CORRUPTION SHOULD BE AN EXTRAORDINARY CRIME

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ABSTRACT

A total of 23 convicts in corruption cases received remissions from the Ministry of Law and Human Rights. One of them is former prosecutor Pinangki Sirna Malasari who received parole on September 6, 2022. This release was based on Article 10 of Law Number 22 of 2022 concerning Correctional Institutions which has been officially valid since 2022. Where convicts who meet certain conditions can obtain parole. This sparked disappointment in the community. That corruption is no longer an extraordinary crime, coupled with the lighter sentences for corruptors in the Criminal Code which was just passed on December 6, 2022. The basis for this conditional release in more detail and how corruption should be classified as an extraordinary or ordinary crime in order to provide a deterrent effect for perpetrators will be discussed further in this paper. The research is in the form of normative juridical with literature study. Data from books, journals, press releases, and articles related to the granting of remissions for convicts of corruption cases. The author conducted a qualitative descriptive analysis of theories and legal principles related to policies on granting remissions that focused on corruption

Keywords: Corruption, Crime, Criminal Code

ABSTRAK

Sebanyak 23 Narapidana kasus korupsi mendapat remisi dari Kementrian Hukum dan HAM. Salah satunya adalah eks jaksa Pinangki Sirna Malasari yang mendapat pembebasan bersyarat pada 6 September 2022 lalu.Pembebasan tersebut didasarkan pasal 10 UU Nomor 22 Tahun 2022 Tentang pemasyarakatan yang resmi berlaku sejak 2022. Dimana narapidana yang memenuhi syarat tertentu dapat memperoleh bebas bersyarat. Hal ini memantik kekecewaan di masyarakat. Bahwasanya korupsi bukan lagi kejahatan yang luar biasa, ditambah lagi semakin ringanya hukuman bagi koruptor dalam KUHP yang baru saja di sahkan 6 Desember 2022 lalu. Dasar pembebasan bersyarat ini secara lebih rinci dan bagaimana seharusnya korupsi digolongkan menjadi kejahatan luar biasa atau biasa supaya memberi efek jera bagi pelaku akan dibahas lebih lanjut dalam makalah ini. Penelitian berbentuk yuridis normatif dengan studi kepustakaan. Data dari buku, jurnal, siaran pers, dan tulisan terkait pemberian remisi bagi narapidana kasus korupsi. Penulis melakukan analisis deskriptif kualitatif terhadap teori, dan asas-asas hukum berkaitan dengan kebijakan pada pemberian remisi yang difokuskan dalam bidang korupsi

Kata Kunci : Korupsi, Kejahatan,KUHP

A. INTRODUCTION

On September 6, 2022, the Ministry of Law and Human Rights (Kemenkumham) of the Republic of Indonesia issued a Conditional Release Decree for 23 Corruption Convicts. The convicts come from government circles and legal institutions involved in corruption in the management of a case. One of them, namely Pinangki Sirna Malasari, will be in the spotlight in law enforcement in 2021 because she gave a free fatwa for Joko S Tjandra who was convicted in the Bank Bali debt collection rights case. [1]

The granting of remissions has also become easier for corruptors since the Supreme Court annulled Government Regulation Number 99 of 2012 concerning Requirements and Procedures for the Implementation of the Rights of Correctional Families. The Supreme Court (MA) granted a judicial review of Government Regulation (PP) Number 99 of 2012 against Law (UU) Number 12 of 1995 concerning Corrections. The Supreme Court considers that this rule is not applicable because it is not in accordance with Law Number 12 of 1995 which is the main rule.

If repealed, the rules for granting remissions to convicts of corruption will refer to PP No. 32 of 1999, where the rules for granting remissions do not recognize groupings of convicts of special crimes, namely corruption, terrorism and narcotics.[2]

But on the other hand, the granting of conditional release has actually sparked public disappointment with law enforcement in Indonesia. Law enforcement in Indonesia is considered to be weaker, where corruptors have caused state losses in the amount of billions of rupiah, of course not small. But instead, they were punished lightly, and they could also be deducted from prison. The punishment for corruptors is seen as very light and lighter than the punishment for blue-collar class criminals.

Not to mention the Draft Law (RUU) of the Criminal Code (KUHP), which has just been ratified as a law, actually reduces the punishment for corruptors. In the Criminal Code, which was passed on December 6, 2022, it is contained in articles 603 to 606 concerning corruption. Where the punishment for perpetrators of corruption in the form of life imprisonment or a minimum prison sentence of two years and a maximum of 20 years.

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[1] Tsa, Korupsi Bukan Lagi Kejahatan Luar Biasa di indonesia, 2022, https://www.cnnindonesia.com/nasional/20220908125233-12-845017/korupsi-bukan-lagi kejahatan-luar-biasa-di-indonesia, diakses 20 November 2022.

[2] Tatang Guritno, MA Cabut PP 99 Tahun 2012, Koruptor Lebih Mudah Dapat Remisi", https://nasional.kompas.com/read/2021/10/29/17301831/ma-cabut-pp-99-tahun-2012 koruptor-lebih-mudah-dapat-remisi, diakses 25 November 2022.

Even though in the special Law on corruption No. 31 of 1999, corruptors are imprisoned for at least 4 years. Thus the punishment for corruption is lighter with the new law.

Even though the Corruption Eradication Commission (KPK) continues to proclaim that corruption is an extraordinary crime. Chairman of the Corruption Eradication Commission (KPK) Commissioner General of Police Drs. Firli Bahuri, M.Si, emphasized the things that can interfere with a country in realizing its goals, namely corruption. So according to him corruption deserves to be an extraordinary crime. It is said to be an extraordinary crime because corruption is not only a crime that is detrimental to state funds, but can have an impact on all development programs, the quality of education is low, the quality of buildings is low, the quality of education is falling, and poverty is not being handled. Firli explained that if the state's money is corrupted, then the programs to realize the state's goals cannot work and result in the state failing. “Corruption is a crime that robs people of their rights, corruption also robs human rights, corruption is also against humanity .[3]

B. FOCUS OF PROBLEM

The formulation of the problems are :

1. How is Corruption classified as a non-extraordinary crime at this time?
2. How should corruption be classified as a crime?

C. RESEARCH METHODOLOGY

Several experts have expressed their opinion about the definition of research methodology. Research methodology according to Prof. Dr. Sugiyono is a scientific way of trying to find data for specific goals and uses. So in his opinion, the research method is a method used to find research data. Where this data can support the acquisition of valid and useful research results.[4]

The research method used is a qualitative research method. Research with a qualitative methodology is a particular tradition within the social sciences that is

[3] Lemhanas, 2022, *Ketua KPK Bahas Peran Penting Ibu dan Keluarga dalam Pemberantasan Korupsi*,https://www.lemhannas.go.id/index.php/berita/berita-utama/1727-ketua-kpk-bahas peran-penting-ibu-dan-keluarga-dalam-pemberantasan-korupsi, diakses 25 November 2022.

[4] Salmaa, 2022, *Metodologi Penelitian: Pengertian, Manfaat, Jenis, dan Contoh Lengkap, Penerbitdeepublish*, https://penerbitdeepublish.com/metodologi-penelitian/, diakses 20 November 2022.

fundamentally dependent on observing human beings in their own terms and relating to these people in language and in terms of them..[5]

The type of research used by the author in this thesis is normative legal research (normative juridical). The research method in this thesis is a normative legal research method. Normative legal research essentially examines laws that are conceptualized as norms or rules that apply in society, and become a reference for everyone's behavior. According to Soerjono Soekanto and Sri Mamudji, defining normative legal research is legal research conducted by examining library materials or mere secondary data..[6]

In normative legal research, law is conceptualized as what is written in the legislation (law in the book) or law is conceptualized as a rule or norm which is a standard of human behavior that is considered appropriate.[7]

For the data sources used, because this is normative legal research, the data sources used are materials obtained from literature studies. Literary legal research is legal research conducted by examining literature or secondary data. This study aims to examine the principles and principles of law.[8]

Secondary data according to Sugiyono is a source that does not directly provide data to data collectors. This means that research data sources are obtained through intermediary media or indirectly in the form of notebooks, existing evidence or archives, both published and not published in general. In other words, researchers need to collect data by visiting the Central Study Library, archive center or reading many books related to their research..[9]

In normative legal research, document study is the main data collection technique, because the proof of the basic assumptions (hypotheses) of the research is based on norms. positive law, legal doctrines or teachings, results of academic research, as well as court decisions, all of which are based on written documents. Thus, document study is basically an activity of reviewing various written information regarding law, whether it has been published or not published in general but may be known by certain parties such as law

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[5] Soerjono Soekanto, dan Sri Mamudji, 2010, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta: Raja Grafindo Persada, hal. 13-14.

[6] Amiruddin & Zainal Asikin, 2012, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta.hal 118

[7] *Ibid*

[8] Bachtiar,, 2018, *Metode Penelitian Hukum* ;.– 1sted. , Unpam Press, Hal. 68.

[9] Bambang Sunggono, 2003, *Metode Penelitian Hukum,* Cet 5, (Jakarta: PT RajaGrafindo Persada, , hal 42-43.

educators, legal researchers, legal practitioners in the context of legal studies, legal development and development, as well as legal practice.

According to Noeng Muhadjir, the notion of data analysis is an effort to systematically search for and organize records of observations, interviews, and others to increase the researcher's understanding of the cases under study and present them as findings to others. Meanwhile, to increase this understanding, the analysis needs to be continued by trying to find meaning. [10]

Because this type of research is a library study, the main research location is the library. There are 2 library locations chosen by the author for this study, namely:

1. National Library

   The address is at Jalan Medan Merdeka Selatan No.11, RT.11/RW.2, Gambir, Gambir District, Central Jakarta City, Special Capital Region of Jakarta 10110. The reason for choosing this library is because of its strategic location in the center of state government, making it easily accessible by various modes of transportation as well as providing a complete collection of books to read, use or borrow for the purposes of this research.

2. Pamulang University Library, Viktor Campus

   Located at Jalan Puspitek, Buaran, Pamulang District, South Tangerang City, Banten 15310. The Unpam Viktor campus library provides books relevant to research needs.

D. Corruption

The word "Corruption" comes from the Latin "Coruptio" (Fachema Andrea: 1951) or "Corruptus" (Webster Student Dictionary: 1960). Furthermore, it is said that "Corruption" comes from the word "Corrumpere", an older Latin language. From the Latin language, the terms "Corruption, Corruptie" (English), "Corruption" (French) and "Corruptie/Korruptie" (Dutch) are known. The literal meaning of the word corruption is rottenness, ugliness, depravity, dishonesty, bribery, immorality, deviation from chastity.

1. The term corruption that has been accepted in the Indonesian vocabulary is "crime, ugliness, bribery, immorality, depravity, and dishonesty" (S. Wojowasito - Wjs Poerwadar Minta: 1978). Another meaning is "bad deeds such as embezzlement of money, accepting bribes, and so on" (WJS Poerwadar Minta: 1976). Furthermore, for several other meanings, it is stated that (Muhammad Ali: 1998):

[10] Ahmad Rijali, 2018, *Analisis Data Kualitatif*, Jurnal Alhadharah, Vol. 17 No. 33 Januari – Juni 2018, hal 81-95, UIN Antasari: Banjarmasin

2. Corrupt means rotten, likes to accept bribes, uses power for his own interests and so on;
3. Corruption means bad deeds such as embezzlement of money, accepting bribes, and so on, and
4. Corruptors mean people who commit corruption.

Thus the meaning of the word corruption is something that is rotten, evil and destructive, based on this fact the act of corruption involves; something that is immoral, rotten nature and condition, related to the position of the agency or apparatus

government, abuse of power in office due to gifts, transporting economic and political factors and placement of families or groups into service under office power

From a legal perspective, the definition of corruption has been clearly explained in 13 articles in Law no. 31 of 1999 which has been amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes. Based on these articles, corruption is formulated into 30 forms/types of corruption. These articles explain in detail the actions that can be subject to criminal sanctions due to corruption. The 30 forms/types of corruption can basically be grouped as follows:

1. State financial losses
2. Bribery
3. Embezzlement in office
4. Blackmail
5. Fraud
6. Conflict of interest in procurement
7. Gratification

In addition to the forms/types of corruption described above, there are still other crimes related to corruption as stipulated in Law No. 31 of 1999 jo. UU no. 20 of 2001. The types of criminal acts related to corruption are::

1. Obstructing the process of examining corruption cases
2. Not providing information or providing incorrect information
3. Banks that do not provide information about the suspect's account
4. Witnesses or experts who do not provide information or provide false information
5. The person holding the position secret does not provide information or

6. provide false information
7. The witness who disclosed the identity of the reporter

The following articles below can be linked to criminal acts of corruption in: procurement of government goods and services.

D.1. Against the Law to Enrich himself / herself

Article 2 of Law no. 31 of 1999 jo. UU no. 20 of 2001:

(1) Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state's finances or the state's economy, shall be punished with imprisonment for life or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). (2) In the event that the criminal act of corruption as referred to in paragraph (1) is committed under certain conditions, death penalty may be imposed. The formulation of corruption in Article 2 of Law no. 31 of 1999, for the first time contained in Article 1 paragraph (1) letter a of Law no. 3 of 1971. The difference in the formulation lies in the inclusion of the word "can" before the element "harmful to the state's finances/economy" in Law no. 31 of 1999. Until now, this article is among the most widely used to convict corruptors.

In order to conclude whether an act is considered corruption according to this Article, the following elements are :

1. Any person or corporation;
2. Against the law;
3. Enrich yourself, other people or a corporation;
4. Can be detrimental to state finances or the country's economy.

D.2. Abuse of Authority

Article 3 of Law no. 31 of 1999 jo. UU no. 20 of 2001: Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunities or facilities available to him because of his position or position which can harm the state's finances or the country's economy, shall be punished with life imprisonment or imprisonment

a minimum of 1 (one) year and a maximum of 20 (twenty) years and or 6 fines of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). The formulation of corruption in Article 3 of Law no. 31 of 1999, for the first time contained in Article 1 paragraph (1) letter b of Law no. 3 of 1971. The difference in the formulation lies in the inclusion of the word "can" before the element "harmful to the state's finances/economy" in Law no. 31 of 1999. Until now, this article is among the most widely used to convict corruptors. In order to conclude whether an act is considered corruption according to this Article, the following elements must be met:

1. Everyone;
2. With the aim of benefiting oneself or another person or a corporation;
3. Misusing authority, opportunity or means;
4. Can be detrimental to state finances or the country's economy.

D.3. Bribing Public Servants

Article 5 paragraph (1) Law no. 31 of 1999 jo. UU no. 20 of 2001: (1) Shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and or be fined a minimum of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 250,000. 000.00 (two hundred and fifty million rupiah) each person who:

a. give or promise something to civil servants or administrators
b. the state with the intention that the civil servant or state administrator does or does not do something in his position that is contrary to his obligations; or b. give something to a civil servant or state administrator because of or in connection with something that is contrary to obligations, done or not done in his position.

The formulation of corruption in Article 5 paragraph (1) of Law no. 20 of 2001 originates from Article 209 paragraph (1) numbers 1 and 2 of the Criminal Code, which is referred to in Article 1 paragraph (1) letter c of Law no. 3 of 1971, and Article 5 of Law no. 31 of 1999 as a criminal act of corruption, which was then reformulated in Law no. 20 of 2001.

To conclude whether an act includes corruption according to Article 5 paragraph (1) letter a of Law no. 20 of 2001, must fulfill the following elements:

1. Everyone;
2. Give something or promise something;
3. To civil servants or state administrators;
4. With the intention of doing or not doing something in his position,
5. which is contrary to its obligations.

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D.4. Wholesalers Commit

(1) Article 7 paragraph (1) Law no. 31 of 1999 jo. UU no. 20 of 2001:

(2) (1) Shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and or be fined a minimum of Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of hundred fifty million rupiah):::

1. contractors, construction experts who, when constructing buildings, or sellers of building materials, who, when handing over building materials, commit fraudulent acts that can endanger the security of people or goods, or the safety of the state in a state of war;

2. every person in charge of supervising the construction or delivery of building materials, intentionally allows fraudulent acts as referred to in letter a;

The formulation of corruption in Article 7 paragraph (1) letters a and b of Law no. 20 of 2001 originates from Article 387 paragraph (1) and paragraph (2) of the Criminal Code, which are referred to in Article 1 paragraph (1) letter c of Law no. 3 of 1971, and Article 7 of Law no. 31 of 1999 as a criminal act of corruption, which was then reformulated in Law no. 20 of 2001. To conclude whether an act is considered corruption according to Article 7 paragraph (1) letter a of Law no. 20 of 2001, must meet the elements:

1. Contractors, builders, or sellers of building materials;
2. Commit fraudulent acts;
3. When constructing a building or handing over building materials;

4. Which can endanger the security of people or the security of goods, or the safety of the country in a state of war.

To conclude whether an act includes corruption according to Article 7 paragraph (1) letter b of Law no. 20 of 2001, must meet the elements:

1. The building supervisor or the supervisor for the delivery of building materials;
2. Allowing fraudulent acts to be committed when constructing buildings or handing over building materials;
3. Done intentionally;
4. As referred to in Article 7 paragraph (1) letter a.

D.5. Civil Servants Receive Gifts/Promises Related to Their Positions

Article 11 of Law no. 31 of 1999 jo. UU no. 20 of 2001: Sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and or a fine of a minimum of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 250,000,000.00 (two hundred and fifty million rupiah) civil servants or state administrators who receive gifts or promises when it is known or reasonably suspected that the gift or promise was given because of power or authority related to their position, or which according to the mind of the person giving the gift or promise has something to do with with his position. The formulation of corruption in Article 11 of Law no. 20 of 2001 originates from Article 418 of the Criminal Code, which is referred to in Article 1 paragraph (1) letter c of Law no. 3 of 1971, and Article 11 of Law no. 31 of 1999 as a criminal act of corruption, which was then reformulated in Law no. 20 of 2001

D. 6. Civil Servant Extorts and Participates in Procurement Management of Article 12 Law no. 31 of 1999 jo. UU no. 20 of 2001: Sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 1,000 ,000,000.00 (one billion rupiah):

e. a civil servant or state administrator who, with the intention of unlawfully benefiting himself or others, or by abusing his power, forces someone to give something, pay, or receive payment with a discount, or to do something for himself;

i. civil servants or state administrators, either directly or indirectly, intentionally participate in

contracting, procurement, or leasing, which at the time the act is committed, in whole or in part, is assigned to manage or supervise it.

The formulation of corruption in Article 12 letters e and i of Law no. 20 of 2001 comes from Articles 423 and 435 of the Criminal Code, referred to in Article 1 paragraph (1) letter c of Law no. 3 of 1971, and Article 12 of Law no. 31 of 1999 as a criminal act of corruption, which was then reformulated in Law no. 20 of 2001

D.7. Gratification and Not Reporting to the KPK

Article 12B Law no. 31 of 1999 jo. UU no. 20 of 2001: (1) Any gratification to civil servants or state administrators is considered bribery, if it is related to their position and is contrary to their obligations or duties, with the following conditions:

1. with a value of IDR 10,000,000.00 (ten million rupiah) or more, proof that the gratuity is not a bribe is carried out by the recipient of the gratuity;;
2. whose value is less than IDR 10,000,000.00 (ten million rupiah), proof that the gratuity is a bribe committed by the public prosecutor.

(2) The punishment for civil servants or state administrators as referred to in paragraph (1) is life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000. 000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). Article 12 C Law no. 31 of 1999 jo. UU no. 20 of 2001:

1. The provisions referred to in Article 12B paragraph (1) do not apply, if
2. the recipient reports the gratuity he receives to the Eradication Commission
3. Corruption Crime.
4. The recipient of the gratuity must submit the report as referred to in paragraph (1) no later than 30 (thirty) working days from the date the gratuity is received.
5. The Corruption Eradication Commission within a period of no later than 30 (thirty) working days from the date of receipt of the report must determine whether the gratuity belongs to the recipient or belongs to the state.
6. Provisions regarding the procedures for submitting reports as referred to in paragraph (2) and determining the status of gratuities as referred to in paragraph

(3) regulated in the Law on the Corruption Eradication Commission.

The formulation of corruption in Article 12 B of Law no. 20 of 2001 is the formulation of a new corruption crime made in Law no. 20 of 2001. To conclude whether an act is considered corruption according to Articles 12 B and 12 C of Law no. 20 2001, must fulfill the following elements Civil servants or state administrators

1. Receiving gratuities (gifts in the broad sense of the word);
2. Which is related to the position and contrary to the obligations or duties;
3. The receipt of the gratuity is not reported to the KPK within 30 days of receipt of the gratuity.

D.8. RKUHP

Article 607 RKUHP which is a new form of Article 2 paragraph (1) of Law No. 31 of 1999 concerning the Eradication of Corruption. the formulation of the norms of Article 607 of the RKUHP contains a decrease in corporal punishment from 4 years to 2 years in prison. Not only that, the minimum fine is similar, dropping from IDR 200 million to only IDR 10 million. Then Article 608 RKUHP is a new form of Article 3 31/1999. Even though corporal punishment has increased from 1 year to 2 years in prison, it is not comparable to the legal subjects of the perpetrators, namely public officials.[11]

Article 610 paragraph (2) of the RKUHP is a new form of Article 11 UU 31/1999, almost similar to other provisions where the punishment aimed at bribe recipients has also decreased. If previously the maximum was 5 years in prison, it was reduced to 4 years in prison. Meanwhile, other principal penalties, such as fines, have also decreased, from Rp. 250 million to Rp. 200 million. Fines, which are one of the main crimes, are relatively low in the RKUHP draft. The reason is that the maximum fine that becomes a reward for the perpetrators is only IDR 2 billion. Unlike the case with sectoral laws that are specific. Such as Law No. 35 of 2009 concerning Narcotics or Law No. 8 of 2010 concerning the Eradication of Money Laundering Crimes reaching IDR 10 billion.

E. FINDING & DISCUSSION

[11] Rofiq Hidayat, 2022, Catatan ICW Atas Pengaturan Tipikor yang Bermasalah dalam RKUHP, https://www.hukumonline.com/berita/a/catatan-icw-atas-pengaturan-tipikor-yang-bermasalah-dalam-rkuhp-lt62f4ac3becb56/?page=2, diakses 5 Desember 2022.

The Directorate General of Corrections at the Ministry of Law and Human Rights stated that 23 corruption convicts who were paroled were released on September 6, 2022 from Class IIA prisons in Tangerang, Banten and Class I prisons in Sukamiskin, Bandung, West Java. Those who were released on parole included former prosecutor Pinangki Sirna Malasari, former Constitutional Court judge Patrialis Akbar, former Minister of Religion Suryadharma Ali, and former Jambi governor Zumi Zola. This parole refers to Article 10 of Law Number 22 of 2022 concerning Corrections which has been officially in effect since August 3, 2022. In that article it is stated that convicts who have met certain requirements without exception are given a number of rights, one of which is parole. Conditional release of convicts of corruption cases is a logical consequence of the annulment of Government Regulation Number 99 of 2012 which regulates the tightening of remissions for perpetrators of corruption, narcotics, terrorism and other crimes. The cancellation of the Supreme Court (MA) regulation has made corruption no longer categorized as an extraordinary crime, so that the perpetrators can get remissions like other criminals..

A criminal law expert, Prof. Andi Hamzah SH, is of the opinion that corruption is not an extraordinary crime. Corruption is a common crime that exists in all countries. Corruption is the same as theft and such cases exist in all ages. The views of Andi Hamzah, who is also the head of the drafting team for the drafting of the Corruption Eradication Bill, were conveyed when he became an expert witness in the alleged corruption case in the extension of the use rights for the Hilton Hotel building, at the Central Jakarta District Court, with the defendants Pontjo Sutowo and Ali Mazi. Corruption is a common crime that occurs in all countries. It's just that, there are countries that have a lot of corruption, but there are a few, such as Singapore and Sweden.[12]

The legal facts show that criminal acts of corruption (tipikor) which have been widespread, massive and structured so far have become part of life in the State of Indonesia. Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the State's finances or the State's economy is a legal term to refer to a criminal act of corruption. In Indonesia and the Indonesian people interpret corruption in general as an act of a State Official who has violated the applicable law by receiving something in the form of "Money/Goods," in order to be able to do or not do in his position for the benefit of a person or a corporation and this

[12]Anonim, 2007, *Korupsi Bukan Lagi Kejahatan Luar Biasa,* https://antikorupsi.org/id/article/korupsi-bukan-lagi-kejahatan-luar-biasa, diakses 5 Desember 2022

in line with the elements of one of the Articles in the Law on Corruption, namely Everyone who with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or facilities available to him because of his position or position which can harm the state's finances or the country's economy , is one of the legal terms to refer to criminal acts of corruption.

The qualification of corruption as an extraordinary crime is based on the landscape of efforts to eradicate corruption which can be metaphorically expressed in the Dutch language as "Het recht thinkt achter de feiten aan". This means that the law is always behind the events. Besides that, the reality of the ins and outs of corruption

describe three properties. First, corruption is a form of white collar crime. Second, corruption is usually carried out in congregation so that it is a form of organized crime. Third, corruption is usually carried out with a sophisticated modus operandi that makes it difficult to prove it. In the provisions of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, it is stated that the crime of corruption is an extraordinary crime (extra ordinary crime) so that extraordinary measures are also needed (extra ordinary measures).). But the statement in its implementation, not all of it is true. For example, specifically the crime of bribery (bribery) is not an extraordinary crime but an ordinary crime so that extraordinary legal remedies are not needed..[13]

The opinion that corruption is now not an extraordinary crime is also strengthened by the Draft Criminal Code (RKUHP) which was recently passed into the Criminal Code (KUHP) on 6 December 2022. In the new Criminal Code, the punishment for corruptors has been lowered.

Previously, Tipikor was an extraordinary crime, so that the legal regulations were regulated specifically in the Corruption Law. However, the specificity of Corruption is again a blunder because it is included in the Criminal Code. The rules are now contained in Article 603 and Article 604. Article 603 of the Criminal Code is a similar form of Article 2 of the Corruption Law. The problem is, this article in the Criminal Code actually makes the number of corruptors' sentences less severe. This regulation reduced the minimum sentence of imprisonment from 4 years to 2 years. Meanwhile, the fine that previously imposed a minimum of IDR 200 million has now become IDR 10 million.

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[13]Mohammad Al Faridzi dan Gunawan Nachrawi, *Kualifikasi Kejahatan Luar Biasa Terhadap Tindak Pidana Korupsi (Putusan Mahkamah Agung Nomor 301 K/Pid.Sus/2021),* Vol. 6 No. 2 September 2022, Hal.2.

"Anyone who unlawfully commits an act of enriching himself, another person, or a corporation that harms the state's finances or the country's economy, shall be punished with life imprisonment or imprisonment for a minimum of 2 (two) years and a maximum of 20 (twenty) years," reads article 603.

Article 604 is another form of Article 3 of the Corruption Law. The article contains an increase in the length of detention from 1 year in prison to a minimum of 2 years. However, according to ICW, this is certainly not commensurate with the subjects regulated in the article, namely public officials or state administrators. The low criminal threat for corruptors in the new Criminal Code has made the agenda for eradicating corruption even more deplorable.

"Anyone who with the aim of benefiting himself, other people, or the Corporation abuses the authority, opportunity, or facilities available to him because of his position or position which is detrimental to the state's finances or the country's economy, shall be punished with life imprisonment or imprisonment for a minimum of 2 (two) two) years and a maximum of 20 (twenty) years and a minimum fine of category II and a maximum of category VI," reads Article 604.

However, in the midst of an increase in corruption cases, the government and the DPR have actually reduced the punishment for corruptors. Based on the records of ICW's Sentence Trends, throughout 2021, out of 1,282 corruption cases, the average prison sentence is only 3 years and 5 months. This problem has been exacerbated by the passing of the Correctional Law. This law makes it easy for convicts of corruption cases to get remissions and parole.

In addition, the Corruption Crime articles in the new Criminal Code also have the potential to hinder the process of investigating corruption cases. This is because, in the elucidation of Article 603 of the Criminal Code it states that what is meant by "harm to the state finances" is based on the results of an examination of the state financial audit institution. This definition directs that the authorized party is only the Supreme Audit Agency (BPK). In other words, the Corruption Eradication Commission (KPK) may lose its authority.

At present, the duration of prison sentences for corruptors is getting lighter, remission or parole is being made easier, until the revision of the KPK Law, the Correctional Law, and the new Criminal Code which tends to reduce sentences for corruptors is a series of events that illustrates corruption is increasingly becoming an ordinary crime. . This is in stark contrast to the eradication of corruption which the KPK had touted that corruption is an extraordinary crime. If we look back, the KPK was formed to answer the need to eradicate corruption in

Indonesia in the post-reform era. Where it is not optimal so it needs a special institution that works independently to investigate corruption cases that are detrimental to the State. In essence, according to Law no. 30 of 2002 established the Corruption Eradication Commission (KPK), which is a state institution which in carrying out its duties and authorities is independent and free from the influence of any power so that the formation of this commission aims to increase the effectiveness and effectiveness of efforts to eradicate corruption. Law enforcement to eradicate criminal acts of corruption that have been carried out conventionally has been proven to experience various obstacles. For this reason, an extraordinary law enforcement method is needed through the establishment of a special body that has broad authority, is independent and free from any power in efforts to eradicate corruption, whose implementation is carried out optimally, intensively, effectively, professionally and continuously, then through the mandate of the Law -Invite No. 30 of 2002 concerning the Corruption Eradication Commission, the institution of the Corruption Eradication Commission was establishedi.[14]

The establishment of the Corruption Eradication Commission as an agency authorized to eradicate criminal acts of corruption, is regulated in several laws and regulations, namely:[15]

a. Decree of the People's Consultative Assembly of the Republic of Indonesia Number VIII/MPR/2001 concerning Recommendations for Policy Directions for Eradicating and Preventing Corruption, Collusion and Nepotism. Article 2 number 6 letter a, namely: The policy direction for eradicating corruption, collusion and nepotism is to establish laws and their implementing regulations to assist in the acceleration and effectiveness of the implementation of the eradication and prevention of corruption whose contents include the Corruption Eradication Commission.

b. Law Number 31 of 1999 concerning Eradication of Corruption Crimes. Article 43 paragraph (1) of the year since the enactment of Law Number 31 of 1999, the Corruption Eradication Commission was immediately formed. The Corruption Eradication Commission has the authority to carry out coordination and supervision, including carrying out investigations, investigations and prosecutions, while the formation,

[14] Ifrani, 2017,Tindak Pidana Korupsi Sebagai Kejahatan Luar Biasa,Al Adl Volume IX Nomor 3, Fakultas Hukum Universitas Lambung Mangkurat: Banjarmasin.

[15] Ermansjah Djaja, 2010, Meredesain Pengadilan Tindak Pidana Korupsi" Implikasi Putusan Mahkamah Konstitusi Nomor 012-016-019/PPUIV/2006, Sinar Grafika, Jakarta,hal. 90.

organizational structure, work procedures and responsibilities, duties and authorities as well as membership are regulated by law.

According to the provisions of Article 6 of the Law, the Corruption Eradication Commission has the following duties, authorities and obligations:

a. Coordination with agencies authorized to eradicate criminal acts of corruption authorized to carry out:

- Coordinating investigations, investigations and prosecutions of criminal acts of corruption;

- Setting up a reporting system for corruption eradication activities;

- Request information about corruption eradication activities from the relevant agencies;

- Carry out hearings or meetings with agencies authorized to eradicate corruption; and - Request reports from related agencies regarding the prevention of criminal acts of corruption. As for the reasons for taking over the investigation and prosecution carried out by the Corruption Eradication Commission on the following grounds; 7

b.. Public reports regarding acts of corruption are not followed up;

The process of handling corruption is protracted or delayed without justifiable reasons;

1. The handling of criminal acts of corruption is aimed at protecting the real perpetrators of corruption;

2. The handling of criminal acts of corruption contains elements of corruption;

3. Obstacles in the handling of criminal acts of corruption due to interference from the executive, judiciary or legislature; or

4. Other circumstances in which according to the police or prosecutor's considerations, the handling of criminal acts of corruption is difficult to carry out properly and can be accounted for;

5. Involve law enforcement officials, state administrators, and other people who are

related to criminal acts of corruption committed by law enforcement officials or state administrators;

6. Get attention that disturbs the community; and/or

7. Concerning state losses of at least Rp. 1000,000,00000 (one billion rupiah).

Currently, the number of corruption cases in Indonesia is still in the double digits. Reporting from the KPK's official website, in the first semester of 2022, the KPK has conducted 66 investigations, 60 investigations, 71 prosecutions, 59 inkracht cases, and executed decisions on 51 cases. Of the total investigation cases, the KPK has named 68 people as suspects out of a total of 61 investigation orders (spirindik) issued.[16]

From the data above, it means that corruption still needs more intensive handling. Because the amount of corruption is detrimental to the state, especially those handled by the Corruption Eradication Commission, of course, with a loss of billions of rupiah. If the corrupted funds are used for community welfare, more people will certainly be helped and the poverty rate can be reduced.

Because corruption is still high in Indonesia, corruption should still be classified as an extraordinary crime. Data from Transparency International Indonesia has issued a corruption perception index (CPI) on Tuesday 25 January 2022. On this index, Indonesia is ranked 96th out of 180 countries. Indonesia managed to get a score of 38 where the value increased by one point from last year. The score that Indonesia obtains is still below the global GPA average, which is 43. This index is issued regularly every year with a score of 0-100 where the level of corruption eradication in a country will improve if it is close to 100 and it will get worse if it is close to 0..[17]

From Indonesia's corruption perception index which is still 38 below the world average, and is still closer to 0, it means that Indonesia's Corruption Perceptions Index is still poor. Because of this, it is necessary to eradicate more intensive anti-corruption education to the public so that Indonesia's ranking in global perceptions of corruption can improve.

F. CONCLUSION

[16]Issha Harruma, 2022, *Data Kasus Korupsi di Indonesia Tahun 2022,* https://nasional.kompas.com/read/2022/09/21/01000051/data-kasus-korupsi-di-indonesia-tahun-2022, diakses 6 Desember 2022.

[17] Tempo.co,2022, Indeks Persepsi Korupsi Indonesia 2021 Peringkat 96 dari 180 Negara,https://nasional.tempo.co/read/1553924/indeks-persepsi-korupsi-indonesia-2021-peringkat-96-dari-180-negara, diakses 7 Desember 2022.

From this discussion we can draw the following conclusions:

1. Corruption is no longer seen as an extraordinary crime. Evidenced by the Correctional Law, the new Criminal Code to the Revised KPK Law, the Revised Criminal Code, all of which provide a portion of profits for convicts and suspects in corruption cases to shorten their prison terms. So that corruption does not provide a deterrent effect for corruptors.
2. With the large number of corruption cases plus Indonesia's Corruption Perception Index which is still below the global average, corruption should be an extraordinary crime in order to raise awareness of the dangers of corruption and the deterrent effect for perpetrators.

G. RECOMMENDATION

1. The need for special regulations or lex specialis in regulating punishment for corruptors. The new Criminal Code actually eliminates the function of the Corruption Crime Law

2. Increased outreach and supervision of the KPK to the regions is expected to reduce the level of corrupt behavior among state administrators. Anti-corruption lessons are still needed by the public so that the Corruption Perception Index in Indonesia is getting closer to the global average.

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