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CRIMINAL SANCTIONS OF IMPOVERISHMENT AGAINST CORRUPTORS IN THE ERADICATION OF CORRUPTION CRIMES IN INDONESIA

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Abstract

This research is motivated by the fact that criminal sanctions given to perpetrators of corruption do not provide any deterrent effect at all, instead causing the number of corruption cases in Indonesia to increase. So it is necessary to make a new breakthrough in criminal sanctions against corruptors, namely in the form of impoverishment. The formulation of the problem in this research is how are the regulations and concepts of criminal sanctions for impoverishment against corruptors in eradicating criminal acts of corruption in Indonesia? The research method used is normative juridical with a conceptual approach method and a legislative approach. The prevailing laws and regulations, especially the Corruption Law, do not yet contain explicit provisions that regulate impoverishment as a form of criminal punishment. Therefore, legal reform is needed by adding articles on impoverishment in the Corruption Law by grouping them based on the amount of state losses and the proportional distribution of assets. This is done because the Criminal Asset Confiscation Bill does not specifically regulate corruption, but rather several criminal acts. Impoverishment of corruptors is not enough just by confiscating assets from the proceeds of crime, but also needs to include complete confiscation of assets and restrictions on the rights and social dignity of perpetrators of corruption. The impoverishment mechanism for corruptors can be seen in the Criminal Asset Confiscation Bill, namely by confiscating assets without waiting for a criminal verdict, which allows the state to confiscate and take back assets from the proceeds of crime in certain situations such as the perpetrator being a fugitive, deceased, unknown, or unable to be prosecuted.

Keywords: Criminal Impoverishment, Corruptors, Eradication, Criminal Acts of Corruption.

INTRODUCTION

Corruption today is growing, both in terms of types, perpetrators and modus operandi. The problem of corruption is not only a national problem, but also an international one. Even in its current form and scope, corruption can bring down a regime, and can even torment and destroy a country. The problem of corruption is a problem that disrupts and hinders national development, because corruption has resulted in leakage of state finances. The problem of corruption in Indonesia today is very worrying because it can destroy the social life system, which indirectly weakens resilience. (Surahmad, 2016) The crime of corruption seems to be a culture so it is very difficult to eradicate it, especially in a very short time. Various efforts have been made to eradicate corruption in Indonesia, but corruption is still rampant. So expect good governance, a bureaucracy that is clean from corruption, but it is very difficult. This is because seeing the fact that more and more state officials are stumbling over corruption cases, even with a large number. (Hamdi, 2018) Corruption is not only in the central government, but has spread to the regions in both the executive and legislative branches. A government structure filled with leaders with such mentality will create and increase systematic corruption and its reach is increasingly widespread. In fact, if this condition is left without a comprehensive and sustainable policy, then corruption can be classified as a violation of the economic and social rights of all Indonesian people. (Alfitra, 2015) Indonesia Corruption Watch (ICW) has recorded the number of corruption cases in Indonesia over the past 5 years. ICW monitors corruption trends in Indonesia by tabulating data on various cases in several regions in 38 provinces handled by the Attorney General's Office, the Police and the KPK. The data is as follows:

Table 1. Data on Corruption Cases in the Last 5 Years

No	Year	Number of Corruption	Cases Number of Suspects	Total State Financial Losses
1	2019	271	580	8,4 trillion
2	2020	444	875	18,6 trillion
3	2021	533	1.173	29,4 trillion
4	2022	579	1.396	42,7 trillion
5	2023	791	1.695	28,4 trillion

All efforts are made to tackle corruption in Indonesia, one of which is the creation of laws and regulations and the judicial system with severe penalties. Problems related to punishment for corruptors are endless because until now the punishment applied does not provide a deterrent effect, in fact corruption cases are increasing. Sanctions in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption (hereinafter referred to as the Anti-Corruption Law) and other laws relating to corruption have not been able to eradicate corruption in Indonesia. Therefore, new breakthroughs and concrete actions are needed to overcome the crime of corruption. Criminal sanctions of imprisonment, fines and other sanctions are considered not to deter corruptors. (Jaya, 2008) In addition, criminal provisions for confiscating and seizing the proceeds of corruption have been regulated in the Anti-Corruption Law. However, this still raises problems. The substitution of the requirement to pay restitution with imprisonment that does not exceed the maximum sentence of the principal punishment creates an opportunity for perpetrators of corruption to extend their prison term instead of paying restitution.

The confiscation and seizure of assets resulting from corruption is still not optimal. In Indonesia, corruptors who have been detained are not poor, although mass media news says that all assets have been confiscated, but the assets owned are replaced by other people or relatives. However, the proof is very difficult to trace, because it is suspected that there is a lot of dishonesty between one party and another. The ideal substance of punishment is to be able to psychologically terrorize and distress a person so that they do not commit similar crimes when applied. Confiscation and seizure of assets have not been able to eradicate corruption. So there is an alternative way, namely the criminal sanction of impoverishment of corruptors. The criminal sanction of impoverishment of corruptors has great potential to eradicate corruption in Indonesia. Humanly speaking, no one wants to be poor. Of course, corruptors who usually live well and even tend to be luxurious will be afraid of living in poverty. The emergence of the idea of criminal sanctions for impoverishment of corruptors has several obstacles. (Yani, 2019) The emergence of the idea of criminal sanctions for the impoverishment of corruptors has several obstacles. Does the idea of criminal sanctions for the impoverishment of corruptors provide a sense of justice and not violate human rights because when corruptors are impoverished, it is not only he personally who feels the effects, but also his family. So that the criminal sanction of impoverishment of corruptors must be confirmed in a clear regulation so that it remains in the corridor of legal principles and does not lead to violations of human rights.

Based on the description of these problems, the author is interested in conducting research related to the **Criminal Sanctions of Impoverishment Against Corruptors in the Eradication of Corruption Crimes in Indonesia.**

METHOD

The type of research used is normative juridical. Normative juridical research methodology is library legal research conducted by examining library materials or secondary data only. (Sunggono, 2003) This type of normative juridical research is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms that are benchmarks for human behavior that are considered appropriate. (Amiruddin & Asikin, 2012)

RESULTS AND DISCUSSION

Regulation of Impoverishment Criminal Sanctions against Corruptors in Corruption Eradication in Indonesia

The crime of corruption can be grouped into one of the crimes called extra ordinary crime or better known as extraordinary crime. (Hatta, 2019) In Indonesian positive law, there is no nomenclature for the grouping of ordinary and extraordinary crimes, but the impact of corruption can affect social and economic life because when one party commits a corruption crime with the intention of benefiting himself or his group, the actions taken can affect the standard of living and social life of the party committing the corruption crime so that the impact or consequences caused affect the allocation process, budget inefficiency and increase poverty reinforced by the higher rate of inequality, it can be interpreted as corruption that cannot be overcome can hamper economic growth and investment in a country.

By categorizing corruption as an extraordinary crime, the government as the holder of power makes every effort as well as running various legal instruments and law enforcement agencies to overcome. The understanding of corruption has deep roots in the social and economic structure of society so that the government is required to take more effective prevention and prosecution measures where the eradication of corruption is focused on legal sanctions against perpetrators, and involves prevention efforts through education. According to Osifo's view as a world corruption observer, the prevention of corruption through early education is based on the understanding that corruption prevention is a proactive step that can shape an environment where corrupt practices are difficult to grow and develop, (Osifo, 2014) Because in running a modern legal system according to Lawrance M. Friedman there is legal substance and legal structure strengthened by the legal community being the central point to enforce a law, it can be interpreted as legal substance with regard to written law and legal norms, while legal structure is related to elements of law enforcement. Another case with legal culture where this subsystem is the patterns formed in society and reflects directly related to the legal system at work. So that only by observing the legal culture formed in society, will be able to identify the operation of the legal system in certain dimensions.

Because the legal culture contains all forms of information about the operation of the legal system in society in this case the prevention of corruption through early education is something that is done as an effort to prevent from upstream to downstream with the intention of fortifying the community, especially the next generation, regarding the material and the impact caused by corruption, but However, the countermeasures taken do not have any meaning if the countermeasures taken are weak, in this case the substance of the law or the rules governing the main pillars in countering corruption must be able to meet special criteria in the aspect of punishment so that the elements in the rules governing corruption can be fulfilled so that the role and function of criminal law to punish corruptors can run. Efforts to overcome/ eradicate corruption are not only in society and rules, but the role of law enforcement or it can be said that the legal structure is the party that is the guardian of the rules must also be considered aspects of professionalism and credibility so that it is not easy to become a bribery practice between corruptors and law enforcement.

Of the three objects above to implement a modern legal system according to Lawrance M. Friedman, the role of rules or legal substance is the main pillar in the act of corruption, where the rules in question function / aim to bind and limit a person so as not to take action and do something about actions that have been prohibited and regulated so that psychologically there is fear and concern from those who are felt to be committing acts of corruption reinforced by threats made by written laws in this case are laws so that it is hoped that it can limit a person to do something and do something that is prohibited, So as to achieve the above objectives, the threat of punishment in the crime of corruption must be a scare and a breakthrough in social life so that it can be used as a reference for other people not to commit acts of corruption, this is a reference in the aspect of the rules in Indonesia regarding punishment for corruptors, there are witnesses or punishments that are quite severe, such as life imprisonment and impoverishment.

Impoverishment sanctions against corruptors have no regulations that specifically regulate them. But implicitly there are several laws and regulations that apply in Indonesia. Starting from the highest source of law, namely the 1945 Constitution of the Republic of Indonesia, which is the Indonesian state constitution. The 1945 Constitution of the Republic of Indonesia does not explicitly regulate impoverishment sanctions against corruptors. However, the constitutional basis for the eradication of corruption and the protection of state finances remains, and can be a normative basis for further regulation of impoverishment sanctions in law. The 1945 Constitution of the Republic of Indonesia Article 27 paragraph (1) stipulates that “every citizen is equal before the law and the government must uphold the law and government with no exceptions”. This is called the principle of equality before the law, which means that anyone without exception if they commit a criminal offense will be processed legally,

including perpetrators of corruption. In addition, it is also stipulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia that "everyone has the right to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law." So the state must ensure that the law can be enforced fairly, including eradicating corruption. Law Number 1 of 1946 concerning Criminal Law Regulations (KUHP). The Criminal Code is the legislation that regulates criminal acts, criminal sanctions, and criminal liability in Indonesia. The Criminal Code generally regulates criminal acts that occur in Indonesia. The Criminal Code regulates the types of punishment that can be imposed by the judge. This is regulated in Article 10 of the Criminal Code which reads: Basic punishment: Death penalty; Imprisonment; Confinement punishment; and Fine. Additional punishment: Deprivation of certain rights; Forfeiture of certain goods; and Announcement of the judge's decision.

Based on Article 10 of the Criminal Code, there is an additional punishment in the form of confiscation of certain goods belonging to the convicted person. In the context of corruption crimes, this article is the legal basis for seizing assets that are illegally obtained or used in corruption crimes. Apart from being regulated in Article 10 of the Criminal Code, additional punishment in the form of confiscation of certain goods and/or bills is implicitly regulated in Article 66 paragraph (1) letter b of Law Number 1 of 2023 concerning the Criminal Code which will take effect in January 2026. This is the basis for being able to apply the criminal sanction of impoverishment for corruptors. Impoverishment for convicted corruption cases in a special law regulating corruption is implicitly stipulated in Article 18 paragraph (1) letters a and b of Law Number 31 of 1999 concerning the Eradication of Corruption, which reads: In addition to the additional punishment as referred to in the Criminal Code, as additional punishment are: forfeiture of tangible or intangible movable property or immovable property used for or obtained from the crime of corruption, including companies owned by the convicted person where the crime of corruption was committed, as well as of property replacing such property; payment of restitution in an amount at most equal to the property acquired through the corruption offenses.

Based on this article, the crime of corruption can be punished with several additional provisions such as forfeiture of goods and compensation of money. The phrase "forfeiture of goods" in the sentence above interprets the actions carried out by the party authorized by the convicted corruption offender in order to forcibly take movable and immovable property belonging to the convicted corruption offender, which is intended to be a weapon article to punish the perpetrator of the crime of corruption, However, the interpretation of Article 18 paragraph (1) letters a and b above is clearly standardized and not multifaceted so that it cannot be interpreted as an article or rule of impoverishment for corruption crimes because it has a clear interpretation and does not regulate the parameters and limits of the object to be confiscated either partially or wholly from the assets owned, so that it cannot provide a frightening witness or threat to corruption convicts who are impoverished. This is in line with Article 18 paragraph (1) letter b, where the article states that the payment of restitution in the maximum amount is equal to the property obtained from the criminal act of corruption.

The Anti-Corruption Law and its Explanation do not regulate the definition of restitution. Article 18 paragraph (1) letter b of the Anti-Corruption Law only mentions the relationship between restitution and property "obtained" from corruption. According to Komariah Emong Sapardjaja as a Supreme Court judge who was held during a lecture at the Corruption Judge Training Force II, "restitution is money that the defendant actually 'enjoyed' from the proceeds of the corruption crime he committed and the amount must be clear". (Hendarto et al., 2021) So that Article 18 paragraph (1) letter b is the same as the interpretation in letter a, it cannot be used as an impoverishment article for corruption convicts. The act of forfeiture in the phrase "Forfeiture of Goods" in Law Number 31 of 1999 above refers to the elements in Article 39 of the Criminal Code which determines in what cases the forfeiture can be carried out, there are two types of goods that can be forfeited, namely: Items belonging to the convicted person that have been obtained as a result of a crime, such as counterfeit money obtained from the crime of counterfeiting money, money obtained from the crime of bribery, and so on. These items are referred to as corpora delicti and can always be confiscated as long as they belong to the convicted person and originate from a crime; Items belonging to the convicted person that are intentionally used to commit a crime. These items are called instrumenta delicti.

When a convicted person commits a criminal act of corruption, in order to eliminate or obfuscate the amount of property or goods resulting from corruption with the intention of deceiving and not being seized by law enforcement officials, the proceeds of corruption must be washed or cleaned from criminal status so that the proceeds of corruption can be enjoyed and used. The act of washing or cleaning the traces of corruption proceeds so that they are not detected can be said to be an act of money laundering which is one of the types of criminal acts regulated in Article 607 paragraph (1) letter b of Law Number 1 of 2023 concerning the Criminal Code which reads "hiding or disguising the origin, source, location, designation, transfer of rights, or actual ownership of Assets that he knows or

should be suspected of being the proceeds of Criminal Acts, shall be punished with a maximum imprisonment of 15 (fifteen) years and a maximum fine of category VI; " The element in the article explains that when someone deliberately "hides or disguises the origin, source" of the proceeds of a criminal offense is threatened or punishable with "15 years imprisonment" and a fine of "category VI" in article 80 paragraph (3) which reads The maximum fine is determined based on the category, namely category VI is fined Rp 3. 040,400,440.44 (three billion rupiah). So based on this article, there is a set amount so that the amount of the fine is not calculated from the impact or consequences caused so that the amount is still considered small or cheap for corruptors when compared to the results of their corruption.

In addition to the 1945 Constitution and other laws, there is a Supreme Court Regulation (PERMA) Number 5 of 2014 concerning Additional Penalties for Restitution in Corruption Crimes. The PERMA was issued as a guideline for judges in imposing restitution in corruption cases, due to concerns that court decisions have not optimally ensnared corruption perpetrators, especially in the aspect of returning state losses. If the defendant is proven to have benefited from a corruption crime, the judge must determine the amount of restitution in the amount of state losses or profits obtained by the perpetrator. The value of restitution is calculated as much as possible, equivalent to the value of state losses. If the defendant is unable to pay the restitution, his property will be confiscated and auctioned. If it is still not enough, an additional punishment in the form of substitute imprisonment will be imposed.

PERMA No. 5/2014 should be sufficient to provide a deterrent effect to perpetrators of corruption. However, in reality, corruption cases in Indonesia are increasing every year. This is because judges' decisions still vary, many corruption verdicts do not impose maximum restitution. In addition, we can know that PERMA is a statutory regulation made by the Supreme Court to regulate the technical implementation of law in the judicial environment. So that it is only internally binding, which applies to all Judges under the Supreme Court. It does not apply generally like a law. It cannot directly increase or decrease the rights of citizens. Therefore, efforts to impoverish corruptors through PERMA are not sufficient before they are specifically regulated in law.

There is also an implementing regulation to strengthen impoverishment criminal sanctions for corruptors, namely Government Regulation (PP) Number 105 of 2021 concerning the Auction of Confiscated Objects of the Corruption Eradication Commission. This regulation gives full authority to the KPK as an independent institution in eradicating corruption to auction assets related to criminal acts, especially corruption. The regulation regulates the auction of confiscated objects, which includes requesting approval or permission, determining the limit value, preparing the auction, conducting the auction, and administering the auction results. However, in its implementation, the PP has not been able to provide a deterrent effect for perpetrators of corruption. The auction of assets related to corruption is expected to recover state financial losses. However, this has not gone well because the number of items successfully auctioned is still relatively small compared to the total state losses due to corruption. In addition, many corruptors hide their assets, transfer them to third parties, or divert them abroad.

When referring to Law Number 31 of 1999 and the Criminal Code, the Indonesian state still does not regulate the threat of punishment for perpetrators or convicts of Corruption which is impoverished or punished through impoverishment so that it can be a proper retribution for corruptors even though corruption has a huge impact on the economy and progress of a nation from the aspect of human resources to the aspect of education to the health aspect. In order to realize clean from corruption in Indonesia, a long-term method is needed to implement a modern legal system where there are impoverishment rules for perpetrators of corruption crimes that regulate then supported and supervised by law enforcers who do not accept bribes and gratuities who are professional to the awareness of the legal community of the importance of the impact of corruption crimes.

The crime of corruption in Indonesia has become a common act from year to year, this can occur due to the lack of written rules governing the threat of punishment for acts of corruption so that law enforcers who are given the authority to supervise, overcome and eradicate acts of corruption when dealing with the law in society will have difficulty in interpreting legal certainty and justice in the crime of corruption due to the lack of rules or existing laws so that the perpetrators of corruption consider the penalties stipulated in the written law to be small and not severe when considered with acts of corruption.

Corruption cases in Indonesia have experienced a significant increase in data due to the lack of role and impact of existing written rules. With the aim of providing severe coercion for perpetrators of corruption, the author argues to add written criminal regulations with the aim of providing threats and coercion to the combined theory approach to criminal law. The addition of rules in the form of new articles in Law Number 31 of 1999 concerning the Eradication of Corruption must be based on a relevant foundation or theory, in this case the author uses the Joint Theory in criminal law with the intention of making test materials and examining the harmony with the existence of

a legal vacuum in the Anti-Corruption Law regarding the threat of punishment for convicted corruptors. The combined theory can be interpreted as an amalgamation of the Absolute (Retaliation) and Relative/ Objective theories, and is currently valid. The reason for combining these theories is that the retaliation theory may cause or be considered unfair actions by only focusing on the perpetrator or convict, while the Relative Theory is considered one-sided because only the criminal is fixed by not involving the community. Therefore, the combination of these two theories can be interpreted with the aim of meeting the needs of both parties (both the criminal and the community). (Suyono, 2018) So that in the aspect of punishment or providing a deterrent effect to the perpetrators of corruption crimes, it can also be explicitly interpreted to set an example for the community so that they do not commit corruption crimes because they have witnesses or severe punishment.

With the existence of Progressive Legal Theory, which is defined as a legal theory that changes rapidly, makes fundamental reversals in legal theory and praxis, and makes various breakthroughs. The liberation is based on the principle that the law is for humans and not the other way around and the law does not exist for itself, but for something broader, namely for human dignity, happiness, welfare, and human glory, (Siregar, 2024) then the reform or renewal in the article is natural to do because the law is required to adjust to the existing conditions of society so that when the legal vacuum on the threat of punishment for corruption is appropriate, additions or reforms must be made to adjust to the development of society.

The impoverishment of corruptors is predicted to be regulated in the Bill on Criminal Asset Forfeiture, but the regulation is not specific to corruption. But also other criminal offenses, such as narcotics crimes, human trafficking crimes, terrorism crimes, and so on. Therefore, a special regulation is needed regarding the impoverishment of corruptors, specifically for corruption crimes. The rapid development of society and the increasingly powerful mode of crime requires legal reform to answer or accommodate the shortcomings or lacunae in a written rule, with this the author offers reform and addition of articles to the Corruption Eradication Law.

Based on the above laws and regulations that implicitly regulate other forms of impoverishment criminal sanctions against corruptors are also unable to eradicate corruption in Indonesia. This is a legal vacuum. So that the author recommends the formulation of the regulation of impoverishment criminal sanctions against corruptors. Based on the phrase "Impoverishment Criminal Sanctions" which can be seen in Article 18 paragraph (1) letter a of Law Number 31 of 1999 concerning the Eradication of the Criminal Acts of Corruption which is interpreted as asset forfeiture for corruptors with cluster parameters / grouping the impact of corruption caused as well as calculated from the total wealth of all convicted corruptors on trial minus debts to be divided into 3 with grouping:

Table 2. Provisions of Impoverishment Punishment for Corruptors

Cluster	State Losses Incurred	Method of Distribution	Calculation
1	Rp10.000.000.000,00 to Rp20.000.000.000,00	Total assets (movable and immovable) of the convicted person minus debts	Divided by: 1/3 One-third for state use, two-thirds for the convicted person
2	Rp20.000.000.000,00 to Rp50.000.000.000,00	Total assets (movable and immovable) of the convicted person minus debts	Divided: 2/3 Two-thirds for the state, one-third for the convict
3	Rp50.000.000.000,00 and above	Total assets (movable and immovable) of the convict minus debts	Divided: 3/3 Three-thirds for the state, the convict is given guidance and employment

With the clustering mentioned above, when committing a criminal act of corruption, a person will experience fear because their comfortable life will be lost in a short period of time. Another function of this regulation is to deter the public from committing corruption by threatening them with harsh and strict legal penalties. Therefore, in the regulation of criminal penalties for corruption in combating corruption in Indonesia, the author believes that the government, as the authority in this matter, can take firm action tailored to the conditions of Indonesian society to prepare legal reforms and additions to the provisions on corruption, thereby strengthening Indonesian law

enforcement officials to resist bribes and gratuities. In this way, as a structure can run to supervise and enforce the substance, in this case the law.

The Concept of Criminal Sanctions of Impoverishment against Corruptors in the Eradication of Corruption in Indonesia

Corruption has been systemic and widespread, causing not only financial losses to the state, but also violating the social and economic rights of the people. The types of corruption in Indonesia are not limited to economic aspects but also include corruption of office, corruption of power, political corruption, corruption of democratic values, and moral corruption. However, the most prevalent form of corruption is that committed by public officials. As an extraordinary crime, corruption committed by public officials has already drawn the attention of the United Nations. In combating corruption, the objectives and patterns of punishment should be formulated comprehensively, as the threat of imprisonment, fines, and restitution does not seem to reduce corruption cases. It appears that the criminal penalties stipulated in the Anti-Corruption Law do not serve as a deterrent, let alone a preventive measure. Concrete steps must be considered to recover state assets that have been embezzled. (Alfitra, 2015)

This concrete measure, which takes the form of criminal sanctions of impoverishment against corruptors, is a new step and breakthrough in eradicating corruption. Many defendants in corruption cases are still able to enjoy many facilities, even though they have been convicted. When prison sentences are deemed ineffective and do not deter corruptors, new breakthroughs and concrete measures are needed. Criminal sanctions of impoverishment for corruptors are considered necessary in corruption cases in the hope that they will have a deterrent effect on perpetrators of corruption. (Alfitra, 2015)

Criminal sanctions of impoverishment for corruptors do not yet have a clear and established concept, and there is not even a common perception among anti-corruption activists regarding this concept of impoverishment. Many parties agree with the impoverishment of corruptors, but on the other hand, there are also various parties who disagree with the impoverishment of corruptors for perpetrators of corruption crimes. The impoverishment of corruptors that has been carried out so far is only through the confiscation of assets resulting from corruption crimes. This confiscation involves seizing all assets derived from corruption-related criminal acts and/or requiring payment of compensation equivalent to the financial losses incurred by the state as a result of such criminal acts. However, this cannot be considered as impoverishing corrupt officials, as they can still freely use the assets they possess that have not been confiscated. (Alfitra, 2015) This impoverishment policy must be enshrined in legislation so that it does not exceed legal limits or lead to human rights violations. The effects of impoverishment will not only be felt by the corrupt individual, but also by their entire family. The impoverishment sanctions for corruptors referred to here involve placing the corruptor in a situation where they face not only fines and imprisonment, but also social and economic sanctions that impact their livelihood. The impoverishment measures in question are: (Brad Michael & Ratna Sari Hariyanto, 2022)

1. Asset Seizure
   The confiscation referred to here is subject to the following limitations: the calculation of losses incurred by the state and the confiscation of all assets owned by corruptors are calculated based on the length of time the corruptor has been engaged in corruption.
2. Confiscation of Rights and Dignity
   This is akin to social and economic punishment for corruptors by restricting their rights, as stipulated in Article 35(1) of the Criminal Code. This type of confiscation is effective in deterring corruptors, as it automatically has a significant impact on the life of the corruptor.

The imposition of criminal impoverishment also considers the source of the assets obtained by the perpetrator of corruption. Article 37 paragraphs (3) and (4) of the Anti-Corruption Law explain the defendant's obligation to explain the origin of their assets. If the defendant cannot explain the source of their wealth, coupled with evidence that their income is not commensurate with their wealth, then it is assumed that the wealth was obtained through corrupt practices and is subject to confiscation by the state. (Brad Michael & Ratna Sari Hariyanto, 2022)

Asset forfeiture as a means of addressing corruption is considered to have a significant impact, as the primary motive for corruptors engaging in corruption is to obtain greater financial gain. The concept of impoverishment is related to Von Feuerbach's teaching of psychological coercion. According to him, psychological coercion aims to ensure that actions that are not permitted under criminal law are not merely written into law, but also subject to criminal penalties. This is intended so that criminals are aware in advance of the penalties that may be imposed. In its implementation, impoverishment must be adjusted to the Anti-Corruption Law and the Money Laundering Law regarding the penalties imposed, in accordance with the current situation.

Based on the results of research and discussion in the first problem formulation, there are currently no explicit laws and regulations governing criminal sanctions of impoverishment for corruptors. This has resulted in a legal vacuum that requires legal construction. In this regard, the author has an idea related to the concept of criminal sanctions of impoverishment against corruptors by adopting the concept in the Academic Draft of the Bill on the Confiscation of Criminal Assets. This concept will later be applied in the Corruption Eradication Law as recommended in the discussion of the first problem formulation.

The author specifically recommends provisions on criminal sanctions of impoverishment for corruptors in the Anti-Corruption Law because, as is known, corruption is a special criminal offense, not a general criminal offense, and therefore it is also regulated specifically. As the legal principle states, lex specialis derogate legi generali, which means that more specific rules override more general rules. Although there is a Criminal Asset Forfeiture Bill, which is the implementation of criminal sanctions of impoverishment against corruptors, the law does not specifically regulate corruption crimes alone, but also several other criminal acts.

Criminal sanctions of impoverishment against corruptors are punishments imposed on corruptors by taking all assets obtained through corruption from the perpetrators based on calculations recommended by the author in the first discussion. In addition, the concept offered by the author regarding criminal sanctions of impoverishment against corruptors, as outlined in the Criminal Asset Forfeiture Bill, is asset forfeiture in rem. Asset forfeiture in rem is a legal action targeting the assets themselves, not the individuals who own or control them. In the context of asset forfeiture, assets can be seized or confiscated without having to prove the criminal guilt of their owners. This is done to prevent corruptors from fleeing, dying, or taking other measures to eliminate evidence.

Criminal sanctions for impoverishing corruptors will become cumulative additional penalties, not alternatives. Thus, they will absolutely follow the principal penalty. If alternatives are applied, they will often be ignored, rendering them ineffective. The mechanism for criminal sanctions for impoverishing corruptors proposed by the author based on the Draft Law on Asset Forfeiture for Criminal Offenses is as follows:

1. Separation of Asset Forfeiture from Criminal Proceedings

   The Asset Forfeiture Bill stipulates that asset forfeiture can be carried out without waiting for a criminal verdict (non-conviction based confiscation). This means that the state can confiscate assets resulting from crime even if the perpetrator has not been or will not be sentenced to criminal punishment, which is referred to as in rem confiscation.

   In some cases, criminal confiscation cannot be carried out, and in such cases, in rem confiscation may be carried out, namely in the following circumstances: (Sadeli, 2010)

   a. The perpetrator of the crime has fled (fugitive). Criminal proceedings cannot be conducted if the suspect is a fugitive or is being pursued.
   b. The perpetrator of the crime has died or died before being found guilty. Death halts the ongoing criminal justice process.
   c. The perpetrator of the crime has legal immunity.
   d. The perpetrator of the crime has power and authority such that the criminal court cannot try them.
   e. The perpetrator of the crime is unknown, but the assets resulting from the crime are known/found.
   f. The criminal assets are controlled by a third party who, in a legal position, is not guilty and is not the perpetrator or related to the main crime.
   g. There is insufficient evidence to be presented in criminal court.
2. Asset Identification and Tracking

   The initial stage of the asset seizure mechanism begins with: Tracking and tracing of assets by law enforcement agencies (the Attorney General's Office, the Police, or other institutions such as the Financial Transaction Reports and Analysis Center). Assets that can be seized include wealth that is disproportionate to legitimate income and/or derived from criminal acts, either directly or indirectly.
3. Investigation by the Attorney General's Office

   Investigators from the Attorney General's Office have special authority to investigate assets. This investigation is conducted on individuals suspected of controlling assets derived from criminal acts. During this process, the following actions may be taken: seizure, blocking, and securing of assets.
4. Submission of a Request to the Court

   After the investigation is complete, the prosecutor will file a request for asset confiscation with the District Court. The court will examine whether the assets: originate from criminal activity, are disproportionate to legitimate income, and cannot be explained in terms of their origin.
5. Court Ruling

If the court believes that the assets are the proceeds of crime, it may decide to confiscate the assets for the state. This decision may be appealed to the Supreme Court, but not through an appeal.

6. Asset Execution
   Assets that have been decided to be confiscated will be executed and managed by the state through a special institution, such as the Asset Recovery Center (PPA) of the Prosecutor's Office or a new institution that will be established.

CONCLUSION

The prevailing laws and regulations, especially the Anti-Corruption Law, do not contain explicit provisions that regulate impoverishment as a form of punishment. This indicates that there is a legal vacuum regarding "impoverishment criminal sanctions" for corruptors. Article 18, which regulates asset forfeiture and payment of restitution, emphasizes the return of state losses, not the psychological and social deterrent effects inherent in the concept of impoverishment. So it is necessary to reform the law through the addition of articles on impoverishment in the Anti-Corruption Law with groupings based on the amount of state losses and proportional distribution of assets. This is done because the Criminal Asset Forfeiture Bill does not specifically regulate corruption, but several criminal offenses.

The impoverishment of corruptors is not sufficient only with the confiscation of assets from the proceeds of crime, but also needs to include comprehensive confiscation of assets and restrictions on the rights and social dignity of the perpetrators of corruption. The purpose of impoverishment criminal sanctions for corruptors is to restore state losses, provide a deterrent effect, and prevent the perpetrators from enjoying the proceeds of crime. The impoverishment mechanism for corruptors can be seen in the concept of the Academic Paper of the Criminal Asset Forfeiture Bill, namely by seizing assets without waiting for a criminal verdict, which allows the state to confiscate and take back assets from crimes in certain situations such as the perpetrator is fugitive, dead, unknown, or cannot be prosecuted. This process is carried out through investigations by the Public Prosecutor's Office, asset tracking, requests to the court, and execution by the state asset recovery agency.

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