

## THE PENALTY FOR THE CORRUPTOR IN THE SOCIOLOGICAL PERSFEKTIF

### *Hukuman Bagi Koruptor dalam Persfektif Sosiologis*

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#### ABSTRACT

Sociological perfective in the many offer social sanctions can be applied in corrupt behavior result. The idea of social sanctions was proposed as a reaction against the growing number of corrupt behavior difficult resolved only through national and international legal instruments. It is time the exact type of sanctions was found to tackle corrupt behavior that are already classified as extraordinary crimes. Some ideas proposed as social sanctions to eradicate corrupt behavior i.e. criminal sanctions established on the basis of social stratification, hint herself and family corruptor, no corpse prayer corruptor before is no guarantee of the financial returns of the State by the family of the perpetrator, serving in the corruptor's face television and penalties for disseminating the corruptor after death and as sanctions ultimatum remedied every corruptor will be charged all his deeds before God after death.

**Keywords:** Corrupt Behavior, social Sanctions.

**ABSTRAK:** Dalam persfektif sosiologis banyak tawaran sanksi sosial yang dapat diterapkan dalam pananggulangan perilaku korup. Gagasan sanksi sosial diajukan sebagai rekasi terhadap semakin banyaknya perilaku korup yang sulit diselesaikan hanya melalui instrumen hukum nasional dan internasional. Sudah saatnya ditemukan jenis sanksi yang tepat untuk menanggulangi perilaku korup yang sudah tergolong sebagai kejahatan luar biasa. Beberapa gagasan yang diusulkan sebagai sanksi sosial untuk memberantas perilaku korup yaitu sanksi pidana ditetapkan berdasarkan stratifikasi sosial, pencemohan diri dan keluarga koruptor, tidak mensholatkan jenazah koruptor sebelum ada jaminan mengembalikan keuangan negara oleh pihak keluarga pelaku, penayangan wajah koruptor di televisi dan mensosialisasikan hukuman bagi koruptor setelah meninggal dunia dan sebagai sanksi ultimum remidium setiap koruptor akan mempertanggungjawabkan semua perbuatannya dihadapan Tuhan setelah kematian.

**Kata Kunci :** Perilaku Korup, Sanksi sosial.

#### I. INTRODUCTION

One of the critical issues facing the nation of Indonesia until now is a country of Indonesia become a den of corruption and has entered a period of stadium "emergency corruption". This is corroborated by the results of the survey on Transprancy International based in Berlin which puts Indonesia as the 133 with Corruptions Perceptions Index 2.0 which is the equal of Angola, Congo, Georgia, Tajekistan, Turkmenistan. In fact, the predicate is equivalent to the predicate of Bangladesh and Haiti with 1.5-1.4 indkes many factors cause high koruptif behavior. One factor causes increasingly rampant koruptif behavior in Indonesia according to h.m. Laica Marzuki is the involvement of authorities in fostering koruptif behavior as expression that "it cannot be denied that corruption in the country not only because of the weakness of legal penegan effort, but the law enforcement apparatus apparatus itself is part of the conditions of insecurity, including the corruption of the Court. That is

why the international community Survey so put Indonesia on the country's corrupt province of the order in the world and ranks first in Southeast Asia. The predicate as corrupt has in fact harm the dignity of the nation internationally and the declining image of Indonesia as a country that is based on Pancasila moral values relegius.

#### II. THE DESCRIPTION OF THE BEHAVIOR OF KORUPTIF IN INDONESIA

An indication of the tersistematisasinya behavior corruption in Indonesia can be felt "denyutnya" because almost all of the activity of public life tinged behavior of corrupt behavior, without koruptif, Affairs and interests of a person in connection with the bureaucracy of Government difficult obtained good, easy and right. That is why the people's life is getting worse because of the day of koruptif behavior has become part of people's lives everyday so difficult eradicated. There is a presumption that the behavior of the koruptif has become a necessity in life. the behavior of koruptif has been the "blood" and "pulse" of social life. A person will not

get something without any collaboration (collaboration) with the particular person in both Government and non government bureaucracy. When someone dijanji or diiming-iming with certain new replies he worked, when persons dijanji authorities will be given something and then with the promise that he would want to work then in fact he (the person) has been caught in koruptif behavior. Koruptif behavior of that sort have been plaguing the strategic sectors of life in this beloved country. Corrupt behavior grows into a new social phenomenon in Indonesia society. The survey results Public Team ICW shows corrupt behavior trend from January-June 2006) increasingly meingkat the findings of this new ICW is only a small part of the phenomenon of koruptif behavior in the community. More that has not been revealed and recorded and I think the numbers prosentasenya anlimited – no terthingga (hidden crime). Therefore, to stop it also not only prevented and eradicated through law enforcement (criminal justice system), but will need another way other way i.e. re-enacted socio-cultural values (non-criminal justice system) or by restoring the function of our social structure is loaded with values and social norms. So far, efforts to combat behaviour koruptif more use to judge the corruptor, but the result is not the maximum. One of the factors is not maximum effort because law enforcement agencies have not yet found the right way. Corrupt behavior has become a habit, tersistemik and has entered the social life of the joints and invade the social structure of the nation. Therefore, the proper ways need to be found in this. One way yan gtepat is tracing the root cause that is essentially persfektif. Already a shared knowledge that to change something it should depart from the persfektif Foundation. Because the behavior of koruptif been systemic and has entered the social structures, then law enforcement also use way in accordance with the persfektif Foundation. It's high time an effort tackling corrupt behavior of non judicial process conducted through through institutionalization back (double legitimate) social institution-parana (social capital) who lived and practised in the community. The

interesting issue that became spotlight is sejauhmana the involvement of the social structure of the nation with the eradication of corruption. The social structure is a social institution-institution involvement in the response. Corrupt behavior has become its own color in people's lives. In fact, some are considered corrupt conduct became the "new culture" in public life, although I disagree if corruption becomes culture. In perfektif kriminologis, corrupt behaviour is rubbish of civilization (social pathology) – a disease of society that must be eradicated. From sociological persfektif, corrupt behavior not only violated the law but has injure the dignity and the dignity of a person in the community. Corrupt behaviours have been tarnishing the personal identity, family and social order within the community. The behavior of corruption have damaged the social structure of the nation of Indonesia and as a result we all lose natural resources (natural resorces), human resources (human resources), chance and opportunity to achieve the ideals of a just and prosperous country as the nation's founding mandate of Indonesia. Therefore, the behavior of corruption not only seen from the persfektif legislation alone will but from other persfektif (sociological) namely all acts that deviate from social norms and societal values, either in the form of financial abuses of the State and society, bribes bribe, gratuities, not giving information against the property correctly, using the facilities of the State and society without the right, pick up the paper and materials are not for ATK allocation including corruption , etc.

### **III. APPROPRIATE PENALTIES AGAINST BEHAVIOR KORUPTIF**

The eradication of corrupt conduct which subverts the social order necessary efforts in order not to go on a late and getting our day worse and far from the hope of a prosperous nation (the welfare state). For that needed punishment as social punishment as a means of last resort (ultimum remidium) in order to corrupt behavior can be stopped and no more subverts the social order of the nation.

Application of social punishment for perpetrators of corrupt use some method of applying a more sosiologi approach. more than a normative approach. The normative approach, in the sense of the legislation has been carried out by law enforcement officials. Has a lot of processed corruptor in the criminal justice system (criminal justice system), some are in the stage of investigation, investigation, trial and undergo kehidupanya within masyarakat. This approach has raised hopes of harmonious space debris return identity nation to immediately out of corrupt behavior. While this approach had already been conducted in earnest, but not yet into a means to stop corrupt behaviors. Like a disease that attacks the human body, the new doctors prescribe generic drugs so that the ailment is not yet curable. The doctor should have it's time to change the recipe by using patented drugs, in this case for corrupt behavior has become "a malignant cancer" should use another approach (another recipe), namely through the implementation of social punishment for the perpetrators. Because of corrupt behavior has become a common enemy, then we'll sosiologisnya are dealt face consequences with parents, om, ponakan, grandson, boss and brother-in-law. The consequences of this sociological implications brought new or new tensions in society. Some of the concepts of social sanction or penalty as a "recipe" to eradicate corrupt behavior i.e.:

### **1. Punishment Based On Social Stratification Corruptor**

Application of social sanctions is based on the fact that the essentially social perspektif shows a lot of corrupt conduct involving famous people, politicians, and even academics who in social structure occupies a high social stratification within the Community (community leaders). During this time, the threat of a criminal who was dropped (vonnis) judge for the perpetrators of the corruptor is not based on factors causes korupsi. But in theory there are four factors: (1) because of greed or corruption corruptinan by greed (2) corruption because corruption needs-by needs (3) corruption because corruption by opportunities – opportunities and (4)

national anti-corruption corruption revealed by the fourth category theory exposes the whole thing became a reference in dropping criminal threats for any behavior corruptor. In fact, all four of these factors was not a consideration in determining the weight judges ringannya criminal threats. The weight of the ringannya threat of criminal offender corruptor based only on types of dikorupsi funds ("funds"). Whereas, from the sociological perspektif, those factors is the main korupsi causa and the consequences manifest a very dangerous korupsi behavior; such behaviour should be given witness or a heavier punishment than ordinary citizens. They occupy the high social stratification in society, they and his cronies to cause this country field day-poranda so categorized "emergency corruption" and "economic emergency" this approach is a "new recipe" in order for the eradication of corruption in perspektif sociological with the aim to remove the roots of corrupt behavior in Indonesia

### **2. Cemohan punishment and humiliation for the Corruptor**

One of the payloads or components of social structure is the feelings or social sentiments shared by the citizens of the community. Feeling or sentiment is social sentiment – it should be used as a means of tackling crime, including corrupt behavior. In general the community in a social system has a set of values and norms that can be of reference dapam to behave. Feeling or social sentiments in question is the social capital that is still applicable and binding on all citizens. Therefore, the commitment of the community for mencemoh and insulting the corruptor can use to tackle corrupt behaviour. In social life, a commitment to lower social status can be reached through a corrupt perlaku, did not give respect, insults and other designations that are degrading the perpetrator. In fact, there is a possibility cemohan and humiliation that would have an impact on the wife, son and other victims ' families. The consequences of this will give a sense of shame on the offender's family and will be a material cemohan society. In this context, the sebabnya of the korupstor candidates considering the social impact if

corruption, especially its impact on families (core and not a nuclear family). In Indonesia, community social system in this nation have a culture of extended family (kinship) that in the context of Bugis-Makassar has the concept of the *na wija bati*. It should, when one member of the relatives involved corrupt behavior, it should be that offended social sentiment is a member of the relatives. Ketersinggungan the social learning materials so that someone (family members/relatives) are not corrupt conduct because it will damage the good name of kinship perpetrators.

### 3. The Death Penalty

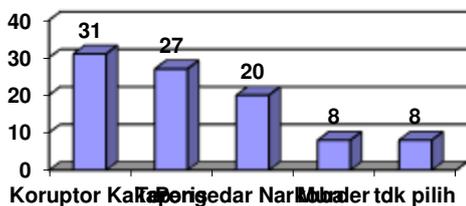
In practice law enforcement provisions of legislation published since Tipikor Tipikor in Indonesia applying criminal dead almost never do. The judge's verdict of a number of criminal acts of corruption there has not been a criminal sentenced to death. Whereas, if the views of some corruption cases are filed and prosecuted through the criminal justice system (criminal justice system) there is already a proper criminal dead are threatened, as the perpetrator of the corruptor mengorupsi Bank Indonesia Liquidity Assistance funds (BLBI) already considered "certain funds" as referred to article 2 paragraph (2) of the ACT 2001 year Tipikor. Although it has become a statutory provision Tipikor but subsection (2) of article 2 of ACT No. 20 of 2001 year Tipikor almost never applied as a basis for investigation, prosecution and the verdict of the criminal justice Tipikor in Indonesia. In fact, judging from the result of corruption and the impact already belongs to an extraordinary crime or "extra ordinary crime". Judges should be able to find the right law through interpretation and construction law and criminal threats to the corruption in the form of a dead criminal behavior according the category crimes against "certain funds"; the application of the sanctions in accordance with the applicable legislation, especially for the corruptor because the motive of greed (corruption by greed) and corruption because of the recently revealed (by exposes corruption). The discovery of the criminal threat is heavy (dead) in

accordance with the provisions of article 28 of ACT No. 2 Of 2004 know Power of Justice, "the judge is obligated to explore and understand the values and feelings of community justice". However, in a society there are pros cons Indonesia against criminal dead. For Indonesia, the criminal dead already applied from ancient to present to certain crimes, in Fact, a dead criminal threats noted in some of the provisions of criminal legislation.

The application of the criminal dead in Indonesia at this time began to get criticism because it is considered contrary to the Constitution of 1945 NRI. The emergence of the pros and cons against the criminal dead in UUTPK have long since peaked and amendments to Constitution 1945 NRI. The article became the basis of the dead criminal application of the contra group, namely Article 28A to 28I Chapter X Constitution 1945 the main reason of rejection of the application of the criminal to death because it is considered contrary to human rights (human rights), the right to life which is the right terpenuh and not be bothered by anyone (nonderogable right). Even so, the results of the test material (judicial review) against the article which sets criminal threats dead in UUTPK submitted by the petitioner according to the consideration of the judge of the Constitutional Court does not conflict with the Constitution, Even according to the 1945 NRI Jimly Ashidhiqy "application of criminal to death it is considered not in conflict with the Constitution or the Vienna Convention of 1969 1945 and other international law". The ruling of the Constitutional Court and the view are not all agreed by legal experts, including the including the judge of the Constitutional Court that his opinion is different.

According to h.m. Laica Marzuki different opinions (dissenting opinion) with the ruling of the Constitutional Court States "forward, dead, or the criminal punishment (doodstraf, death penalty, capital punishment) should not be enforced again against all evil (abolitionist for all crimes). This view shows that among the Judges of the Constitutional Court there is difference of opinion (dissenting opinion) about whether a criminal should die applied in

Indonesia. Even so, it is not impeding the execution or include criminal threats dead in terms of legislation. The ruling of the Constitutional Court binding directly (vide Section 47 of the ACT the COURT). The application of the criminal to death row inmates, according to most experts is not a violation of human rights. The crime of removing someone's life in fact have also violated the Human Rights of others so as to apply the criminal dead to the perpetrators are also violating Human Rights? The following comparison of crimes ought to be criminal is liable to die who responded respondents as apparent in Graph 1 below :



Graph 2. Comparison of crime that deserves to be put to death

The graph shows the high interest of the community so that each offender crime criminal death diancaman corruption. The corruptor belongs to greedy (corruption by greed, corruption by opportunity) already are convicted should die. In fact, when compared with other crimes of the evil one, the criminal offence of corruption is more dangerous than terrorists, drugs and murder plan (murder). Whether the perpetrator of a crime deserving of legal protection? Whether it is a fairness if the actors pembunuhan and blasting bombs, killing people is not a violation of HUMAN RIGHTS? In theory the purpose of pemidanaan still embraced the doctrine of retribution (retributif) and the Foundation lists the criminal dead as ultima remedium. In theory stated that when the perpetrator will commit crimes in fact already reflected the risk that would be faced. If victims do retaliation (unbalanced), whether the victim (victim) will also be protected from criminal threats to die because his actions of killing criminals contrary to Constitution 1945 NRI.

The inclusion of criminal threats to die in the book of the law of criminal law only allowed as ultima remidium and became the means of preventive and repressive to eradicate corrupt behavior in the community.

#### 4. The Punishment Is Not Dead Prayer Corpse Corruptor

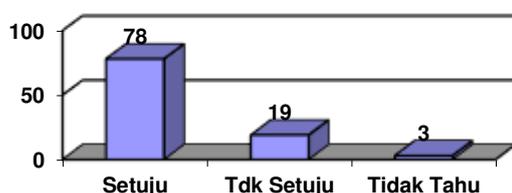
In addition to criminal sanctions dead in terms of legislation, in persfektif sociological known social sanctions are sourced from religious norms. Religious norms in legal science is one of the social norms that mengakat citizens. Therefore, the norm in question can serve as one means of prevention (preventative) and the eradication of criminal acts of corruption (repressive). The Foundation thought the use of penalties for corrupt behavior uses the results of the Nahdatul Ulama and scholars fatwa Muhammadiyah which stipulates that "in order for the relics of the corruptor don't prayed over before is no guarantee of a refund has been kelurganya dikorupsi. This social sanctions, was the product of ijtihad scholars who put all results in corruption of the same debt that must be repaid with someone so that his family should be different settlement debt used to be new dishalatkan. Ijtihad is a step towards and contribution of ulama Indonesia in order to eradicate corrupt behavior. In fact, in jurisprudence, conduct anti-corruption corruption expanded at all contrary to the al-Qur'an "an Hadith the Prophet. Behavior takes the rights of others including corruption, using a car service instead of allocation including corruption and even car tires, paint and a chipped used instead of peruntukannya including corruption.

#### 5. The punishment reflects the face of the Corruptor on the screen Televisi

In addition, there are also social sanctions in the form of facial impressions corruptor layat on televisi. Social sanctions offered are impressions of the face of the corruptor in the glass display. The main goal of social sanctions is shaming perpetrators of corruption in society via mass media or electronic.

In the framework of the eradication of corrupt behaviour a shame on himself

and family to consider the corruptor. Shame this moment needs to be grown back, especially a shame for committing corruption. Shame in the social structure of society Indonesia is one of the social capital. In fact, the shame is the identity of each person and is the values and cultural norms. In some regions, cultural shame, like, ' series ' for the community of Bugis-Makassar can be a powerful means for preventing the (preventive) behavior of eradicating corruption (repressive). The series ' as a preventive means capable of preventing the a to not do despicable deeds (corruption) because it will damage the dignity of self and family while repressive action as the series would cause the families of the corruptor lost his dignity in society. In Switzerland, social sanctions in the form of feelings of hate towards the corruptor and in Russia, the corruptor was exiled in Siberia to learn sejauhmana responses of society against the application of the social sanctions in the form of facial impressions corruptor in the television media appears in the results of the poll (polling) Media Group as it appears in the following 2 Graphs :



Graph 2. The responses of the respondents about the impressions of the face of the Corruptor in the glass screen

The graph indicates that there are 78% of respondents agree if face corruptor aired on screen televisi as one of the social sanctions. The high percentage that agree to become an indication of how important the social sanction penanyangan faces of the corruptor in the television media. The phrase is an idea that people already feel hate towards the corruptor's behaviour. Hate that thing which is fundamental because in fact they are the victims (victims

hidden) of corrupt behavior. Many public rights which should be fulfilled, but because dikorupsi, hindering national development goals and thus menimbulkan a prolonged economic crisis.

5. Dissemination of sanctions after the death

For humans who are each deed cannot escape the presence of rewards for everyone. In that regard, sanctions for corrupt behaviour will be taken after dealing with God; His. In that regard, three propositions that can be a means of ultimium remidium when all the instruments of social sanctions do not apply i.e. :

**THE FIRST PROPOSITION: "THE CORRUPTOR MUST BE PUNISHED UNDER THE LAWS OF THE ANTI-CORRUPTION,**

**IF THE CORRUPTOR FREE AND LOOSE, THEN APPLY THE SECOND PROPOSITION:**

**THE SECOND PROPOSITION: "THE CORRUPTOR MUST BE PUNISHED THROUGH SOCIAL SANCTIONS IN THE FORM OF CEMOHAN AND SHAME IN THE COMMUNITY".**

**IF the CORRUPTOR of SOCIAL SANCTION, then APPLIES the THIRD POSTULATE of the THIRD PROPOSITION: CORRUPTOR WILL ACCOUNT for ALL of HIS BEHAVIOR on the DAY of the DEATH PENALTY and CERTAINLY APPLIES".**

#### IV. CONCLUSION

Based on some of the blurb, then in persfektif sociological social sanctions bid is still a lot that can be applied in the pananggulangan corrupt behaviour that might not unfold completely in this article and hopefully this idea can be a means of educating for the citizens of the community and be one way in tackling corrupt perilaku who ravaged the nation of Indonesia and other Nations. This idea also opens the door for everyone to instantly realized and restoring the human as being noble before God Almighty is perfect and that will mempertanggungjawaban up the mandate that had been given to him on the day of vengeance. To that end, as a writer, let me ask you three propositions that can be used

as a means for prevention and remedium ultimum tackling corrupt behavior appropriate in society we wish some of the sanctions laid down in the aforementioned signs for everyone so it doesn't get stuck on corrupt behaviour both as a main offender (Intellectual daders), helpers and participate in a corrupt country destination so that it behaves prosperous closer instead of getting away.

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