Team for the Draft Law on the Criminal Code, Muladi, who rejects the suggestion of impoverishing the perpetrators of corruption by confiscating all of their property, assets as an effective deterrent to corruption, because it is disproportionate and too excessive. However, with the discovery of the case of buying and selling facilities at the Sukamiskin Prison in Bandung, which was carried out by convicts of corruption, it seemed as if they were not swayed by the sentences handed down, so an attempt was made to impoverish the corruptors, discourse on preventing corruption.

The criminal penalty for the impoverishment of corruptors has not yet received a clear and well-established concept, and there is not even a common perception among anti-corruption activists regarding the Impoverishment Bill, various parties agree on the impoverishment of corruptors, but on the other hand, multiple parties do not agree with the impoverishment of corruptors for the perpetrators of corruption. So far, the impoverishment of corruptors has only

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14 VIMALANINGRUM, PRAJNA, Ruben Achmad, and Neisa Angrum Adisti. DISPARITAS PUTUSAN HAKIM DALAM TINDAK PIDANA KORUPSI DI PENGADILAN NEGERI PALEMBANG. Diss. Sriwijaya University, 2020
18 HASTIAN, TEMMY, and SH NPM. "Pro Dan Kontra Sanksi Pemiskinan Bagi Pelaku Tindak Pidana Korupsi Di Indonesia (Pro and Contra Improverishing Punishment to Corruptor in Indonesia)." Jurnal NESTOR Magister Hukum 1.1: 210171
been carried out by confiscation of assets resulting from criminal acts of corruption. The confiscation of assets is by confiscation of everything that is the result of a criminal act of corruption and/or by paying compensation for state financial losses from criminal acts of corruption. This cannot be said to impoverish corruptors because corruptors can still freely use their assets that are not confiscated.

The impoverishment of corruptors can be interpreted as APH's efforts (methods, efforts) to deter corruption perpetrators based on court decisions that have permanent legal force. Meanwhile, an explicit understanding of bad conditions in the context of impoverishing corruptors, namely by confiscation of assets, is a fact that must be carried out by law enforcers based on court decisions against perpetrators of criminal acts of corruption until state losses can be overcome. returned intact, and the defendant's condition is very sorry (prevented) because in the corruption impoverishment scheme it is possible to confiscate the legitimate property of the corruptor.

The implementation plan for impoverishing corruptors, in addition to operating the punishment tree as is currently the case, must also confiscate halal assets in the amount of state financial losses by the judge's decision that has been determined to be legally binding. What is meant by the impoverishment of corruption is the new spirit of the seriousness of the government through law enforcement to take the real and decisive action needed to recover losses from confiscation of state finances and confiscation of property/lawful property that is corrupted is the same as UP, then the last alternative is corporal punishment. imprisonment is the same as the principal sentence of Eintracht. The design of impoverishing more corruptors is the expected result. Juridical efforts in the form of confiscation and confiscation of assets/assets result in corruption and money laundering off assets resulting in an optimal framework for recovering state losses. So that the concept of the impoverishment of corruptionrupt if applied, is expected to create a deterrent effect for the perpetrators and create a deterrent for potential perpetrators of corruption and other money laundering offenses. As is known, currently the perpetrators of corruption are only serving three sentences in the form of:

a. principal punishment (imprisonment);

b. refund of replacement money (imprisonment sanction if you do not return the replacement money); and

c. a fine (sanction) imprisonment is not enough than 1 year if there is no refund of the fine)

From this point of view, the concept of impoverishing corruptors is considered to have a strategic meaning to cut the pulse of crime. Apart from being considered the most fragile point in criminal construction, the confiscation of the proceeds of crime also has a much more systematic, large, and organized crime prevention function. Of course, with a note, in the future, the concept of impoverishment will no longer only touch individuals, but also corporations so

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20 HASTIAN, TEMMY, and SH NPM. "Pro Dan Kontra Sanksi Pemiskinan Bagi Pelaku Tindak Pidana Korupsi Di Indonesia (Pro and Contra Improverishing Punishment to Corruptor in Indonesia)." Jurnal NESTOR Magister Hukum 1.1: 210171.

21 Alatas, Korupsi, Sifat, Sebab dan Fungsi (Jakarta: LP3ES, 1987), h. 7.


that efforts to collect funds, manage and cycle money can be more effectively stopped by legal means.

C. Conclusion
Various kinds of punishment for corruptors are challenging to implement, for example, the death penalty. However, it does have a deterrent effect and is challenging to implement because the punishment is contrary to human rights. The legal breakthrough that is most likely to be implemented in Indonesia is a law that can make corruptors even poorer than before. This breakthrough can also positively impact maintaining the image of the rule of law because each individual, especially the state apparatus, tends to improve their attitudes and actions, such as not daring to play with the law and plunging themselves into abuse of power.

Decisions with a substance that impoverish corruptors are decisions that indirectly negate (eliminate) the status of social, economic, and political elitism of corruptors so that they are equal (egalitarian) with the poor. When the judge's verdict makes him poor, then this means that the law treats him as a person who can lose something that doesn't belong to him, money or valuables that make him a rich person and a position.

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