

Corruption Eradication Amid Covid Pandemic 19 in Indonesia

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Corruption Eradication Amid Covid Pandemic 19 in Indonesia

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Abstract— Indonesia is a state of law. therefore all forms of criminal acts must be resolved legally, including corruption which is a crime that harms the country's finances and is a violation of the social and economic rights of society at large. In the current co-19 pandemic, this corrupt behavior had a very broad impact on Indonesia in the fields of education, social, economy and politics. For example the problem of the distribution of aid that is not on target which causes polemic in the community. In the process of law enforcement, it needs to be understood, that the rule of law is coercive, in a sense, coercive in terms of the presence of the law as an instrument to bring order and build society. Forcing also in the sense of society must accept and know the presence of the law to regulate themselves, because the law is a system of rules and procedures to protect, regulate and manipulate the community. Through its legal politics, the Indonesian government has passed Law Number 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policy and Financial Stability for Handling Covid-19 Pandemic and / or in the framework of facing threats that endanger the national economy and / or stability the financial system as one of the efforts to eradicate corruption, but in several Article Perppu Number 1 of 2020 which has now become a law there are several articles that must be reformulated and / or reconstructed because they are deemed incompatible with the 1945 Constitution which is the norm fundamentals and Pancasila as the Indonesian state grundnorms.

Key words: Eradication of corruption, Covid Pandemic 19, in Indonesia

I. INTRODUCTION

Indonesia is a state of law, this provision cannot be released from the Preamble of the 1945 Constitution as the goal of the rule of law, then determined in the body and explanation of the 1945 Constitution (before being amended). Paragraph I of the Preamble of the 1945 Constitution contains the word justice; in paragraph II there is the word fair; in paragraph II there is the word Indonesia; In paragraph IV there is the word social justice and the word fair humanity. All of these terms refer to the rule of law, because one of the objectives of the rule of law is to achieve justice.

The definition of justice referred to in the concept of the Indonesian rule of law is not only legal justice, but also social justice. According to Azhary in the explanation of the 1945 Constitution (before the amendment) the term rechtsstaat is a genus of similar, so in relation to the 1945 Constitution is a special understanding of the term rechtsstaat as a genus of be¹rib. Therefore corruption is a "disease" in society that is an enemy of all countries, including Indonesia. This can be seen from the enthusiasm and efforts to eradicate corruption manifested in various laws and regulations. Starting from the Law to the Perpres, namely Law No. 20 of 2001 concerning Amendment to Law Number 31 of 1999 Concerning Eradication of Corruption, Law Number 30 of 2002 concerning Corruption Eradication Commission up to Perpres No. 54 of 2018 concerning the National Strategy for Corruption Prevention, the latest is Circular No. 8 of 2020 which

regulates the prevention of corruption related to the use of goods / services procurement (PBJ) budget to accelerate the handling of Covid 19. The term corruption in English is corruption and corrupt in French, corruption and in Dutch, corruptie, which is the word corruption in Indonesian. Talking about corruption, it is never stopped like a very complex problem and "mblunder" in its eradication. We can see this and feel that efforts to eradicate through efforts to prevent corruption have been sought for a long time, through repressive measures, ranging from giving heavier sanctions to preventive efforts through educational facilities, public outreach and efforts tackling corruption such as prevention without crime.

Corruption is a criminal offense that is detrimental to the country's finances and is a violation of the social and economic rights of society at large. In the current co-19 pandemic situation that is happening in all countries in the world, Indonesia is no exception. The co-19 pandemic had a very broad impact on Indonesia in the fields of education, social, economy and politics. For example, there are many companies that terminate employment for employees related to the state of the company that is economically weakened, the problem is not enough to stop here termination of employment causes several other consequences as a result such as inappropriate compensation, the employee does not have other income while the children her child is still a toddler and the family's economic situation is categorized as middle to lower, the process of teaching and learning activities carried out online is certainly not immune from deficiencies and strengths, then refusal of the screening of corpses who died due to covid-19 and so forth.

Normatively, Indonesia has ratified the Universal Declaration of Human Rights (Duham), the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights (Ecosob), into Law Number 11 of 2005 and Law Number 12 of 2005 Article 23 paragraph (1) Duham states that every person has the right to an adequate standard of living for the health and well-being of himself and his family, including the right to food, clothing, housing, and health care as well as the necessary social services, and is entitled to guarantees when unemployed, suffer from illness, disability, become a widow / widower, reach old age or other conditions that result in lack of income, which is beyond his control. In Article 12 of the Covenant on Ecosob Rights, one of the provisions also states that a state party must do everything necessary to strive for: Prevention, treatment, and control of all communicable, endemic, and other occupational diseases. Therefore, in the context of the corona virus pandemic as issued by WHO, the government (especially the central government), has full obligations. Not only to provide health services to residents affected by corona, but also to support all factors that determine the spread of the virus can be stopped, both guarantees for the availability of food, access to accurate information, even if one day Indonesia must take a lockdown policy. Therefore the government is providing assistance to communities affected by Covid 19 through regular programs such as the Family of Hope Program (PKH) and Non-Cash Food Assistance (BPNT). The government, among others, provided packages of basic food assistance, cash social assistance and direct cash assistance from village funds for residents affected by the Covid pandemic 19. However, the distribution of social assistance quickly to pandemic affected communities was not an easy matter. This can be seen from the data collection problem to the provision of assistance that is "not on target". Whereas the government provides various types of aid distributed including the Social Assistance of the President, Provisni Social Aid, the district / city social assistance, to the village fund. The problem of data collection is also experienced by the DKI Jakarta Provincial Government. In the list of social assistance recipients, there is a member of the DKI DPRD from the PDIP faction, Jhonny Simanjuntak, who is included as one of the beneficiaries. DKI Governor Anies Baswedan himself admitted that there was still assistance that was not on target due to data collection constraints. The chaotic data collection of social assistance recipients at the moment is also inseparable from the absence of data integration between the central government and the regions. In the current Covid 19 pandemic, in addition to the problem of non-integrated data collection, there is the potential or deviation of disaster management assistance, where the Covid 19 pandemic is a national disaster.

This phenomenon shows that corruption is contrary to the Pancasila, the first principle, the Godhead. This precept teaches all Indonesian people to be religious in accordance with their religion. In the teachings of religion there is no religion that justifies his people to steal, greedy. Corruption is the same as stealing, stealing public money and is contrary to religious teachings. The second precepts, Just and Civilized Humanity. Corruption is said to violate the second principle because it causes poverty in Indonesia. How not, money that should be used for the benefit of the general public is used for the personal benefit of irresponsible elements. As a result, social stratification is so visible the life of this nation. the rich get richer

the poor get poorer. The third precept, Indonesian Unity. As Indonesian people, we must be able to place the unity, unity and interests of the nation and state as a common interest above personal or group interests. Corruption violates the values of unity that this nation has had since the days of royal civilization. As Indonesian people who have the mandate has become an obligation to carry out the tasks given by the state rather than toying with responsibilities in order to enrich or obtain pleasure without thinking about anything else. No matter how small the act of corruption is if it does not prioritize the interests of the state, there will be potential for divisions at the institutional, regional and national levels. Corruption eradication should be a firm effort in the form of unity of law enforcement institutions, community members and the government. The fourth precept reads Popular Led by Wisdom Wisdom in Representative Consultation. In an effort to eradicate corruption or enforce the law for their actions the decisions taken must prioritize deliberation in making decisions for the common good. In this case the Pancasila teaches all Indonesian people to give trust to representatives who are trusted to conduct consultations meaning that it does not need to be needed all elements of this nation can overcome any problem in dealing with national problems including corruption. The fifth precept reads Social Justice for All Indonesians. We know that Indonesia is a country of law. All cases that occur in Indonesia must be decided fairly and impartially in accordance with applicable law.

Previous research related to or approaching the title and the issues raised that support this research are as follows :

M. Aris Purnomo, Eko Soponyo¹⁾ Diponegoro University in 2015 with the title: Reconceptualization of Corruption Criminal Investigations by the National Police in the Context of the Effectiveness in Eradicating Corruption.

Marten Bunga, Mustating Dg Maroa, Amelia Arief, Hardianto Djanggih University of Gorontalo in 2019 with the title: Urgency of Community Participation in Efforts to Prevent and Eradicate Corruption.

¹⁾ The basic difference between this paper and the two scientific papers above lies in the object of research on the eradication of criminal acts of corruption, where the first research is related to the concept of investigating corruption by the National Police in an effort to effectively eradicate corruption and the second research related to community participation in prevention and eradication of corruption, while in this paper, the author will examine the law enforcement of corruption with the issuance (Perppu) No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Covid-19 Pandemic and / or in the context of dealing with threats that endanger the National Economy and / or Financial System Stability which has now become Law No. 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policies and Financial Stability for Handling Covid-19 Pandemic and / or in order to deal with threats that endanger the national economy and / or financial system stability and how the Indonesian government's legal politics in combating corruption in the midst of the Covid 19 pandemic that hit Indonesia.

II. METHODOLOGY

The method of approach used in this research is the statute approach, which is carried out by examining all laws and regulations relating to the legal issues handled. which in this study the object of research is the enforcement of criminal acts of corruption with the issuance of (Perppu) Number 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling Covid Pandemic 19 and / or in the context of facing threats that endanger the National Economy and / or Financial System Stability which has now become Law Number 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policy and Financial Stability for Handling Covid-19 Pandemic and / or in the context of facing threats that endanger the national economy and / or financial system stability and how the Indonesian government's legal politics in combating corruption in the midst of the Covid 19 pandemic that hit Indonesia. The research specifications use descriptive analytical methods. Analytical descriptive is a study that describes, finds legal facts as a whole and systematically studies secondary data.

III. RESULTS

3.1 Law Enforcement of Corruption With the Issuance (Perppu) Number 1 Year 2020 Which Now Has Become Law Number 2 Year 2020 Regarding Determination of Perppu Number 1 Year 2020 Regarding State Financial Policies And Financial Stability For Handling Covid-19 Pandemic And / Or In Order Facing Threats That Harm National Economy and / or Financial System Stability.

Law enforcement in Indonesia cannot be separated from the principle of fair law enforcement. The issue of justice is based on the principle of equality, where everyone gets the same share. Sometimes justice is based on need, so as to produce comparability that is usually applied in the legal field. Not infrequently used the principle of qualifications to measure justice, as well as the objective principle that sees justice from the point of view of one's achievements.

The discussion on fair law enforcement cannot be separated from discussion on justice as a legal ideal that must be used as a direction and guidance in law enforcement itself. This makes law enforcement in Indonesia not yet optimal, including in the case of law enforcement on corruption.

In the process of law enforcement, it needs to be understood, that the rule of law is coercive, in a sense, coercive in terms of the presence of the law as an instrument to bring order and build society. Forcing also in the sense of society must accept and know the presence of the law to regulate themselves, because the law is a system of rules and procedures to protect, regulate and manipulate the community.

According to Lawrence M. Friedman, successful law enforcement always requires the functioning of all components that make up the legal system. The legal system in Lawrence M. Friedman's view consists of three components, namely the legal structure component, the legal substance component, and the legal culture component. Legal structure (legal structure) is the torso, framework, eternal form and a system. The substance of the law (legal substance) is the actual rules and norms while the culture of law (legal culture) is a culture of law enforcement in upholding the law.

During the covid pandemic 19 Article 27 Perppu No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Covid Handling 19 is considered to provide a loophole of corruption, leading to a polemic which was later sued at the Constitutional Court. Article 27 Perppu No.1 of 2020 reads :

“Costs incurred by the government or KSKK member institutions in the context of implementing policies in the field of taxation, State expenditure policies including policies in the field of finance and national economic recovery programs, are part and economic costs for saving the economy from crisis and are not a loss for the State. “

Verse 2 reads :

“Members of the KSKK and officials or employees of the Ministry of finance, Bank Indonesia, the Financial Services Authority, and the Indonesian Deposit Insurance Corporation and other officials relating to the implementation of Perppu No.1 / 2020 cannot be prosecuted both civil and criminal if carrying out their duties is carried out in good faith and in accordance with statutory regulations”.

i.e. if it is proven to be corrupt, it is threatened with capital punishment as determined in the Corruption Law but on the contrary if the act committed is not a state loss and the actions of the official are based on good faith, then it cannot be prosecuted / sued in criminal / civil law. This provision clearly contradicts Article 23 of the 1945 Constitution and criminal law, where the element of actus reus (acts against the law) mens rea (good intentions / inner attitude) is the basis for the perpetrators' conviction, so that corruption in the handling of the covid 19 pandemic cannot be free from the law namely threatened with death sentence and for the Perppu must be conducted a judicial review considering there is a great opportunity to do corruption, impunity for officials and absolute power that is not in accordance with the constitution of our country which adheres to the distribution of power. We can see that Article 27 of Perppu No 1/2020 can give immunity to the government / KSKK and other parties regulated in this Perppu in excess, because these parties cannot be prosecuted criminal and civil and every decision issued is not the object of a lawsuit in PTUN, this is the basis for pouring funds worth hundreds of trillions of rupiah, people need to realize that the Perppu is a legal product that was born in an urgent / compelling condition so the government makes unusual decisions, but all of that must be based on law that still upholds the rule of law, then for Perppu No. 1/2020 because it is against the law to eradicate corruption, the DPR as a representative of the people and the government overseer should also study carefully about the Perppu, but the DPR has actually ratified the Perppu into Law.

A law is a state regulation that has binding legal force that is held and maintained by the state authority. According to T.J. Buys, law has two meanings :

Law in the formal sense is any government decision which is a law because of the way it was made. For example, the understanding of the law according to the provisions of the 1945 Constitution amended results in a form of regulation made by the government together with the DPR.

Law in the material sense is any government decision which, according to its contents, is binding directly on each resident.

Law in the material sense is a written regulation that is generally accepted and made by the central and regional authorities. Regarding the enactment of the law, there are several principles whose purpose is for the law to have a positive impact. These principles include, among others:

The law is not retroactive;

Laws made by higher authorities;

Having a higher position than the archetypes of other social norms;

Specific laws override general laws, if the author is the same;

Later laws, canceling the previous laws;

The law cannot be contested;

The law is a means to achieve spiritual and material welfare for the community and individuals through preservation or renewal (innovation). According to Article 1 number 2 of Law No. 12 of 2011 concerning Formation of Regulations and Regulations. Legislation is a written regulation that contains norms that are generally binding and are formed or established by state institutions or authorized officials through the procedures set out in legislation.

With the passing of Law No. 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policy and Financial Stability for Handling Covid-19 Pandemic and / or in the context of facing threats that endanger the national economy and / or financial system stability, there are legal consequences, especially some articles which is considered to have the potential to bring about absolute power. In the Perppu, for example Article 12 Paragraph 2 states that Changes to the Posture and / or details of the State Revenue and Expenditure Budget in the context of implementing state financial policies are only regulated by or based on Presidential Regulation. This certainly eliminates the authority and role of the DPR. Even though Article 23 Paragraph 1 of the 1945 Constitution states that the status and status of the State Budget is a law that is set every year. Then, the Draft State Budget must be submitted by the President to be discussed and approved by the DPR as affirmed Article 23 paragraph 2 and paragraph 3 of the 1945 Constitution. In addition, Article 27 paragraph 2 states that KSSK Members, KSSK Secretaries, members of the KSSK Secretariat, and officials or Ministry officials Finance, Bank Indonesia, the Financial Services Authority, and the Indonesian Deposit Insurance Corporation, and other officials, relating to the implementation of this Perppu cannot be prosecuted both civil and criminal if carrying out their duties is based on good faith and in accordance with statutory provisions. This provision clearly contradicts Article 23 of the 1945 Constitution and criminal law, which in the theory of criminal act *actus reus* (breaking the law) and *mens rea* is the basis for the perpetrators' conviction, so that corruption in the handling of the covid 19 pandemic cannot be separated from the law. Furthermore, it is mentioned in Article 2 that the budget deficit limit exceeds 3 percent of GDP. According to PKS, the clause in the Perppu only mentions beyond 3 percent of GDP, but does not explain the upper limit. This certainly has the potential for other inappropriate and unnecessary shopping interests. The upper limit of deficits is needed for legal certainty. In addition, the existence of a bail-out scheme in the Act has the potential to cause irregularities in financial power.

Starting from the description above, it can be said, in the three stages of the policy of criminal law enforcement, it contains three powers or authorities, namely legislative / formulative power in determining or formulating any actions that can be convicted and what criminal sanctions can be subject to judicial power. / applicative in applying criminal law and executive / administrative power in implementing criminal law.

3.2 The Political Law of the Indonesian Government in Eradicating Corruption Amid the Covid Pandemic 19 that Affected Indonesia.

The use of law as a means to achieve the goals of the country or the ideals of the nation will naturally intersect with the legal policies determined by the country concerned. Because, in the legal policy set various things regarding the law as an instrument to achieve state goals. These include the type of legal system chosen to realize the ideals of the nation, the form and content of the law and the social functions carried out by a legal system so that the ideals of the nation are achieved. Therefore, every nation that wants to realize its

ideals with the foundation of the law will establish a legal policy in accordance with the country's goals to be achieved. On the basis of such thinking, Bagir Manan expressly expressed the opinion of no state without legal politics.

In the formation of a country that cannot be separated from politics, it can be said that the heart of law in a country is its own legal politics. This can be seen in the foundation of a country's constitution, for example the 1945 Constitution which is the foundation of fundamental norms and Pancasila as the grundnorms of the Indonesian state.

It has become a provision of state administration as an agreement and state doctrine, that Pancasila is a view of life, ideology of the Indonesian people and "the source of all sources of law" of Indonesia. It means, that Pancasila is a view of life, awareness and moral ideals that encompasses the mental and psychological atmosphere of the people of the country concerned and becomes a place to stand or rely on any legal issues that arise or arise in Indonesia, a place to test the validity both in terms of philosophical and juridical.

According to Satjipto Raharjo, law can be seen as a figure of value. Law as an embodiment of values implies that its presence is to protect and advance high values by its people. Thus, law is not a technical institution that is morally empty or sterile from morals. A common legal function is the formation of behavior in society to connect to a set of goals through people who have influence in it. However, the specific functions are usually very diverse, for example the law seeks to enforce primary rules in society, establish an institution (institution) or regulate the process. Hart explained that the law provides facilities how the law also gives orders and guidelines, the law can be creative or protective, as well as can encourage or prohibit. The message in the law usually shows one or more of the legal functions, which are usually presented in an abstract form but the essence is in the realm of reality (concrete).

Thus, it can be seen that the political goals of law (rechtspolitik) of a country must be adjusted to the national goals of the country concerned. In the Indonesian context, national legal politics must be demonstrated to build a national legal system that enables the realization of a national and state life goal based on and imbued with basic norms (grundnorm), namely the 1945 Constitution, the ideal foundation of Pancasila and the political foundation of operational objectives of society, nation and having a state as stated expressly in the 4th paragraph of the opening of the 1945 Constitution. C.G, F. Sunaryati Hartono and Mahfud MD stated that legal politics must be placed as a tool that works in certain social and legal systems to achieve a society or state's goals.

Teuku Moh. Radhie said that the politics of law is a statement of the will of the state authorities regarding the laws in force in their territories and about the direction in which the law will be developed. Based on the direction and policy of legal development, it can be seen that national political law (including criminal law politics) must be arranged within the framework of an orderly national law to support development in all fields and be directed towards the realization of the protection of human rights and human welfare based on basic principles Indonesian people as referred to by the Pancasila.

Ahmad M. Ramli said that the problems relating to the system and politics of national law included the overlapping and inconsistency of laws and regulations, the implementation of laws hampered by the implementation regulations, and issues related to law enforcement, legal certainty and the justice system. On the other hand, the politics of national law must be used as a directive or a line that forms the basis of the footing and ways to make and implement laws in order to achieve the objectives.

The rule of law state put forward by Kant has changed with the emergence of the understanding of the welfare state law (welfare state). As Friedrich Julius Stahl put it, the characteristics of the rule of law are as follows:

- Protection of human rights;
 - Separation or distribution of powers to guarantee human rights;
 - Government based on regulations; and
 - The existence of state administrative justice in disputes.
- Sri Soemantri stated the most important elements of the rule of law are as follows:
- That the government in carrying out its duties and obligations must be based on law or legislation;
 - There is a guarantee for human rights (citizens);
 - The distribution of power;
 - Supervision of judicial bodies (rechterlijke controle).

Based on the above description of the ratification of Law No. 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policies and Financial Stability for Handling Covid-19 Pandemic and / or in order to face threats that endanger the national economy and / or financial system stability must be in accordance with the 1945 Constitution which is a the foundation of fundamental norms and Pancasila as the grundnorms of the Indonesian state. Therefore it is necessary to reformulate and or reconstruct the Law.

IV. CONCLUSION

In the midst of the Covid 19 pandemic that occurred in Indonesia, the government has worked hard to eradicate corruption through various means both through preventive efforts and through repressive efforts. One of them is by issuing the latest laws and regulations, namely Law No. 2 of 2020 concerning Stipulation of Perppu Number 1 of 2020 concerning State Financial Policies and Financial Stability for Handling Covid-19 Pandemic and / or in the context of facing threats that endanger the national economy and / or financial system stability, but precisely with the issuance of the Perppu opens opportunities and loopholes for corruption as explained above. The use of law as a means to achieve the goals of the country or the ideals of the nation. According to Satjipto Raharjo, law can be seen as a figure of value. Law as an embodiment of values implies that its presence is to protect and advance high values by its people. Sri Soemantri stated the most important elements of the rule of law are as follows: (a) that the government in carrying out its duties and obligations must be based on law or legislation; (b) guarantees of human rights (citizens); (c) the distribution of power; (d) there is supervision from judicial bodies (rechterlijke controle). Therefore it is necessary to reformulate and or reconstruct the law. Based on the description above that the government is less serious in law enforcement / eradication of corruption in the midst of Covid-19 this is evidenced by the enactment of Perppu no 1/2020 which seems to open a gap for the emergence of corruption, this Perppu is contrary to corruption law No. 20/2001 or Law 31/1999 concerning corruption. And this Perppu seems to provide legal immunity or the right of immunity to state administrators who are responsible for handling the corona virus pandemic or threats that endanger the national economy and / or financial system stability.

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