Implementation Of The Death Criminal Sanction In The Corruption Criminal Action Law

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Abstract

Formulas criminal there are dead in Constitution Follow Criminal Corruption, next called UUTPK, not yet set by assertive about the amount and related conditions with inner country state certain as Article 2 Paragraph (2) UUTPK which states: that in case act criminal corruption like: as referred to in paragraph (1) is carried out in situation certain, then criminal dead could implemented. Method study use juridical normative and empirical. Study conducted at the Tanjung Karang District Court, Bandar Lampung District Attorney, Peradi Lampung DPC and Lampung University. Type of data used are secondary data and primary data. Based on results research and discussion carried out show that factor reason criminal dead no applied in act criminal corruption as set in UUTPK. Constitution Number 20 of 2001 contained in Article 2 paragraph (2) has no efficient because in the implementation of the judge often decide for use Article 2 paragraph (1) UUTPK in case act criminal corruption because chapter the by clear explain terms and conditions article. Chapter this could worn and P 2 paragraph (2) the original have many weakness because Article 2 paragraph (2) no explain by clear size and terms somebody for convicted dead according to the author. If Article (2) paragraph 2 wants applied, then need clarified Chapter the as For example, if corruption or loss of state money above Rp. 1 billion, convict must punished dead. Factor blocker criminal dead no held because Articles of UUTPK made 1999 to moment this is a judge in Indonesia no brave drop punishment maximum that is criminal die, moreover if criminal dead applied to the perpetrator act.
A. Introduction

Indonesia has ratified conversion anti-corruption on April 18, 2006 through Constitution Number 7 of 2006 concerning endorsement United Nations Convention Against Corruption. The UN Convention is not give a definition about corruption like bribery to state public officials, embezzlement, theft or diversion ownership by public officials, sell buy influence, abuse function, enrich self alone by oppose rules.

Corruption is misappropriation or embezzlement of state money or company as the place somebody work for profit personal or someone else. Lubis and Scott define corruption is Act profitable behavior _ interest self alone with harm others, by officials direct government violate boundaries law on Act in demand that. By literally corruption is something rotten, evil and destructive. If talking about about corruption of course will find reality like that because corruption concerning moral aspects, character and bad condition, position in agency or apparatus government, fraud power in position because giving, factor economy and politics, as well placement family or group to in work under power his position.

In skeleton reach destination for prevent and eradicate act criminal corruption, law Number 31 of 1999 jo. Constitution Number 20 of 2001 contains provision different crime with Constitution before, that is with determine threat special minimum punishment, criminal more fines high, and threat criminal die which is weight criminal. Besides that Constitution this also includes criminal prison for perpetrator act criminal corruption that is not could pay criminal addition in the form of replacement money state losses.

Efforts exterminator act criminal corruption has many conducted with various way, however result not yet satisfactory. One _ effort eradication act criminal corruption is use law criminal with penalty his in the form of criminal.

Constitution Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (hereinafter abbreviated as TPK Law) and several other laws and regulations have been promulgated as an effort to eradicate corruption, both formally and materially. Because corruption has harmed various aspects of the nation's life from all lines. Special legal rules are needed as deviations from general provisions or rules in the legal rules regulated in the Criminal Code because of material law and also the Criminal Procedure Code as formal law because the results of criminal acts of corruption have been classified as an unprecedented crime as previously described. The achievement of effective goals in efforts to eradicate and prevent corruption in the general explanation of the corruption law, the rules relating to the application of criminal acts are also very different, especially the death penalty. The death penalty in Indonesia has been known for a long time and until now
the death penalty is still being implemented and recognized. 5

There are many positive laws in Indonesia that regulate the death penalty for corruption, narcotics and terrorism, all of which are categorized as extraordinary crimes. In practice, the death penalty for narcotics and terrorist acts has been widely applied. The problem that occurs is that there is no implementation of the death penalty against corruptors. 6 Academically, there is no evidence related to the outcome of the death penalty for corruption suspects. 7 Thus, the application of criminal punishment through the political method of crime must be supported by explanations such as philosophical, juridical and sociological. 8

In formal juridical, the application of the death penalty in Indonesia is so evenly distributed. This situation stems from several articles in the Criminal Code which contain the death penalty. There are at least six laws and regulations that regulate the death penalty, such as the Narcotics Law, Anti-Corruption Law, Anti-Terrorism Law, as well as the Human Rights Court Law, the Intelligence Law and the Law. State Secrets Act. In contrast to the philosophical view, the implementation of the organizers is the same as being considered and accommodated by the conception of the rule of law, Pancasila. This situation explains that the death penalty in Indonesia still exists or exists in the Indonesian legal system. Moreover, the administration of state administrators has shown an increasing trend since the reform era. 9

The formulation of the Corruption Eradication Law coincides with the policy of establishing the rule of law, hereinafter referred to as the Corruption Eradication Law, which can specialize in the formulation of the issue of the imposition of the death penalty in the Corruption Eradication Law. The formulation of the death penalty contained in the Law on the Eradication of Criminal Acts of Corruption has not been explicitly regulated regarding the amount and needs of the state for certain events as stated in Article 2 paragraph (2) of the Corruption Crime Act which is mentioned in the case. The criminal act of corruption as referred to in paragraph (1) is carried out in certain circumstances, the death penalty can be imposed. 10

The higher levels of corruption can cause huge losses to the state because what should be for development is for personal interests and can cause crises in various fields. 11 One example of a corruption case that will be sentenced to life imprisonment is the Minister of Social Affairs (Mensos) Juliari P Batubara against case guess social security crime for people affected by Covid-19. Chairman Commission Eradication Corruption (KPK) Firly Bahuri on Sunday, December 6, 2020, said KPK investigators have appointed the Minister of Social Affairs Juliari Peter Batubara as suspect case criminal related to the availability of social security in the country in terms of disaster management Covid-19 coronavirus outbreak. Against him, Articles 12A and 12B or Article 11 of the Corruption Eradication Law were rejected. Article 55 paragraph (1) of the Criminal Code. In his explanation, the articles imposed on the defendant


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did not receive the most severe sanctions, especially imprisonment and the death penalty.\textsuperscript{12} Corruption begins in the government (public) sector, especially the state apparatus, he abuses his power and leadership to commit criminal acts of corruption. Penalties for perpetrators of corruption must be imposed with the most severe sanctions and out of the ordinary this is an additional standard sanction.\textsuperscript{13}

What is meant by criminal policy or what is called the political term of criminal law in a narrow sense is the basis of a technique or overall principle that reacts to violations of legal norms in the form of crimes, including: (a) in a very broad sense, understanding, namely how the police, prosecutors and courts work in all operations of law enforcement officers; (b) in a broad sense, all policies support laws and official bodies or institutions with the aim of enforcing norms that are very important in society. Barda Nawawi Arief briefly defines which states that \textit{criminal policy} is crime prevention based on the rational efforts of society.\textsuperscript{14}

Juridical problems related to obstacles to imposing the death penalty for corruptors are the main focus of analysis in the description of this journal. Based on this, this study will analyze and describe the policy formulation of the death penalty as contained in the Corruption Eradication Law.\textsuperscript{15}

In practice, the death penalty is not applied to criminal acts of corruption which are very difficult to carry out as explained in Article 2 paragraph (2) of the TPK Law which states: “that the purpose of 'certain conditions' in the regulation can be an incident that can be used as a basis for weighting. A criminal act against a suspect of a corruption crime is if the crime is committed with a priority for handling accidents, national disasters, overcoming the impact of widespread social unrest, overcoming economic and monetary crises, and eradicating corruption. Several references used by the previous analysis, which mention the relevance of the policy on the formulation of the death penalty in the Anti-Corruption Law which will be used as supporting material for this journal, include journals related to the policy of formulating the death penalty. In the Law on the Eradication of Criminal Acts of Corruption is generally based on the value of justice.\textsuperscript{16} then another study that discusses the existence of the death penalty in the Anti-Corruption Law. In addition, there is a further analysis that explains that in the United States, the death penalty has been applied to perpetrators of crimes, including corruption, although in reality there are still some who oppose it.\textsuperscript{17}

The results of other studies also confirm that in the US, both the formulation and practice of the death penalty are still pros and cons. Each regime has a very different policy when it comes to the death penalty.\textsuperscript{18} A special factor is explained by different analyzes that the implementation


\textsuperscript{15} Sunarto , “Penegakan Hukum Tindak Pidana Korupsi Berupa Menerima Gratifikasi Sebagai Suap ”, \textit{Jurnal Ilmiah Hukum dan Dinamika Masyarakat} , (2017)

\textsuperscript{16} Arief , Bara N. \textit{Antologi Kebijakan Hukum Pidana}. Edisi 2 (Jakarta: Kencana , 2010).

\textsuperscript{17} Hikmah., & Soponyono , Eko . “Kebijakan Penyusunan Hukuman Mati Terhadap Pelaku Tindak Pidana Korupsi Berdasarkan Nilai Keadilan”. \textit{Jurnal Perkembangan Hukum Indonesia} (2019)

arrangements in the Corruption Eradication Law are also explained in one section, in particular Article 2 paragraph (2) which is still considered to be multi-interpreted and structurally a decision. max rarely used. The punishment is not mandatory, so there are some assumptions which state that the imposition of the death penalty is very difficult to implement. 19

The phrase "certain circumstances" contained in Article 2 can lead to multiple interpretations by many people, because many parties argue that the eradication of corruption related to the provisions of these provisions is not effective in eradicating and reducing the number of criminal acts of corruption in Indonesia. While the term in the sentence "certain circumstances" is considered inappropriate because it is said to have multiple interpretations and has not been developed clearly. 20The death penalty is the harshest punishment for criminals. 21

Based on the outline background back above, research this use method juridical normative and empirical. Study conducted at the Tanjung Karang District Court, Bandar Lampung District Attorney, Peradi Lampung DPC and Lampung University. research novelty this is about application penalty criminal dead in Constitution act criminal corruption that is still have obstacle in its application. Problem tree from This analysis is why the death penalty is not applied to very serious corruption crimes as described in the TPK Law and whether or not there are problems that hinder the implementation of Law no. 2001. About Eradication Follow Criminal Corruption.

**B. Discussion**

1. Factors that cause the non-implementation of the death penalty in corruption crimes as stipulated in Article 2 Paragraph (2) of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes

The death penalty is one of the most severe types of punishment for criminals. This type of punishment is in the form of taking the life of the perpetrator of a crime as a result of his actions. In its development, the death penalty has become a controversy along with the increasing understanding of human rights (HAM) the death penalty in Indonesia is still getting legality. The death penalty is regulated in Book 1 Article 10 of the Criminal Code as one of the main types of punishment. This provision for the death penalty is general in nature, meaning that it applies respectively to the implementation of the crime regulated in the Criminal Code and the implementation of the crime described outside the Criminal Code does not. only set by different Moeljatno say that "action" criminal that is something actions that are prohibited by the provisions law, where ban the accompanied with penalty or threats in the form of criminal certain to who only violated _ ban that.no presence punishment dead in judge ’s verdict though the actions of the corrupt has there is must mistake _ accountable , have make Indonesia as most beautiful place for the corrupt for To do crime take people's money by no valid , in many decision court , judge only drop defendant case corruption with criminal low . Whereas threat punishment dead as arranged _ in Constitution Follow Criminal Corruption Becomes ignored its existence. 22. As for the implementation of the crime that is processed with the death penalty

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in the Criminal Code is to kill in a planned manner as referred to in Article 340 of the Criminal Code. The implementation of certain crimes explains the organizers, including UUTPK. In addition, the existence of the death penalty is confirmed by a decision Court Constitution Number 2-3/PUU-V/2007 which explains: implementation no contrary with the Constitution.

dropping criminal dead against perpetrators of corruption. For pro people, there are various explanations, namely:

a) Dropping criminal dead considered more effective than other types of crime because it has a deterrent effect, especially in the crime of murder;

b) Punishment dead have impact economy compared decision criminal other ;

c) punishment die for _ stop anger Public to corrupt ;

d) The punishment that will be determined with certainty.

Application criminal dead intended to provide a deterrent effect for the perpetrators criminal act. The purpose of crime in the form of prevention is reflected in the classification of UUTPK, namely: to realize implementation in protecting and tackling corruption, the regulation creates a criminal article in which the territorial unit is completely different from the previous regulation, in particular very large criminal costs, therefore the death penalty is more effective than other criminal penalties.

Public opinion on the death penalty for perpetrators of corruption has many reasons, namely:
(a) Implementation will cause injustice, because criminal acts are not merely a matter of criminal law, but are sociological in nature related to social issues. science, politics and psychology;
(b) punishment dead violate right to life;
(c) setting Justice criminal is not an ideal setting;
(d) punishment dead not yet able to prevent crime and have not been able to cause a deterrent effect;
(e) there method other penalties that must be socialized first;
(f) punishment dead no in accordance with the purpose of punishment, namely in the form of correctional

Application punishment death is also related to the possible right to life is right basic human. Indonesia is part of a country that carries the peak of the right to life, which is placed on rights that cannot be reduced by rights. However, for the person who commits the crime, the criminal act of revocation of the right to life is still carried out. Some views of criminal politics, the imposition of the death penalty can be a criminal means to achieve prosperity. However, Indonesia, which may be a country that supports Pancasila, has the aim of applying sanctions above all, its implementation must be in line with the assumption that it is part of Pancasila. The application of the death penalty must be concentrated on the harmony between the interests of the general public which are tarnished with the imposition of a criminal. The application of the death penalty is carried out for crimes that exceed the share of society, endanger the lives of many people, damage the order of life and change in society, and damage the nation's economy. These crimes include premeditated murder, terrorism, drug trafficking, and corruption.
Analysis of the research, the application of the death penalty in the UUTPK is part of an effort to eradicate corruption in real terms with efforts to create legal continuity, justice and benefit the community. The imposition of the death penalty as referred to in Article 2 paragraph (2) of the UUTPK is not in accordance with the overall implementation of corruption, but is applied to corruption crimes committed against "certain circumstances". This shows that the application of the death penalty is limited to corruption under certain conditions. Normatively, the death penalty for perpetrators of corruption has existed since 1999, but according to research until now there has been no death penalty for perpetrators of corruption. The death penalty in Indonesia is applied in Article 10 of the Criminal Code.

In its application, the death penalty is a judge's decision in cases of community sanctions and certain sanctions. In general, criminal sanctions, the death penalty is mandatory for cases of heinous murder, for example in cases of murder committed, murder of a victim with 1 or more people, and so on. In very certain crimes, the death penalty can also be applied to corruption. The death penalty for corruption suspects is carried out in Article 2 paragraph (2) of the UUTPK which reads: "In the event that the criminal act of corruption as referred to in paragraph (1) is carried out under certain conditions, the death penalty can be imposed." In addition, what is meant by "certain conditions" as referred to in the elucidation of Article 2 paragraph (2) of the UUTPK is if corruption is committed: when the state is in a highly threatened situation such as the prevailing laws and regulations; in the event of a national disaster; such as the continuation of criminal acts of corruption; in other words when the country is in a state of economic and financial difficulties. Therefore, according to the rules, judges already have regulations that can be used as the essence of decisions in imposing the death penalty on perpetrators of corruption. This shows that in terms of legality there is no need to doubt the validity of the application of the death penalty for perpetrators of corruption in deciding punishment for people who commit criminal acts. suspected of committing a crime, part of the criminal act that is alleged to the perpetrator of the crime must be resolved. Every crime has an objective component (crime) and a subjective component (criminal responsibility).

Acts/deeds that may be subject to sanctions are described in the law. Acts that are not included in the law cannot be punished. This is a consequence of the use of the principle of legality based on Article 1 paragraph (1) of the Criminal Code. This system of sanctionable actions under this law is the basis for punishment. Therefore, the formulation of action must be rigid and definite. Uncertainty about the formulation of a criminal act in the legislation results in which act is intended to give rise to multiple interpretations. This will cause unrest in the community.

There are four categories of certain conditions according to the analysis that are not stated in the TPK Law which can be sentenced to death, namely: when the country is in a state of danger, in accordance with the provisions of the applicable laws and regulations; in the event of a national disaster; such as repetition of criminal acts of corruption; in other words when the country is in a state of economic and financial crisis. These four conditions are very decisive so that perpetrators of corruption can be sentenced to death.

These four emergency conditions occur under certain conditions. If there is no emergency in the act of the perpetrator of corruption, then the death penalty cannot be imposed on the

perpetrator. This means that the imposition of the death penalty is often applied to certain advanced conditions. This shows that in the regulation of the application of law, the application of the death penalty is no longer general. Even though its implementation is regulated in the General Criminal Code. However, its implementation is carried out with full consideration. Cases that carry the death penalty include murder, narcotics, terrorism, and sexual abuse of children resulting in death. In addition, the laws commonly applied to corporal punishment are Law Number 35 of 2009 concerning Narcotics, Law Number 15 of 2003 concerning Terrorism, and the Criminal Code. In assisting the eradication of corruption, the death penalty may not be prescribed in certain circumstances, however described in the corruption law and the formulation of its elements is simpler. Because, corruption in Indonesia has often happened. The death penalty should be applied to criminals.

The implementation of the death penalty against corruptors has not been specifically directed to minimize corruption, but is also interpreted to cause regret or a deterrent effect in other words a deterrent effect for suspects and citizens. This section is often in accordance with Foucault's opinion which states that individuals cannot simply assume that the purpose of social control is to reduce crime, but that social control is focused on the state of society, political systems, and non-secular beliefs; So that the legal process is often more respectful, in other words it is often more violent and sadistic towards individuals, groups, and in the end will cause regret or a deterrent effect for individuals or society.

Corruption can be a crime that does not have a direct impact on the victim (indirect victim), so that the victim is a scattered victim. However, the victim can get sicker because the rights that should be obtained are not fulfilled due to someone's corruption. For example, corruption in village funds. Village funds that can be used to foster community welfare, due to corruption from certain communities, are ultimately not felt for their welfare. As a result, an increase in the financial income of the poor and therefore that development infrastructure village obstructed.

Judge in drop punishment has a limit from minimum to maximum (maximum penalty). In general, the criminal acts listed in the Criminal Code do not seem to be widely known, there is a certain minimum, so that the limit for judges to decide a crime for a comprehensive crime begins with a minimum imprisonment of one (one) day. to prison. Moreover, as regulated in various articles or at the most thorough. Then for certain criminal sanctions whose territorial units are explained outside the Criminal Code, the limits for judges to decide on a criminal act cover a minimum of the whole, in other words a certain minimum to the most extensive, in other words the most certain. The legal arrangements of the Unitary State of the Republic of Indonesia as a whole do not recognize certain minimum limits for each explanation of criminal sanctions. Certain minimum criminal sanctions in the UUTPK mean that the decision has not been able to determine the crime but the minimum criminal sanctions are regulated by law. This section is expected to be able to overcome a corruptor to commit a criminal act of corruption.

The system for determining the volume of criminal or so-called strafmaat in the Criminal Code/WvS which includes a general minimum system, a general maximum system and a special maximum system. Such determination provides an understanding that the system for determining the volume of criminal/strafmaat in the Criminal Code/WvS does not include a special minimum system. The policy of imposing a lighter sentence than a special minimum is

\[24\text{Bertens K. Filsafat Barat Prancis Kontemperor . Jakarta:Gramedia (2001)}\]
only possible if it is based on sentencing guidelines for the threat of a special minimum punishment. Such guidelines do not exist in the provisions of Law no. 31 of 1999\(^{25}\).

The imposition of criminal acts by voting is applied in many stages, namely: the primary stage is the stage of observing the crime. In that way, the election observes whether the plaintiff committed a crime or not, where the behavior is described in the formulation of the criminal system. The second way is a way of observing criminal liability. Thus, if the plaintiff is proven to have committed a crime, the selected party can analyze whether the defendant is in a position to demand accountability for the crime he committed. The third stage is the determinative stage of crime. Those who vote can impose sanctions if the violator has met the criteria of the article of law that has been violated. In imposing a sentence on a concrete summons, the chosen one must carry out the following: independence in accordance with many types, such as:

a) decide tight punishment moving from minimum to maximum to support the explanation of the crime;

b) decide criminal the subject matter that should be imposed, whether the death penalty, imprisonment or a fine is adjusted to the severity of the violation;

c) before the judge chooses on choice item one and two, he could choose whether to impose the principal and additional penalties or not only to impose a conditional sentence, which according to him helps a lot Public and the convict if only conditional. sentence was imposed

The criteria for the independence of judges in making criminal decisions show that in exercising their power, judges do not have absolute independence. The independence of judges as referred to in Article 3 paragraphs (1) and (2) of Law Number 48 of 2009 concerning Judicial Power is limited from the system of government, politics, finance, and laws and regulations which become the system of independence. Likewise with the imposition of the death penalty against a corruptor. Judges are limited by laws and regulations as well as the explanation of Article 2 paragraph (2) UUTPK. As a result, the execution of the death penalty in Indonesia was postponed. Several factors cause, for example, the convict has not exercised all his rights, namely: accompanied by a lawyer, receive a visit family or other persons for the purpose of delaying detention or seeking legal assistance, receiving visits from their personal physicians for health purposes. This is one of the factors that must be avoided because it can result in not achieving the purpose of sentencing. The implementation of the death penalty must be carried out immediately in accordance with the decision as long as the convict's rights have been implemented. In addition, the waiting list for the execution of the death penalty is a form of torture, both physically and psychologically.

In addition to adequate legal instruments, eradicating corruption influenced by law enforcement. Law enforcement officials must apply and apply material and formal legal principles in providing criminal sanctions to a corruptor. The material and formal legal rules in question are UUTPK. The imposition of the death penalty is regulated in Article 2 paragraph (2) of the UUTPK. As a result, there is a desire to get a lot of confirmation from the organizers of the UUTPK. This is intended so that judges are not different from imposing other crimes besides imposing the death penalty on perpetrators of corruption. when the execution is

convicted, then the execution of the perpetrators of corruption must be carried out directly. Because delaying the execution can cause misery for the perpetrators of criminal acts.

2. Factors Inhibiting the Death Penalty Not Applied in Corruption Crimes in Law Number 20 of 2001 concerning Eradication of Corruption Crimes

Several factors hindering the death penalty are not implemented because the article UUTPK made in 1999 until now judges in Indonesia do not dare to decide the maximum sentence, namely the death penalty, especially if the death penalty is applied to perpetrators of corruption, it does not mean that the death penalty can be imposed, but it must be seen from various aspects, for example the intervention of the authorities and the achievements of prisoners for the state, therefore the death penalty is difficult to implement, and is also related to the formulation of the law, especially its contents. regulations in it, from the formulation of legislative policies that are less precise in Indonesia, implementation, often in working condition as an explanation of the coefficients, so the death penalty is often applied. This can be seen from the reasoning of Article 2 paragraph (2) of Law Number 20 of 2001, in particular that the coefficient is regulated under certain conditions.

According to the researcher, this condition has multiple interpretations, but this has implications for the absence of the death penalty for perpetrators of corruption. Ideally, the Anti-Corruption Law should be developed broadly related to executions, so that there is a benchmark for law enforcement to interpret the proportion of suffering of a nation that will be sentenced to death.

ICW (Indonesia Corruption Watch) researcher Kurnia Ramadhana mention that there is there is three instrument that can make deter criminals. First imprison maximum perpetrator corruption with prison lifetime live. Second, wearing the maximum replacement money or with use instrument Constitution Money Laundering. And lastly prosecutor must enter question right political when prosecution as well as must confirmed return in Judge’s Decision. effectiveness application gift punishment dead for the perpetrators corruption this moment now difficult for applied because need existence update or revision to Regulations Per Law related act criminal corruption so that every phrase nor Articles listed in The law is also written clear, with destination no occur multiple interpretations so the Judges don't hesitate anymore for drop verdict punishment dead 26.

According to the author, the death penalty could dropped to perpetrator corruption namely the related Minister of Social Affairs Juliari P case bribe help social for COVID-19 because that person committed corruption when the country was in a state of disaster, which should have been social assistance money for disaster management and for the people, but was instead corrupted. will make people suffer Minister of Social Affairs Juliari P Batubara has Fulfill criteria criminal death can be applied because according to the author in accordance with Article 2 paragraph (2), namely the State in certain circumstances, namely the State in a state of disaster. covid19. Once the death penalty is implemented, people who want to commit corruption become afraid of criminal punishment because it can be punished with a maximum sentence of the death penalty. so that when the death penalty is often applied, the number of corruptors in our country can shrink, as in many countries that have implemented the death penalty, for example China. Application is extermination race for trim and remove case widespread corruption.

The Novelty from study this is about reason no applied punishment die on action criminal corruption that has not by special set and still lots of pros and cons in dropping punishment still dead have various obstacle.

C. Conclusion

Based on the description of the results of the research and discussion, it can be concluded that:

1. Factors that cause the death penalty is not applied in corruption as regulated in UUTPK. Law Number 20 of 2001 contained in Article 2 paragraph (2) has not been efficient because in its implementation judges often decide to use Article 2 paragraph (1) of the UUTPK in corruption cases because the article clearly explains the terms and conditions of the article. Article 2 paragraph (2) has many weaknesses because Article 2 paragraph (2) does not clearly explain the size and conditions for a person to be sentenced to death according to the author. If Article (2) paragraph 2 is to be applied, it is necessary to clarify the Article as an example. If corruption or loss of state money is above Rp 1 billion, the convict must be sentenced to death.

2. The inhibiting factor for the application of the death penalty in Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, the death penalty is not carried out because the articles of the UUTPK made in 1999 until now judges in Indonesia do not dare to decide the maximum sentence, namely the death penalty, especially if the sentence is death penalty. The death penalty is applied to perpetrators of criminal acts of corruption, not necessarily the death penalty can be imposed but must be seen from various aspects, for example intervention from the authorities and the achievements of prisoners for the state, therefore capital punishment is difficult to implement, according to the author, if the death penalty can be implemented, then the State Judge must provide a breakthrough in imposing the death penalty. An example of a breakthrough that can be done is to emphasize the sound of Article 2 paragraph (2) of the UUTPK such as adding the word mandatory in the death penalty if corruption is above Rp. 1 billion or the imposition of the death penalty does not only apply to the provisions of Article 2 paragraph (1) of the UUTPK but also applies to the provisions of other articles in Law Number 31 of 1999 jo. UU no. 20 of 2001 as Article 3, Article 5, Article 6, Article 7, Article 12B. Because if you look closely, the imposition of the death penalty in Article 2 paragraph (1) does not state clearly and unequivocally that the criminal acts regulated in the article are the most serious crimes compared to the crimes regulated in other articles in the corruption law.

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