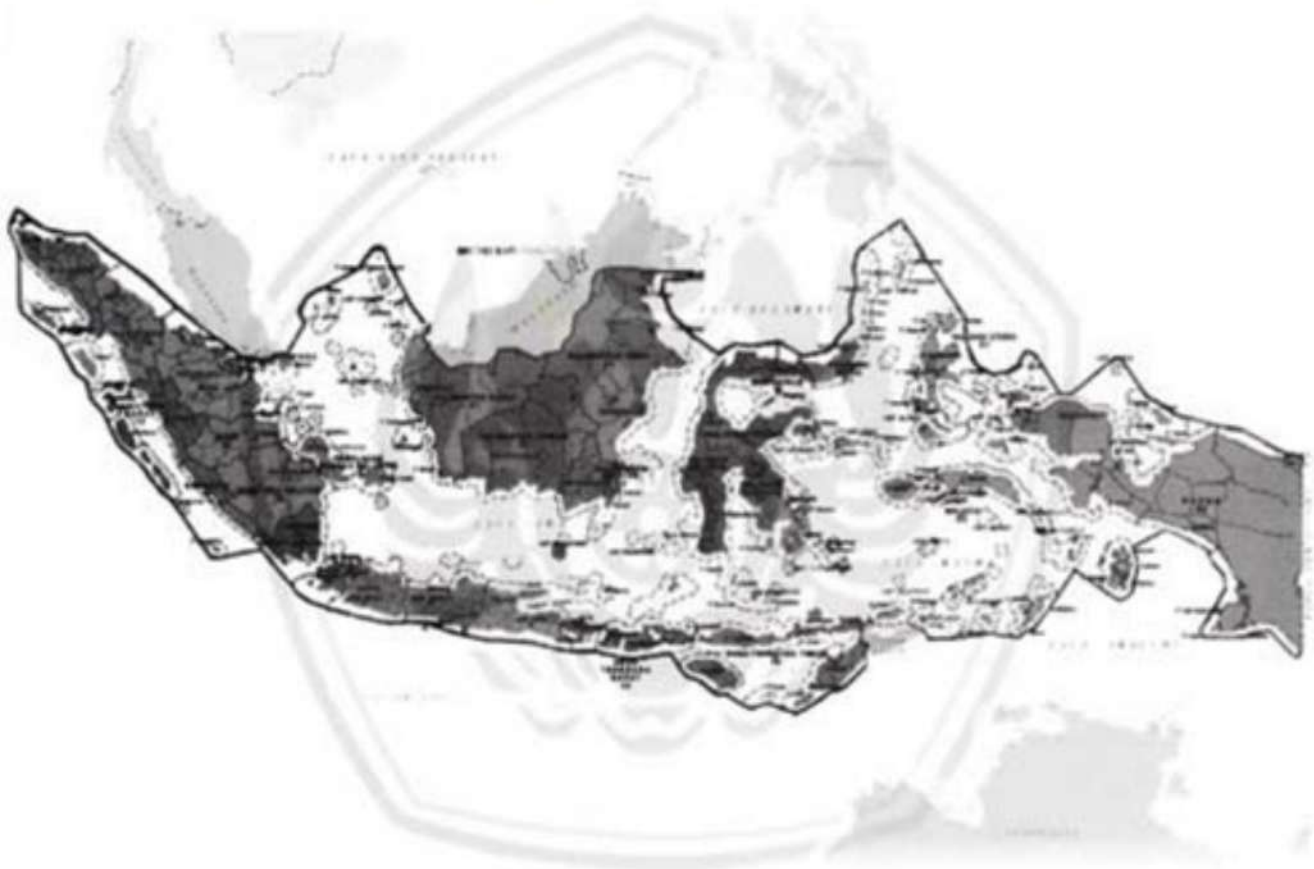


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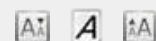
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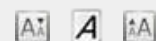
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# The Legal Aspect of New Normal and the Corruption Eradication in Indonesia

Musa Darwin Pane<sup>\*</sup>, Diah Pudjiastuti<sup>\*\*</sup>

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## Abstract

Article 1 paragraph (3) of the 1945 Constitution mandates that Indonesia is a state by rule of law. Therefore, in carrying out the life of the people and of the nation, it must be in accordance with the applicable rules and regulations. The current presence and development of Covid-19 pandemic has resulted changes in political, economic, social, and cultural sectors. Paying attention to these developments, the Indonesian Government has issued various policies. The focuses of the policies are intended to manage the Covid-19 spread. The policies, among others, include social assistance programs during the Covid-19 pandemic, which has a significant potential corruption. The corruption may happen in the forms of embezzlement of aid funds, budgets transfer, incompliance of requirement assistances, etc. This study aims to determine aspects of the new normal law and the corruption eradication in Indonesia based on normative juridical research methods. The approach looks, analyzes, and interprets theoretical aspects concerning legal principles in the form of conceptions, laws and regulations, views, legal doctrines, and related legal systems. This study is of the opinion that the corruption eradication (prevention and enforcement) in Indonesia during the Covid-19 pandemic and the application of the new normal are necessary to reform criminal law. The reform can be reconstruction and reformulation of existing laws regarding sanctions applied to perpetrators of corruption to restore state finances with accountability up to the third degree, or impoverishment of corruptors.

**Keywords:** corruption, law enforcement, new normal legal aspects

## *Aspek Hukum Normal Baru dan Pemberantasan Korupsi di Indonesia*

### Abstrak

*Pasal 1 ayat (3) UUD 1945 mengamanatkan bahwa bangsa Indonesia adalah negara hukum. Oleh karenanya dalam menjalankan kehidupan berbangsa dan bernegara harus sesuai dengan aturan hukum yang berlaku. Dengan adanya, pandemi Covid-19 ini telah mengakibatkan perubahan di semua sektor, baik sektor politik, ekonomi, sosial dan budaya. Berdasarkan hal tersebut, Pemerintah telah mengeluarkan berbagai kebijakan terkait percepatan penanganan Covid-19, diantaranya yaitu adanya program bantuan sosial dari*

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\* Lecturer of Law Faculty at Universitas Komputer Indonesia, Jl. Dipati Ukur No. 112-116 Bandung, S.H. (Universitas Udayana), M.H. (Universitas 17 Agustus 1945 Jakarta (UNTAG)), (LKBH Fakultas Hukum Universitas Komputer Indonesia), Dr. (Universitas Pasundan), musa@email.unikom.ac.id

\*\* Intern Advocate, at LKBH Fakultas Hukum Universitas Komputer Indonesia, Jl. Dipati Ukur No. 101 Bandung, S.H. (Universitas Islam Bandung), M.H. (Universitas Islam Bandung), info.dpudjiastuti@gmail.com



*pemerintah Indonesia di masa pandemi Covid-19 yang jumlahnya sangat besar yang berpotensi terjadinya korupsi dalam penanganan Covid-19, misalnya penggelapan dana bantuan, anggaran-anggaran sudah ditransfer bermasalah dalam pelaksanaannya, jumlah bantuan yang tidak sesuai dengan yang diterima dan lain-lain. Berdasarkan uraian tersebut, penelitian ini bertujuan untuk mengetahui aspek hukum normal baru di Indonesia dan pemberantasan korupsi di Indonesia dalam keadaan normal baru melalui metode penelitian yuridis normatif yaitu pendekatan masalah dengan melihat, menelaah dan menginterpretasikan hal-hal yang bersifat teoritis yang menyangkut asas-asas hukum yang berupa konsepsi, peraturan perundang-undangan, pandangan, doktrin hukum dan sistem hukum yang berkaitan. Melalui penelitian ini, peneliti berpendapat bahwa pemberantasan (pencegahan dan penindakan) korupsi di Indonesia dalam masa pandemi Covid-19 dan penerapan new normal ini, perlu dilakukan pembaharuan hukum pidana melalui rekonstruksi dan atau reformulasi terhadap undang-undang yang ada berkenaan dengan sanksi yang diterapkan kepada pelaku tindak pidana korupsi, yaitu dikenakan upaya pengembalian keuangan negara dengan pertanggungjawaban sampai derajat ke-3 (tiga) atau yang dikenal dengan pemiskinan koruptor.*

**Kata Kunci:** aspek hukum normal baru, korupsi, penegakan hukum

## A. Introduction

State is an organization that has objectives. In Indonesia, the objectives of the state are set out in the fourth paragraph of the Preamble of the 1945 Constitution. It identifies that Indonesia is a state based on rule of law with aims to achieve welfare state. To realize public welfare, every activity that is oriented to the objectives to be achieved must also be based on the applicable law as a rule of activities of state, government, and society.<sup>1</sup> The core understanding of law, namely the nature of law, is a means to create a just society's rules.<sup>2</sup>

Corruption is an act that is not in accordance with the state ideology, Pancasila, and the 1945 Constitution. They are the ideals of the Indonesian people. Corruption is very detrimental because it gives a very broad impact. Therefore, corruption is an act that is prohibited by law. Corruption has permeated all aspects of people's lives, brought disaster to the life of the national economy and to the life of the nation and the state. It is important to eradicate corruption since it is an extraordinary crime.

The concept of corruption develops in many definitions. The definitions of corruption can vary in perspectives. The perspectives can be literal meaning of words, opinions of various experts, and applicable legislations. Internationally, surely no single definition is referred.<sup>3</sup> Many world prominent languages have

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<sup>1</sup> Juniarso Ridwan, Achmad Sodik Sudrajat, *Hukum Administrasi Negara dan Kebijakan Layanan Publik*, Bandung: Nuansa Cendekia, 2014, p. 11.

<sup>2</sup> Theo Huijbers, *Filsafat Hukum*, Yogyakarta: Kanisius, 1995, p. 75.

<sup>3</sup> Pusat Edukasi Anti Korupsi, "Apa itu Korupsi?", <https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infografis/apa-itu-korupsi>, accessed on June 2020.

respective term on corruption, such as English (corruption), French (*corrupt*), Dutch (*corruptie*), and Indonesia (*korupsi*).<sup>4</sup>

Despite the concept and the idea, nevertheless, corruption eradication is pursued continuously through prevention and countermeasures. In the current time, the Covid-19 pandemic affects almost all areas of life, including corruption eradication. In the pandemic era, many government agencies and/or institutions as well as companies work from home. Many employees have been laid off. In short, many aspects of life are altered. Considering the conditions, the Corruption Eradication Commission (KPK – *Komisi Pemberantasan Korupsi*) has launched an application named JAGA in December 2016. JAGA is a corruption prevention application that encourages transparency in the delivery of public services and processing of state assets.<sup>5</sup>

The very wide impact of corruption requires active and massive participation of both the government and the people. Considering the Covid-19 pandemic, the Government has enacted the Government Regulation in Lieu of Law Number 1 of 2020 on Financial System Stability for Handling Covid-19 Pandemic and/or In the Context of Facing Threats that Endanger the National Economy and/or Financial Stability. The regulation has now been ratified into Law Number 2 of 2020 on the Establishment of the Government Regulation Number 1 Year 2020 on 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 Stability as an effort to eradicate corruption. All of them are caused by the problems of corruption that is a very crucial.

After the Covid-19 pandemic declining, the government introduced the concept of “new normal”. The term new normal era is used by the government to refer to changes in people’s lifestyles facing the Covid-19 pandemic. Several state agencies and institutions have started their normal operations, including the KPK. The KPK began to apply the new normal patterns in its office activities. There are a number of adjustments to the rules for employees, including physical presence. This decision was stated in Circular Letter Number 17 of 2020 dated June 3, 2020 on the Adjustment of the Working System in the Corruption Eradication Commission in the Context of Preventing the Spread of Covid-19. The working hours in the KPK environment return to the normal working hours. The different is that the physical presence system uses a proportion of 50:50, which is 50 percent working in the office and 50 percent working at home.<sup>6</sup> Supposedly, despite being in the pandemic

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<sup>4</sup> Arum Surtisni Putri, “Korupsi: Pengertian, Penyebab dan Dampaknya”, <https://www.kompas.com/skola/read/2019/12/11/185540869/korupsi-pengertian-penyebab-dan-dampaknya?page=all>, accessed on June 2020.

<sup>5</sup> Indonesia. Go. Id, “Aplikasi JAGA KPK”, <https://indonesia.go.id/layanan/kependudukan/sosial/aplikasi-jaga-kpk>, accessed on June 2020.

<sup>6</sup> Riezky Maulana, “Terapkan New Normal, Hanya 50 Persen Pegawai KPK Yang Masuk Kantor”, <https://www.inews.id/news/nasional/terapkan-new-normal-hanya-50-persen-pegawai-kpk-yang-masuk-kantor>, accessed on June 2020.

situation, community service must continue in any conditions.<sup>7</sup> There are pros and cons regarding the performance evaluation of the KPK. One example is the evaluation from Indonesia Corruption Watch (ICW), which criticizes the KPK's attitude as too soft in handling corruption cases.<sup>8</sup>

With the existence of the Covid-19 pandemic, law enforcers, especially the KPK, have limitations. For example, the KPK has not examined witnesses or suspects because it follows the rules of the Large-Scale Social Restrictions (PSBB) as an effort to break the spread of Covid-19.

Article 6 of Law Number 19 of 2019 on the Second Amendment to Law Number 30 of 2002 on the Corruption Eradication Commission states that the KPK has the following tasks.

- a. Preventive measures so that Corruption does not occur.*
- b. Coordination with agencies authorized to carry out Corruption Eradication and agencies tasked with carrying out public services.*
- c. Monitor the implementation of state government.*
- d. Supervision of agencies authorized to carry out the Eradication of Corruption.*
- e. Investigation, Examination, and Prosecution of Corruption.*
- f. Actions to implement the determination of judges and court decisions that have obtained permanent legal force."*

Article 7 reads as follows.

*"(1) In carrying out the preventive tasks as referred to in Article 6 letter a, the KPK is authorized to:*

- (a) registering and inspect reports on the assets of state administrators;*
- (b) receive reports and set gratuity statuses;*
- (c) carry out anti-corruption education programs in every education network;*
- (d) plan and implement a socialization program on the eradication of corruption;*
- (e) carry out anti-corruption campaigns to the public; and*
- (f) conduct bilateral or multilateral cooperation in the eradication of corruption.*

*(2) In carrying out the authority as referred to in paragraph (1), the KPK must make an accountability report 1 (one) time in 1 (one)*

<sup>7</sup> Rani Ummi Fadila, "Masa Pandemi Covid-19, LKBH Unikom Tetap Beri Layanan Konsultasi Hukum", daily newspaper Pikiran Rakyat, April 10, 2020.

<sup>8</sup> Sania Mashabi, "Kritik Lemahnya Pemberantasan Korupsi, ICW: KPK Memasuki "New Normal", <https://nasional.kompas.com/read/2020/05/28/22431861/kritik-lemahnya-pemberantasan-korupsi-icw-kpk-memasuki-era-new-normal>, accessed on June 11, 2020.

*year to the President of the Republic of Indonesia, the House of Representatives of the Republic of Indonesia, and the Supreme Audit Board.*

In practice, the KPK faces obstacles and difficulties. One of them is regulations. For instance, a number of corruption acts have not yet been regulated in the Law of Corruption Act. The acts are not compliant with the Law Number 31 of 1999 that has been amended by the Law Number 20 of 2001 on the Eradication of Corruption, even though Indonesia has ratified the United Nations Convention against Corruption 2003 into the Law Number 7 of 2006 on the Ratification of the United Nations Convention against Corruption 2003.<sup>9</sup>

In addition to the KPK, eradication of corruption is also the main task of the National Police as stipulated in Article 13 of the Law Number 2 of 2002. It clearly mentions “maintaining security and order, enforcing the law, and providing protection, security, and services to the public”.

In the law enforcement on the criminal acts of corruption, the police have the duty as an investigator. It is determined in the Criminal Procedure Code (KUHP) in Article 1 paragraph (1). Investigator is defined as an official of the Police of the Republic of Indonesia or a civil servant employee with special authority given by law to carry out investigations. It is emphasized in the Law Number 2 of 2002 on the Police of the Republic of Indonesia. Article 14 paragraph (1) letter g states that in carrying out the main duties, the Police of the Republic of Indonesia is tasked with conducting investigations and examinations of all criminal acts in accordance with criminal procedural law and other statutory regulations. In addition to the Criminal Procedure Code and the Law, the Presidential Instruction Number 5 of 2004, in the eighth point of the Instruction, states that the police is obliged to provide maximum support for the efforts to take action in prevention of corruption carried out by the Indonesian National Police, the Attorney General’s Office of the Republic of Indonesia, and the Corruption Eradication Commission by speeding up the provision of information related to corruption cases and accelerating the permit for examination of witnesses/suspects. Thus, the police have the rights and authorities to handle various corruption cases.<sup>10</sup>

Based on the explanation above, the study investigated some problems: (1) the legal aspects of new normal in Indonesia; and (2) the corruption eradication in the new normal era. Based on the formulated description, the general purpose of this study is to determine the eradication of corruption in Indonesia in the new normal era.

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<sup>9</sup> CNN Indonesia, “KPK Sampaikan Kendala dan Strategi Penanganan Kasus Korupsi”, <https://www.cnnindonesia.com/nasional/20190129002035-12-364583/kpk-sampaikan-kendala-dan-strategi-penanganan-kasus-korupsi>, accessed on June 8, 2020.

<sup>10</sup> Rifki Syahrifah, “Efektivitas Penanganan Kasus Korupsi Oleh Kepolisian (Studi Pada Unit Tipikor Polres Polman)”, *Jurnal Tomalebbi*, Vol. IV, Issue 2, 2017, p. 7.

There are a number of previous studies related to this study as follows. First, Purnomo and Soponyono from Diponegoro University (2015) published a journal article on the reconceptualization of investigation of corruption crimes by the national police in the context of the effectiveness of eradicating corruption. Second, Ridwan from Sultan Ageng Tirtayasa University (2012) published a journal article on the role of educational institutions in eradicating corruption in Indonesia.

The basic differences between this paper and the two scientific papers above lie on the object of research on corruption eradication. The first study is related to the concept of investigating corruption by the National Police and the second is related to the role of higher education, especially the science of law, on eradication. This study examined the eradication of corruption in the new normal era.

### **B. Legal Aspects of New Normal in Indonesia**

During the Covid-19 pandemic, the KPK strengthened supervision in the use of the Covid-19 handling budget by issuing Circular Number 8 of 2020 on the Use of the Budget for the Implementation of Goods/Services Procurement in the framework of Accelerating the Handling of Covid-19 Related to the Prevention of Corruption and the Circular number 11 of 2020 on the Use of Integrated Social Welfare Data (DTKS) and Non-DTKS Data in Providing Social Assistance to the People. The regulations make the KPK responsible for carrying out its duties as stipulated in Law Number 19 of 2019 on the Second Amendment to the Law Number 30 of 2002 on the Corruption Eradication Commission.

In principle, procurement of goods and services must be carried out effectively, transparently, and accountably. Budget users, commitment-making officers, providers, and Government Internal Control Apparatus must pay attention to regulations, justifications, and supporting documentation based on procurement principles and ethics, including during the Covid-19 pandemic. However, in the field, the regulation has not been optimal. This can be seen from the complaints received by the Indonesian ombudsman during the Covid-19 outbreak. There are at least 817 complaints.<sup>11</sup> The problems mostly cover the uneven distribution of social assistance in terms of time, target recipient, or area. The problems also cover unclear procedures and requirements for receiving assistance. There are some cases that people with more emergency conditions are not registered or those who are registered but do not receive assistance. In addition, there are people who cannot receive assistance at certain residential areas because of the migrant's ID

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<sup>11</sup> Siti Fatimah, "Buka Aduan Khusus Dampak Pandemi Covid-19, Ombudsman Sebut Laporan Soal Bansos Paling Tinggi", <https://ombudsman.go.id/news/r/buka-aduan-khusus-dampak-pandemi-covid-19-ombudsman-sebut-laporan-soal-bansos-paling-tinggi>, accessed on August 15, 2020.

card or deceased persons that are registered as recipients of assistance.<sup>12</sup> The validation and update of the data must be done quickly and accurately. It must also involve community related to supervision.

The Covid-19 pandemic had a very broad impact in various sectors. One of them is a decline of people economic capacity. It also affects political, social, cultural, and national security. The government has made various efforts. One of them is the Regulation of the Minister of Health Number 9 of 2020 on Large-Scale Social Limitation Guidelines in the Framework of Accelerating the Handling of Corona Virus Disease 2019. In addition, this can be seen from the enthusiasm and efforts to eradicate corruption manifested in various regulations. They are, among others, the Law Number 20 of 2001 on the Amendments to the Law Number 31 of 1999 on the Eradication of Corruption, the Law Number 30 of 2002 on the Commission of Corruption Eradication, the Presidential Regulation Number 54 of 2018 on the National Strategy for Corruption Prevention. The most recent is the Circular number 8 of 2020 on the prevention of corruption related to the use of procurement of goods and services budget to accelerate the handling of Covid-19.<sup>13</sup>

Facing the era of new normal order, the government has prepared standard operating procedures in various sectors. The priority covers areas that are ready as a very important factor. For instance, if there is a violation of the SOP in a company, the government will not hesitate to revoke the company's permit.

New normal is a great change in behavior of running normal activities. However, this change has the consequence of additional conditions by implementing protocols to prevent Covid-19 transmission in every activity that involves many people.<sup>14</sup>

New normal implementation is regulated in the Decree of the Minister of Health Number HK.01.07/MENKES/328/2020 on the Guidelines for Preventing and Controlling Covid-19 in Office and Industrial Workplaces to Support Business Sustainability in Pandemic Situations. The Government Regulation Number 21 of 2020 on Large-Scale Social Restrictions (PSBB – *Pembatasan Sosial Berskala Besar*) in the framework of accelerating the handling of Covid-19 states that the PSBB is done by, among others, closing workplaces.

The Decree of the Minister of Health covers a number of complete guidelines to be complied by companies in both offices and industry as follows.<sup>15</sup>

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<sup>12</sup> Ratna Sari Dewi, "Evaluasi Penyaluran Bantuan Sosial (Bansos) Tahap Satu, COVID-19", <https://ombudsman.go.id/artikel/r/artikel--evaluasi-penyalaran-bantuan-sosial-bansos-tahap-satu-covid-19->, accessed on June 30, 2020.

<sup>13</sup> Musa Darwin Pane, "Penanganan Korupsi Dana Covid", *Opini Harian Pikiran Rakyat*, June 4, 2020, p. 15.

<sup>14</sup> Azmi Syahputra, "Konsep New Normal Ditinjau dari Aspek Kriminologi", <https://www.ayojakarta.com/read/2020/05/29/18595/konsep-new-normal-ditinjau-dari-aspek-kriminologi>, accessed on June 11, 2020.

<sup>15</sup> Muhammad Idris, "Panduan Lengkap Penerapan New Normal Yang Wajib Dipatuhi Perusahaan", <https://money.kompas.com/read/2020/05/25/090300826/panduan-lengkap-penerapan-new-normal-yang-wajib-dipatuhi-perusahaan?page=all>, accessed on June 11, 2020.

- a. It is an obligation to form a Covid-19 Handling Team in the workplace that consists of leaders, staffing section, work safety section, and health section that is legalized by a decree from leader of workplace;*
- b. Leader or employer provides policies and procedures for workers to report every case of suspected Covid-19 (symptoms of fever or cough/cold/sore throat/shortness of breath) to be monitored by health workers;*
- c. Workplace should not stigmatize person with positive case;*
- d. Work from home must be arranged by determining essential workers who need to keep working/coming to work and workers who can do work from home;*
- e. At the entrance of workplace, there must be a temperature measurement using a thermo gun and, before entering workplace, workers must apply Covid-19 Risk Self-Assessment to ensure their conditions uninfected by Covid-19;*
- f. Working time must be set not too long (overtime) that may result in workers lack of time to rest since it can cause a decrease in the immune system;*
- g. Whenever possible, three shifts work system (work time which starts at night until morning) must be dismissed. For three-shifts-workers must be arranged to enable only workers aged less than 50 years coming;*
- h. Workers must be required to wear masks since from home and while at work;*
- i. Workplace must regulate nutritional intake of food provided and select fruits that contain lots of vitamin C such as oranges, guavas, etc. to help maintain endurance. Whenever possible, workers can be given vitamin C supplements;*
- j. Workplace must ensure that all work areas are clean and hygienic by periodic cleaning using appropriate cleaners and disinfectants every four hours. The cleaning must especially targets door and stair handles, elevator buttons, shared office equipment and areas, and other public facilities;*
- k. Workplace must maintain air quality by optimizing air circulation and sunlight entering the workspace and cleaning air-conditioning filters;*
- l. Workplace must provide hand sanitizer with minimum alcohol concentration of 70 percent in places such as entrances, meeting rooms, elevator doors, etc.;*
- m. Workplace must provide hand washing facilities (soap and running water). Then provide instructions for the location of hand washing*

- facilities. Then put up educational posters on how to wash hands properly;*
- n. Workplace must apply physical distancing in all work activities. Arrangement of distance between workers is at least one meter in each work activity (work desk/workstation arrangement, chair arrangement in the canteen, etc.);*
  - o. Workplace must provide campaign the healthy living community movement through healthy lifestyle and clean and healthy lifestyle in the workspace such as balanced food and regular exercise;*
  - p. Workplace must provide Encouraging workers to wash hands with soap (CTPS) soon after they arrive at work, before eating, after contact with customers, meetings, coming out from bathroom, and after handling objects that might be contaminated;*
  - q. Worker must avoid sharing personal tools like prayer mat, cutlery, etc.”*

Article 164 of the Law Number 36 of 2009 on Health explains that occupational health efforts aim to protect workers so that they can live healthy and free from health problems and bad effects caused by work. Article 165 of the Law stresses that workplace manager is required to carry out all forms of health efforts through prevention, improvement, treatment, and recovery for workers.

Related to corruption, the concept of new normal should lead to a good legal culture awareness. Referring to Hirschi, the theory of social control requires community compliance because of the effectiveness of the level of compliance. Discipline is also very influenced by environmental aspects starting from the smallest environment (family) to regional government and national level government attitudes. Therefore, all levels of society through religious leaders, community leaders, and scientists should continue to work to build legal awareness. The government must ensure that the concept of new normal can be applied properly through systematic, measurable, directed, coordinated efforts so that they are mutually sustainable and consistent in carrying out public oversight openly and implementing law enforcement.<sup>16</sup>

Legal culture can be interpreted as a pattern of knowledge, attitudes, and behavior of a group of people towards a legal system. A good legal culture will produce best works. Someone adherence to law depends on components that exist in the legal culture. Although it is stated that law consists of three components of structure, substance, and legal culture, the most influential component in legal development is the legal culture. In the end, success of law will be determined by the legal culture of the community concerned. Culture of a nation is very influential on the nation's legal conditions. Therefore, legal renewal of a nation is greatly

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<sup>16</sup> Azmi Syahputra, *op.cit.*



influenced by the development of its society, including the influence of social cultural values as the soul of the nation.<sup>17</sup>

The government's policies are related to good governance. According to Van Kreveld that the main features of policy regulation are as follows.<sup>18</sup>

- a. The formation of policy regulations is not based on explicit provisions sourced from attribution or delegation of laws;*
- b. The formation can be written and unwritten from sources of free act of government agencies or only based on the provisions of general laws that provide space for agencies or administrative officials for their own initiatives to take public actions that are both regulatory and stipulating;*
- c. The contents of the regulation are flexible and general without explaining to the community members how the Government agency should exercise their ultimate authority over the community in situations where a regulation is determined."*

In terms of constitutional law, government policies related to the implementation of the new normal seems to be forced. The government should first revoke the PSBB, which refers to the Law Number 6 Year 2018 on Health Quarantine. In addition, the Presidential Decree Number 12 of 2020 on the Determination of Non-natural Disasters Spreading Corona Virus Disease 2019 still applies.<sup>19</sup>

In order to carry out the new normal, Swandaru says that it is necessary to know the legal aspects. The government's policies must follow the applicable legal rules by observing the principles of Jurisdictional and of legality. The principle of jurisdictional requires that government decisions or policies not to violate the laws. The principle of legality is that decisions or policies must be taken in accordance with the provisions of the laws. The legal aspects in question are

1. Effectiveness, meaning that the activity must be on target;
2. Legitimacy, meaning that its activities should not cause a scene caused by unacceptance of community/environment concerned;
3. Legality, meaning that none of the actions or decisions of the state administration may be carried out unknowingly or by a written statute, if something is carried out under the pretext of an emergency, then the

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<sup>17</sup> Musa Darwin Pane, "Peran Budaya Hukum Dalam Pembaharuan Sistem Hukum Pidana Perihal Efektifitas Penegakan Hukum Tindak Pidana Korupsi di Indonesia", *Majalah Ilmiah Hukum UNIKOM*, Vol. 16, Issue 1, 2018, p. 67.

<sup>18</sup> Dhanang Swandaru, "Persiapan New Normal Berdasarkan Sudut Pandang Hukum", <https://www.viva.co.id/vstory/opini-vstory/1219381-persiapan-new-normal-berdasarkan-sudut-pandang-hukum>, accessed on June 11, 2020.

<sup>19</sup> Tsarina Maharani, "Pemerintah Dinilai Terlalu Paksakan Penerapan New Normal", <https://nasional.kompas.com/read/2020/05/30/12202761/pemerintah-dinilai-terlalu-paksakan-penerapan-new-normal?page=3>, accessed on June 11, 2020.

emergency must be proven later, when proven, a lawsuit will be prosecuted; and

4. Efficiency, meaning that it means saving costs and productivity as high as possible.

The implementation of good governance is the main prerequisite to realize the aspirations of the people in achieving goals and ideals of nation and state. Therefore, it is necessary to develop and to implement appropriate, clear, and real accountability system so that the implementation of government and development can be directly efficient, effective, clean and responsible, and free of corruption.<sup>20</sup>

### C. Eradication of Corruption in Indonesia in New Normal Era

Article 1 paragraph (3) of the 1945 Constitution mandates that Indonesia is a state based on rule of law. Therefore, the nation and the state must be in accordance with applicable legal rules.

The Covid-19 Pandemic affects all sectors of life, from education, industry, economy, etc. Thus, the Government has issued various policies related to the acceleration of handling of Covid-19, including a number of social assistance programs during the pandemic. The programs are divided into two: non-regular programs (four programs) and regular programs (three programs).<sup>21</sup> The non-regular programs consist of direct cash assistance for village funds; basic needs assistance for area of Jakarta, Bogor, Depok, Tangerang, and Bekasi; cash assistance; and fee electricity. The regular program consists of pre-employment cards, addition of family program, and food packages. However, in practice there are various obstacles related to the distribution of social assistances. The Indonesian ombudsman received at least 817 specific complaints. The problems mostly cover the uneven distribution of social assistance in terms of time, target recipient, or area. The problems also cover unclear procedures and requirements for receiving assistance. There are some cases that people with more emergency conditions are not registered or those who are registered but do not receive assistance. In addition, there are people who cannot receive assistance at certain residential areas because of the migrant's ID card or deceased persons that are registered as recipients of assistance.<sup>22</sup> Under these conditions, efforts to enforce corrupt criminal law have to be in line with the Supreme Court Circular Number 1 of 2020 that all leaders, judges, judicial apparatuses, and the judicial body take steps to prevent the spread of Covid-19.<sup>23</sup>

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<sup>20</sup> Nasrullah Nasir, "Good Governance", *Mediator*, Vol. 4, Issue 1, 2003, pp. 135-136.

<sup>21</sup> Tommy Firmanda, "Program Bantuan Sosial Dari Pemerintah Indonesia di Masa Pandemi Covid-19", <https://aidran.org/2020/05/28/program-bantuan-sosial-dari-pemerintah-indonesia-di-masa-pandemi-covid-19/>, accessed on July 1, 2020.

<sup>22</sup> Ratna Sari Dewi, *op.cit.*

<sup>23</sup> Desca Lidya Natalia, "Pemberantasan Korupsi Dalam Pusaran Pandemi Corona", <https://papua.antaranews.com/berita/539278/pemberantasan-korupsi-dalam-pusaran-pandemik-corona>, accessed on July 1, 2020.

Secretary General of the Indonesian Forum for Budget Transparency (Fitra – *Forum Indonesia untuk Transparansi Anggaran*), Misbah Hasan, says that there were a number of potential corruptions in the handling of Covid-19. They are, for examples, embezzlement of aid funds, problems of budget implementation, the amount of aid that was different in numbers, etc.<sup>24</sup>

Essentially, every case of corruption must be followed up through the court in accordance with applicable regulations. The settlement of the eradication of criminal acts must be carried out proportionally in accordance with applicable laws and regulations based on the authority of each agency. Every stage of case resolution must be monitored. Cases that are only deviations from work procedures and need to be administered can be handled internally by the organization concerned in accordance with applicable regulations.<sup>25</sup>

Article 1 point 1 of the Law Number 19 of 2019 on the Second Amendment to the Law Number 30 of 2002 on the Corruption Eradication Commission states that Corruption is a criminal offense as referred to in the law governing Eradication of Criminal Acts Corruption. The laws and regulations governing corruption include:

- (1) The Law Number 3 of 1971 on Eradication of Corruption;
- (2) The MPR Decree Number XX/MPR/1998 on the Implementation of a Clean and Free of Corruption State;
- (3) The Law Number 28 of 1999 on State Administration that is Clean and Free of Corruption;
- (4) The Law Number 31 of 1999 on Limitation of Corruption Crimes;
- (5) The Government Regulation Number 71 of 2000 on the Procedures for the Implementation of Community Participation and the Awarding of Corruption in the Prevention and Eradication of Corruption;
- (6) The Law Number 20 of 2001 on Eradication of Corruption;
- (7) The Law Number 15 of 2002 on Money Laundering; and
- (8) The Law Number 19 of 2019 on the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission.

There are 30 forms/types of criminal acts formulated from 13 Articles in the Law Number 31 of 1999 in lieu of the Law Number 20 of 2001. They are classified into seven groups as follows.<sup>26</sup>

### **1. Delict related to state financial losses (Article 2 [1]);**

<sup>24</sup> Deti Mega Purnamasari, "Ini Potensi Korupsi Anggaran Penanganan Covid-19 Menurut Fitra", <https://nasional.kompas.com/read/2020/04/09/21255061/ini-potensi-korupsi-anggaran-penanganan-covid-19-menurut-fitra>, accessed on July 1, 2020.

<sup>25</sup> Badan Pengawasan dan Pembangunan, "Upaya Pencegahan dan Penanggulangan Korupsi Pada Pengelolaan APBN/APBD", *Tim Pengkajian SPKN*, 2002, p. 83, [http://www.bpkp.go.id/public/upload/unit/investigasi/files/uppk\\_apbn\\_apbd\(1\).pdf](http://www.bpkp.go.id/public/upload/unit/investigasi/files/uppk_apbn_apbd(1).pdf)

<sup>26</sup> Pusat Edukasi Antikorupsi, "Delik Tindak Pidana Korupsi", <https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infografis/delik-tindak-pidana-korupsi>, accessed on June 8, 2020.

The loss of state finances covers acts against the law to enrich selves or misuse authority to benefit selves that can also harm the state's finances. The word "can" detrimental to the country's finances or economy shows an automatic action that could be considered detrimental to the country's finances if the action could potentially cause state losses. The criminal act of corruption fulfills the elements of acts that have been formulated not by the arising of consequences.

**2. Delict of embezzlement in office (Article 8, 9, 10 a, b, c);**

Embezzlement in office targets state administration official who embezzles money, falsifies administrative inspection documents, helps to let oneself destroy evidence.

**3. Delict of gratifying/promising something to State Employee/State Operator (Bribery) (Article 5 [1] a, b, Article 13, Article 5 [2] a, b, Article 11, Article 6 [1] a, b, Article 6 [2], Article 12 c, d).**

Bribery is an attempt to bribe a bureaucrat involving state administration due to position related to authority.

**4. Delict of conflict of interest in procurement (Article 12 letter i);**

It covers state officials, either directly or indirectly, participates in the procurement of goods managed in agency or company on purpose.

**5. Delict of fraudulent acts (Article 7 [1] letters a, b, c, d, Article 7 [2], Article 12 letter h);**

It refers to fraudulent actions by builders, project supervisors, military/police associates who are detrimental to the state, as well as state administration officers who grab land.

**6. Delict of extortion (Article 12 letters e, f, and g);**

It is an act carried out by a public servant or state administrators with the intention of benefiting selves or others unlawfully or by abusing power to force someone to give, to pay, or to receive something or payment in pieces or to do something for selves.

**7. Delicts of gratification (Article 128 in conjunction with Article 12C);**

It refers to state administration officers who receive gratification related to position and contrary to obligations and not reporting to the KPK within 30 days of receipt of gratuities.

In this regard, the factors that cause corruption are greed, opportunity, needs, and disclosure. Greed is potentially possessed by everyone and is related to individual corruptors. Organizations, agencies, or the wider community in certain circumstances opens up the opportunity factor for cheating. The factor of close

need with individuals to support their normal life and disclosure factors relate to actions or consequences faced by perpetrators of fraud if the perpetrators are found committing fraud.<sup>27</sup>

According to Nurhaeni, based on the existing laws and regulations, corruption is any acts done by a person or group of people or an organization that is detrimental to state finances. The forms are very extraordinary, ranging from bribery, embezzlement in office, extortion, cheating, collision in procurement, and gratuity. The crime of corruption has pervaded every institution and in every sector. The obstacles in the enforcement of criminal acts of corruption are categorized into four parts as follows.<sup>28</sup>

*a. Structural barriers*

*Many sectors in Indonesia have inflated funds. They are not caused by the organization but because of sectoral egos. The internal controls have not been running intensively and cross-agency coordination has also not been running optimally.*

*b. Cultural barriers*

*When law enforcement officials still show a tolerant attitude, there is also a tendency that leadership of institutions cover up the occurrence of corruption; interference from executive, legislative, and judiciary; and permissive attitudes of people.*

*c. Instrumental barriers*

*Regulations of corruption overlap each other. They are not optimal. Proving corruption cases is difficult.*

*d. Management barriers*

*The public services have not been done transparently and accountably."*

Corruption is a white-collar crime because it is done systematically, organized, and carried out with new dimensions. Corruption act is a crime that has been around for a long time and unstoppable. Indonesia has made various efforts in overcoming criminal act of corruption. We can see this from various laws and conventions or treaties that have been ratified by Indonesia.

Thus, it can be seen that the political goals of law (*rechtspolitik*) of a state must be adjusted to the national goals. 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 purposes. They must be based on and imbued with basic norms (*grundnorm*), the 1945 Constitution, Pancasila, and the operational political

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<sup>27</sup> Pusat Edukasi Antikorupsi, "Berpikir Kritis Terhadap Korupsi Kritis Terhadap Korupsi", <https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infografis/teori-teori-penyebab-korupsi>, accessed on June 8, 2020.

<sup>28</sup> Tribun News, "22 Tahun Reformasi, Hulu Hingga Hilir Korupsi Di Indonesia dan Pemkab Menjadi Sarang Koruptor", <https://www.youtube.com/watch?v=jkFsQ01fPic>, accessed on June 10, 2020.

foundation of the objectives of people, nation, and state as stated expressly in the fourth paragraph of the Preamble of the 1945 Constitution.<sup>29</sup> Therefore, the importance of the community plays an active role in overseeing corruption.

To make effective law requires power; and for the sake of law enforcement, power is an absolute necessity. This is in line with the view that law without power is only a fantasy, whereas rule without law leads to an atmosphere of oppression and tyranny and fosters the practice of oppression and violence. Law and power/politics are like railroads. Politics is the train while law is the railway.<sup>30</sup>

To see the process of lawmaking, the inseparable part is law enforcement in both broad and narrow senses. In a broad sense, it encompasses the implementation and application of law to any violations or deviations of law committed by legal subjects. In the narrow sense, it is the action against any violations or deviations from the legislation.<sup>31</sup>

Good law enforcement works on criminal justice system objectively and does not take sides and pay close attention to and consider the values that live and develop in a society. These values appear in the form of public reaction to every criminal policy that has been implemented by law enforcement officials.<sup>32</sup>

Mertokusumo emphasizes that law should always be inseparable from certainty, justice, and expediency. Agreeing with these three values, Raharjo states that law enforcement is an effort to bring ideas about justice, legal certainty, and social benefits into reality. The process of manifesting ideas is the essence of law enforcement.<sup>33</sup>

In its enforcement system, Friedman relates it to three major components: structure, substance, and culture. Within structure, there are law enforcement institutions such as the police, prosecutors, and courts. Furthermore, according to Friedman, the substance is composed of substantive rules of institution. Therefore, substance, according to Friedman, is rules, norms, and patterns of real human behavior that are in the system. Substance also means products of people in legal system, including decisions and new rules. Substance also includes living law. It is not only the rules that exist in law or law books. The legal component, according to Friedman, is legal culture, belief systems, values, ideas, and expectations. Thus, legal culture is a human attitude towards law and the legal system of beliefs, values, thoughts, and expectations. Therefore, in other words, legal culture is the atmosphere of social thought and social forces that determine how law is used, avoided, or abused. Without legal culture, the legal system itself is powerless.<sup>34</sup>

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<sup>29</sup> Dey Ravana, Kristian, *Kebijakan Kriminal (Criminal Policy)*, Jakarta: Kencana, 2017, pp. 55-56.

<sup>30</sup> Muchsin, *Hukum Dan Kebijakan Publik (Law And Public Policy)*, Jakarta: Universitas 17 Agustus 1945 Jakarta, 2009.

<sup>31</sup> Asep Dedi Suwasta, *Tafsir Hukum Positif Indonesia*, Bandung: Alia Publishing, 2011, p. 116.

<sup>32</sup> Romli Atmasasmita, *Sistem Peradilan Pidana Perspektif Eksistensialisme dan Abolisionisme*, Bandung: Binacipta, 1996, p. 39.

<sup>33</sup> Muhamad Erwin, Firman Freaddy Busroh, *Pengantar Ilmu Hukum*, Bandung: PT Reflika Aditama, 2012, p. 140.

<sup>34</sup> *Ibid.*, pp. 141-142.

Efforts to tackle corruption, which is an international crime cannot be done only with a set of national legal regulations. It should also be carried out through cooperation with other states, both bilaterally and multilaterally. The implementation of cooperation will certainly have an impact on the development of national law of a state. In the end, every state has moral obligations and legal obligations because of its attachment to agreements with other state to arrest, detain, prosecute, and try perpetrators of international crimes or immediately turn the perpetrators to other state with an interest in crime and have criminal jurisdiction against the perpetrators.<sup>35</sup>

The initial step to achieve the goal of tackling international crime is that each state as an integral part of the international community has the obligation to participate in international treaties to tackle international crimes and to ratify the international treaties. The ratification can be legal basis and part of national law of. Only with this initial step, each state can participate in various United Nations activities to prevent and to eradicate any international crime or other international crimes.<sup>36</sup>

Arief states that there are so many agencies (institutional structures) and officials (authorities) involved in the field of law enforcement. Thus, it is necessary to carry out reforms, especially those related to the review and restructuring of all structures of power or the authority of law enforcement. Obstacles and successful criminal law enforcement cannot be separated from reforms to the legal structure even in the legal substance and legal culture.<sup>37</sup>

Soekanto states that the main problem of law enforcement actually lies in the factors that might influence it.<sup>38</sup> They are

- a. *the legal factor (limited to laws only);*
- b. *law enforcement factors, especially they who form and apply law;*
- c. *factors of facilities that support law enforcement;*
- d. *community factors, or environment, in which the law applies or is applied; and*
- e. *cultural factors, namely as a result of work, creativity and taste based on human initiative in the association of life."*

Enforcement of criminal law is part of criminal policy as one part of the overall crime prevention policy. Indeed, enforcement of criminal law is not the only hope to be able to resolve or overcome crime completely. This is a natural thing because in essence, crime is a humanitarian problem and a social problem. It is even stated

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<sup>35</sup> Romli Atmasasmita, *op.cit.*, p. 88.

<sup>36</sup> *Ibid.*, p. 89.

<sup>37</sup> Edi Setiadi, Kristian, *Sistem Peradilan Pidana Terpadu Dan Sistem Penegakan Hukum Di Indonesia*, Jakarta: Prenamedia Group, 2017, p. 134.

<sup>38</sup> Muchsin, *Kapita Selekta Bidang Studi Ilmu Hukum (Filsafat Hukum, Teori Hukum, Sejarah Hukum, Politik Hukum, Sosiologi Hukum)*, Jakarta: Universitas 17 Agustus 1945, 2009, pp. 11-14.

as the oldest social problem that cannot be solved solely by using criminal law. Hoefnagels mentions that the crime prevention policy can be pursued in several ways.<sup>39</sup> They are:

- a. *criminal law application;*
- b. *prevention without punishment; and*
- c. *influencing views of society on crime and punishment or mass media."*

Sahetapy writes that one of the factors causing crime is the implementation of inconsistent laws and attitudes or actions of law enforcement. This means that the social reality faced by suspects or defendants, in which there is a large discretion between those who are supposed to be experienced by them in the criminal justice process, can be a criminal factor.<sup>40</sup>

Law enforcement for state, development, interests of protection of perpetrators, and interests of protection of victims are the fundamental essence of law enforcement. Law enforcement is carried out through a series of processes that describe the response of law enforcement officials to legal regulations that exist in society. Chambliss and Seidman state that criminal policy is a rational attempt by community to tackle crime. It cannot be separated from all other social and personal forces (all the power of individuals and society).<sup>41</sup>

No matter how good the regulations are carried out by the government, if there is no support from every individual or institution to uphold an honest attitude, there would make no benefit. Therefore, the need for collective awareness of acts of corruption is a shameful act. There are five strategies to eradicate corruption in Indonesia. They are:<sup>42</sup>

- a. development of an organizational culture of "shame for corruption";
- b. bureaucratic reform through the application of meritocracy;
- c. conduct change management through network governance & collaborative governance oriented to public services;
- d. corruption responsive education; and
- e. strengthen the role of the KPK & build a good legal system.

Based on these strategies, the use of criminal law should be a last resort (*ultimum remedium*). The principle of *ultimum remedium* requires the application of criminal law enforcement as a last resort in addition to administrative law enforcement efforts and civil law because of the limitations and weaknesses of criminal law from the perspective of criminal policy. The use of criminal code must be used very

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<sup>39</sup> Dey Ravena, Kristian, *op.cit.*, p. 91.

<sup>40</sup> Syukri Akub, Baharuddin Badaru, *Wawasan Due Process of Law dalam Sistem Peradilan Pidana*, Yogyakarta: Rangkang Education, 2012, p. 82.

<sup>41</sup> Edi Setiadi, Kristian, *op.cit.*, p. 161.

<sup>42</sup> *Ibid.*



carefully, economically, selective, and limitative. According to Walker, the use of the means of penalties needs to be considered the limiting principles that includes:<sup>43</sup>

- “(a) do not use criminal law solely for retaliation;*
- (b) do not use criminal law to prosecute acts that do no harm;*
- (c) do not use criminal law to achieve a goal that can be achieved more effectively more effectively by using other lighter means;*
- (d) do not use criminal law if the loss or danger arising from the crime is greater than the loss or danger from the crime;*
- (e) criminal law prohibitions do not contain the exaggerated nature of the act to be prevented;*
- (f) criminal law does not contain restrictions that do not have strong support from the public; and*
- (g) criminal law does not contain prohibitions or provisions that cannot be implemented or forced (unenforceable).”*

Entering the new normal era, the government has passed the latest Law Number 2 of 2020 on Stipulation of the Government Regulation in Lieu of Law Number 1 of 2020 on Financial System Stability for Handling Covid-19 Pandemic and/or In the Context of Facing Threats that Endanger the National Economy and/or Financial Stability. In the context of accelerating the handling of the Covid-19 pandemic, it must be in accordance with the 1945 Constitution, which is the foundation of the fundamental norms and Pancasila as the ground norms of Indonesia. Therefore, it is necessary to reformulate and or reconstruct the Law, by observing Article 12 paragraph (2) that changes in posture and/or details of the State Budget (APBN – *Anggaran Pendapatan dan Belanja Negara*) in the context of implementing state financial policies and measures as referred to in Article 2 through Article 11 regulated by or based on Presidential Regulation.

This provision removes the authority and role of the DPR and makes the APBN not regulated in an equivalent law. Bearing in mind, based on Article 23 paragraph (1), paragraph (2) and paragraph (3) of the 1945 Constitution, the position and status of the APBN is a law determined every year, in which the Draft State Budget is proposed by the President to be discussed and approved by the House of Representatives (DPR – *Dewan Perwakilan Rakyat*). In addition, Article 27 paragraph (1) states that the costs incurred by the government and/or KSSK member institutions in the framework of implementing state revenue policies, including policies in the field of taxation, state expenditure policies, including policies in the area of regional finances, policies finances, financial system stability policies, and national economic recovery programs, are part of the economic costs to save the economy from the crisis and do not constitute losses to the state.

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<sup>43</sup> Dey Ravena, Kristian, *op.cit.*, p. 204.

Article 1 number 22 of the Law Number 1 of 2004 on State Treasury states that what is meant by loss of state/region is a shortage of real and definite amounts of money, securities, and goods as a result of intentional or negligent unlawful acts.

The provisions have given the broadest authority in issuing costs to carry out the policy that has the potential for misappropriation in its implementation. It may result in state losses, which are one element of criminal acts of corruption. The Article 27 paragraph (1) protect the Government/KSSK in case of abuse of authority in carrying out their duties considering that there are executive, legislative, and judicial powers that check and balance one another. Furthermore, Article 27 paragraph (2) related to the provision of immunity provided is not absolute, as long as based on good faith and the applicable laws and regulations. However, if there is a crime in the implementation of the policy, prosecution of the act can be carried out. Immunity as in Article 27 paragraph (2) can be found in Article 50 and Article 51 of the Criminal Code.

Deputy Chairman of the Constitutional Court, Aswanto, warns that criminal acts of corruption in an emergency period, such as the Covid-19 outbreak, faces capital punishment.<sup>44</sup> This is stated in Article 2 paragraph (2) of the Law Number 31 of 1999 on Eradication of Corruption. Article 37B of the Law Number 19 of 2019 on the Second Amendment to Law Number 30 of 2002 on Eradication of Corruption enables the Supervisory Board to grant a permit consisting of 34 licenses for wiretapping, 15 search warrants, and 134 confiscation licenses. In this regard, the KPK, through the Anti-Corruption Education Center, designs and implements competency certification systems for various professions of anti-corruption, including the position of anti-corruption counselor.<sup>45</sup> In addition, the Corruption Eradication Commission designs an action to eradicate corruption called the SMART method as follows.<sup>46</sup>

**a. Specific**

This word emphasizes the importance of setting truly specific targets and avoiding targets that are too general or less detailed. Targets must not be ambiguous. They must be clear and explained in straightforward language.

**b. Measurable**

Measurable emphasizes the importance of the criteria used to measure the amount of progress made in achieving the target. Measuring progress will help the team to stay on the right track, to fulfill deadlines, and to feel the spirit and euphoria when they get encouraging results in every achievement that brings them closer to the goal.

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<sup>44</sup> Akurat. CO, "MK Ingatkan Korupsi di Masa Pandemi Covid-19 Dapat Dihukum Mati", <https://akurat.co/news/id-1136701-read-mk-ingatkan-korupsi-di-masa-pandemi-covid19-dapat-dihukum-mati>, accessed on June 29, 2020.

<sup>45</sup> Pusat Edukasi Antikorupsi, "3 Strategi Pemberantasan Korupsi" <https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infografis/3-strategi-pemberantasan-korupsi> accessed on June 9, 2020.

<sup>46</sup> Pusat Edukasi Antikorupsi, "Metode Smart Berantas Korupsi", <https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infografis/metode-smart-berantas-korupsi>, accessed on June 9, 2020.

**c. Attainable**

The word emphasizes that the target must be realistic and attainable. Targets should not be made too easy but also should not be too difficult so that it seems impossible to achieve.

**d. Relevant**

The word emphasizes the importance of choosing the right target. Relevant targets, if achieved, will push the team, department, and organization forward. A target that supports or aligns with other targets will be considered a relevant target.

**e. Timely**

The fifth word emphasizes the importance of setting targets with a period, namely providing deadlines for achieving targets. Commitment to deadlines will help the team stay focused on doing work to meet targets on time, or even faster.

This SMART method is the right method in eradication (preventing and enforcing) of corruption because the method is a problem statement, determines the right eradication strategy to overcome these problems, and outlines the problem statement and strategy in an action plan. Therefore, the authority of the KPK in eradication of corruption must be fully supported by the government and the community's participation in order to realize optimal law enforcement during the Covid-19 pandemic.

With the Covid-19 pandemic affecting all areas of life, President Joko Widodo requests that the provision of social assistance be done quickly with a concise and flexible method without reducing accountability and in channeling it involving supervisory institutions such as the KPK or the Financial Supervisory Agency (BPK) or prosecutors and others in the context of preventing corruption.<sup>47</sup>

Based on the description above, the eradication (prevention and enforcement) of corruption in Indonesia consists of several efforts, including making of regulations and law enforcement agencies, as well as increasing revenue for civil servants. Prevention efforts through various laws and regulations consist of the Law Number 19 of 2019 on the Second Amendment to the Law Number 30 of 2002 on Eradication of Corruption, the Presidential Regulation Number 54 of 2018 on National Strategy for Corruption Prevention, the Circular Number 8 of 2020 (regulates the prevention of corruption related to the use of goods/services procurement budget to accelerate the handling of Covid-19), the Law Number 2 of 2020 on Stipulation of the Government Regulation in lieu of Law Number 1 of 2020 on 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, etc. Various independent law enforcement agencies in the eradication such as the KPK and various alternative sanctions in the eradication

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<sup>47</sup> Sekretariat Kabinet, "Aturan Simple Tanpa Kurangi Akuntabilitas Presiden Minta Bansos Segera Sampai ke Masyarakat", <https://setkab.go.id/aturan-simpel-tanpa-kurangi-akuntabilitas-presiden-minta-bansos-segera-sampai-ke-masyarakat/>, accessed on June 29, 2020.

of corruption ranges from capital punishment to returning assets resulting from corruption are efforts of law enforcement.

During the Covid-19 pandemic and the implementation of the new normal, it is necessary to reform the criminal law through reconstruction and or reformulation of existing laws regarding sanctions that are applied to corruptors, which are subject to efforts to restore state finances with accountability to the third degree or known as corrupt impoverishment. The accountability is carried out by convicting the corrupt perpetrators by continuing to work and without being imprisoned or sentenced to death but is obliged to return the state financial losses to the third degree is an alternative to eradicate corruption because of descent to the third degree are required to return state losses (corrupt impoverishment). The reason to the third degree is because the connoisseur of the results of corruption is possible to reach the third offspring and for the sake of legal certainty which is common for humans in Indonesia to the third offspring. The concept does not conflict with Pancasila, especially the fifth principle which reads social justice for all Indonesian people because the corruptor is someone who has committed a crime and the state has the right to impose strict sanctions as a deterrent effect, besides that corruption is an act that is not in accordance with Pancasila.

#### **D. Conclusion**

The Covid-19 pandemic had a very broad impact in various sectors as well as a decline in economic capacity in society. In strengthening supervision, the KPK has issued Circular Number 8 of 2020 on the Use of the Budget for the Implementation of Goods/Services Procurement in the framework of Accelerating Handling of Covid-19 and Circular Number 11 of 2020 on the Use of Integrated Social Welfare Data (DTKS) and Non-DTKS Data in Providing Social Assistance to the Community. With the issuance of this regulation, the KPK is responsible to carry out duties as stipulated in the Law Number 19 of 2019 on the Second Amendment to Law Number 30 of 2002 on the Corruption Eradication Commission. In the face of a new normal era, the Government prepares Standard Operating Procedures in various sectors to prevent Covid-19 transmission in every activity, as referred to in the Decree of the Minister of Health Number HK.01.07/MENKES/328/2020 on Covid-19 Prevention and Control Guidelines in Office and Industrial Workplaces in Support of Business Sustainability in Pandemic Situations. The concept of new normal should be able to give birth to the awareness of a good legal culture and the policies issued by the government must follow the applicable legal rules by observing the principles of judiciary and the principle of legality.

Some of the factors that cause corruption include greed, necessity, the presence of opportunities in organizations, agencies, and society. In addition, the problem of disclosure of corruption cases that have occurred and the neglect of legal actions, social sanctions that are not comparable, can make acts of corruption repeated. The obstacles in law enforcement of corruption include structural,

cultural, instrumental, and management obstacles. Efforts to tackle corruption, which is an international crime cannot be done only with a set of national legal regulations but should also be carried out through cooperation with other countries, both bilateral and multilateral. Based on this description, the eradication of corruption in Indonesia during the Covid-19 pandemic and the application of the new normal era should include reforming criminal law through reconstruction or reformulation of laws relating to sanctions imposed on perpetrators of criminal acts of corruption. Sanctions include efforts to restore state finances with accountability to the third (third) degree or what is known as impoverishment of corruptors. Liability is carried out by convicting corruptors by continuing to work and without imprisonment or death sentence. Perpetrators are required to restore state financial losses to the third offspring as an alternative to eradicating corruption that is deterrent.

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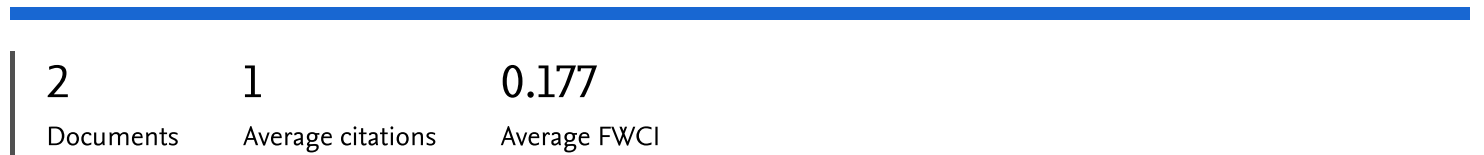
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