



The Implementation of Criminal Law in Social Funds Corruption

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ABSTRACT

Corruption is highly detrimental to state finances and obstructs national development. It must be completely eradicated to create an impartial and prosperous society based on Pancasila and the 1945 Constitution. Corruption not only causes financial losses to the country but also hinders the growth and sustainability of national development, which demands high efficiency. The corruption court's consideration of defendants who misused humanitarian aid funds plays a crucial role in determining mitigating decisions. This raises the question of what the judge's decision should be in imposing the toughest sanctions for corruption defendants involved in the misuse of humanitarian aid funds. This research is normative legal research that focuses on positive legal norms, particularly regarding maximum and minimum regulations. Mitigating factors presented during the trial process become key considerations for the panel of judges in making their decision. In imposing sentences, the panel of judges has implemented a double-track system.

Keywords: *Corruption, Imposition of Punishment, Mitigation*

INTRODUCTION

Corruption is highly detrimental to state finances and obstructs national development. It must be eradicated to create a just and prosperous society. Based on Pancasila and the 1945 Constitution, corruption results in financial losses for the country and hinders the growth and sustainability of national development, which demands high efficiency. Corruption can serve as an incentive payment to bypass inefficient government regulations, speed up bureaucracy, and obtain permissions faster through bribery.¹ The essence of corruption lies in the abuse of authority or power. Corrupt individuals generally exploit their positions for personal or group interests. Corruption is categorized as a white-collar crime, as its perpetrators typically hold social status and respectable positions.

The corruption case examined in this research involves the former Minister of Social Affairs, Juliari Batubara, who received IDR 15.1 billion through the procurement of COVID-19 social assistance in the form of basic food packages at the Ministry of Social Affairs of the Republic of Indonesia. The total project value was IDR 5.9 trillion, covering 272 contracts for two implementation periods. The Jakarta Corruption Court (Tipikor) sentenced Juliari Batubara to 12 years in prison and fined him IDR 500 million, with an additional six months of imprisonment in case of non-payment. This decision was stated in the Corruption Court's ruling at the Central Jakarta District Court, case number 29/Pid.Sus-TPK/2021/PN.Jkt.Pst, dated August 23, 2021. Juliari Batubara did not file for reconsideration, making the court's decision legally binding. The verdict was more severe than the Corruption Eradication Commission (KPK) prosecutors' initial demand of 11 years in prison and a fine of IDR 500 million with a subsidiary of six months. The prosecution proved that Juliari had accepted IDR 32.48 billion in the procurement of COVID-19 social assistance packages for the Jabodetabek area in 2020.

There were three mitigating factors in Juliari Batubara's verdict. First, he had no prior criminal record. Second, according to Judge Damis, he had already suffered public humiliation, being reviled and cursed by the community, even before being legally declared guilty. Judge Damis emphasized that Juliari had already been sentenced by public opinion, despite not yet receiving a final court ruling. Third, the panel of judges noted his discipline in attending the trial without causing unnecessary delays. Additionally, he was required to testify as a witness in the cases of Adi Wahyono and Matheus Joko Santoso.

Responding to the court's decision, ICW researcher Kurnia Ramadhana stated that the 12-year prison sentence was unreasonable and failed to bring justice to the victims of corruption. He argued that, given the significant impact of

¹ Basem Elmukhtar Ertimi and Mohamed Ali Saeh, "The Impact of Corruption on Some Aspects of the Economy," *International Journal of Economics and Finance* 5, no. 8 (July 26, 2013), <http://www.ccsenet.org/journal/index.php/ijef/article/view/29255>.

Juliari's crime, he deserved life imprisonment. The leniency of the Corruption Court's decision forms the basis of this research, which aims to analyze Juliari Batubara's case and evaluate the court's ruling from a legal perspective.

RESEARCH METHODOLOGY

This research used normative legal research. Normative legal research involves the study of the law as an object and removes any non-legal material from the scope of this research.² This research focuses on legal positive norms in the form of maximum and minimum laws and regulations based on Article 7 of the Act with sync (vertically with maximum laws) and harmonization (horizontally with the equivalent legislation regulation). Additionally, this research employs a statutory approach, case approach, and conceptual approach to analyze the legal framework and judicial decisions relevant to corruption cases. The statutory approach examines laws and regulations governing corruption, while the case approach reviews judicial precedents to understand patterns in court decisions. The conceptual approach explores legal doctrines and principles to provide a comprehensive understanding of corruption from a legal perspective.

RESULT AND DISCUSSION

Legality Principle

In criminal law, also known as the principle of legality, this principle states that no act can be deemed a crime or punished unless it has been previously defined as such by law. In Latin, it is expressed as *Nullum delictum nulla poena sine praevia lege poenali*, meaning that no act can be punished unless it is based on criminal rules that existed before the act was committed.³

Today, this principle is often associated with the non-retroactivity principle, which means that laws and regulations cannot be applied retroactively. Simply put, a person cannot be punished if no law existed at the time of the act. This principle explains why the judge reduced the sentence of Juliari Batubara, who committed corruption related to the Social Assistance Fund during the COVID-19 pandemic. Since the judge based the decision on the principle of legality rather than the principle of precedent, it led to public dissatisfaction, as the crime was committed during a national crisis.

² Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (May 2016): 201–207, <https://linkinghub.elsevier.com/retrieve/pii/S1877042816300660>.

³ Nasip, Ni Putu Rai Yuliartini, and Dewa Gede Sudika Mangku, "Implementasi Pasal 14 Ayat (1) Undang-Undang Nomor 12 Tahun 1995 Tentang Pemsyarakatan Terkait Hak Narapidana Mendapatkan Remisi Di Lembaga Pemasyarakatan Kelas II B Singaraja," *Jurnal Komunikasi Hukum (JKH) Universitas Pendidikan Ganesha* 6, no. 2 (2020): 560–574.

Imposition of Punishment

The imprisonment of criminals for their crimes is a process of resolving criminal cases and a consequence of the penalization deserved by the perpetrator. Criminal sanctions are one of the critical issues that must be addressed immediately to achieve justice and welfare for all parties involved.⁴ Legal consequences generally take the form of criminal sanctions. On the other hand, sentencing aims to rehabilitate convicts and prevent the public from committing similar offenses.⁵

In corruption cases, deterring perpetrators remains challenging, as evidenced by the numerous corruption cases that continue to emerge. Therefore, the criminal system requires a new formulation for corruption offenders—not only relying on a single type of criminal sanction but also incorporating preventive and deterrent measures, such as action sanctions.⁶ The criminal system for offenders can be categorized into three theories of punishment:

1. Absolute theory, which focuses on retribution for the crimes committed by the convict.
2. Relative theory, which emphasizes preventive measures for the public to deter similar crimes and aims to rehabilitate the convict.
3. Combined theory, which integrates elements of both retribution and prevention as a unified approach to sanctions.⁷

The most relevant sanction system for corruptors is the combined theory, as it includes both retribution and prevention elements. This approach aims to provide a deterrent effect while also preventing similar crimes in the future. It aligns with the concept of punishment under the double-track system, which consists of two types of sanctions: criminal sanctions and action sanctions. Criminal sanctions serve as both retribution and deterrence, while action sanctions focus on rehabilitating offenders and preventing others from committing similar crimes.

In the Juliari Batubara corruption case, the panel of judges at the Corruption Court applied a double-track system or combined penalty. The criminal sanction imposed was 12 years of imprisonment. The preventive elements included a financial penalty of IDR 500 million, a compensation payment of IDR 14.597

⁴ Adnan Hamid and Hasbullah Hasbullah, “The Implementation of Criminal Sanctions as Ius Puniendi,” *International Journal of Research in Business and Social Science* (2147- 4478) 10, no. 4 (June 15, 2021): 535–548, <https://www.ssbfn.net.com/ojs/index.php/ijrbs/article/view/1259>.

⁵ Prof. Dr. I Ketut Mertha, *Efek Jera, Pemiskinan Koruptor, Dan Sanksi Pidana* (Udayana University Press, 2014).

⁶ Anak Agung Gede Budhi Warmana Putra, Simon Nahak, and I Nyoman Gede Sugiartha, “Pemidanaan Terhadap Pelaku Tindak Pidana Korupsi Melalui Double Track System,” *Jurnal Preferensi Hukum* 1, no. 2 (September 15, 2020): 196–200, <https://www.ejournal.warmadewa.ac.id/index.php/juprehum/article/view/2408>.

⁷ Gita Santika Ramadhani, Barda Nawawi Arief, and Purwoto Purwoto, “Sistem Pidana Dan Tindakan ‘Double Track System’ Dalam Hukum Pidana Di Indonesia,” *Diponegoro Law Review* 1, no. 4 (2012).

billion, and the revocation of his political rights to be elected to public office for four years after serving his sentence.

CONCLUSION

Juliari Batubara's corruption case falls under the bribery article in the Anti-Corruption Law, specifically Article 12 letter b of Law No. 20/2001, in conjunction with Article 18 of Law No. 31/1999, Article 55 Paragraph (1) of the 1st Criminal Code, and Article 64 Paragraph (1) of the Criminal Code. The judge of the Central Jakarta Corruption Court ruled a sentence exceeding the demands of the KPK public prosecutor (*ultra petita*). The defendant's mitigating factors during the trial were key considerations for the panel of judges in reaching a verdict. In imposing the sentence, the panel of judges applied the double-track system.

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