



Measuring the Factor of the Criminal Action of Corruption (Case Study of Criminal Acts of Corruption in the Environment of Legislative Authority)

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Abstract

With the spirit of reform, it gives extraordinary power and authority to legislative members in line with their duties and functions based on the mandate of the constitution such as the functions of legislation, budgetary functions, and supervisory functions. With the current power and authority of legislative members, they often do not fully carry out the people's mandate, but injure the people's mandate with the capture of several legislative members in the vortex of corruption cases. This study attempts to analyze these causes that make corruption continue to occur in the legislative power environment while providing solutions that are fundamentally changes in our constitutional system. This study uses normative legal research methods by examining primary legal materials, namely relevant laws and regulations and secondary legal materials in the form of library studies and also by utilizing quantitative data. The purpose of this study is to examine the fundamental factors causing the widespread of corruption cases that ensnare the legislative members when various regulations and criminal sanctions have often been imposed on convicted corruption before and do not have deterrent effects. The hypothesis that is temporarily built is that the authority/duties of legislative members, the high salary received now and also the policy of raising criminal sanctions are not effective in tackling corruption and this is the focus of the study in this study.

Keyword: Measuring, Corruption, Legislature, Authority

INTRODUCTION

The world agrees that corruption is main problem that need to erradicate from the root. Corruption can be taken as an action of authority deviation that harm the society done for the private and group needs. Or criminally meaning as certain form of crime. Corruption also means as authority deviation from public servant or another party relates to them, which contradicts to moral, the values in the society and law, to

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enrich for their own profit. Corruption is also an extraordinary crime that give disadvantage to the State finance and economy then the effort that have to be done to solve it must be in extraordinary way too.

Crime of corruption can occur in all fields. Even at the central and even the smallest regions. So that it needs to get great attention from the whole community and of course law enforcement in Indonesia. In this study the focus on the topic of discussion was corruption that occurred in the Legislative environment. This topic was raised because the number of corruption from year to year until the end of 2018 noted that the biggest corruption occurred in the legislative environment, especially the House of Representatives of the Republic of Indonesia (DPR RI). In addition, the current authority of the DPR also seems to show things that are not in line with our presidential system of state administration. Almost all state activities must go through a mechanism in the DPR. This concept is good when sovereignty is held by the people and the DPR has a function of controlling the government. But what happened was that the mandate of the people was delayed by the many cases of corruption occurring in the legislative environment.

The discourse raised was to look back at the causes of the many corrupt practices involving respectable board members. From a simple study, the causes of corruption are generally based on two things, namely the weakness / damage to one's morality plus the authority / power for corruption. Talking about the weakness of this morality can happen to anyone but speaking of authority / power can only be done by certain people who do have it. Of the two things, further studies were conducted on legislators who were caught in corruption cases. The authority currently held by legislators invites a special attraction for irresponsible people to try to commit corrupt practices with members of the DPR in the hope that DPR members will determine the expected goals. So that cases of bribery or gratification were carried out by the Corruption Eradication Commission (KPK).

The root of the problem needs to be sought and not only limited to increasing law enforcement. KPK, Police and Prosecutors are instruments for prosecuting corruption cases. So whoever the authority is granted, it will not reduce the number of corruption in the legislative environment. But it is the origin of the cause of corruption that needs to be corrected. Increasing penalties for corruptors also did not solve the problem. In fact, the higher the price that must be paid for corrupt practices so that they are implemented more neatly.

RESEARCH METHOD

Research conducted in this paper uses normative legal research methods or library legal research. Based on the understanding of normative legal research is a procedure of scientific research to find truth based on legal scientific logic from the normative side. Scientific logic in normative legal research is built on scientific disciplines and the ways of normative law, namely legal study whose object is law itself (Ibrahim, 2006). The method of this research is done by examining library materials collected by researchers. Collection of library materials is carried out carefully and through searches that match the themes discussed by the researcher. After the library material is collected the researcher conducts a comprehensive study of the library material, so that this method produces an objective and quality study.

FINDING AND DISCUSSION

The term corruption in Indonesia was originally not a juridical term, but originated from the Latin word "Corruptus" which means an act that is rotten, rotten,

not corrupt, can be bribed, immoral, deviates from purity, insulting or defamatory words or words (Hamzah, 1985). Because of the bad nature of corruption itself, making corruption cases a form of extraordinary crime and even trans-national problems. It is said that because corruption can enter in all fields of our state both executive, legislative and judicial.

The proverb 'where there is a smoke, there is a fire' seems right when it is likened to corrupt practices that often involve legislative members both at the central and regional levels. The various authorities that exist in the current legislative members indirectly invite low moral parties to justify any means so that their wishes are realized. One of them is to tempt legislators with practices of bribery, gratification or even structured corruption which have been planned from the start in the state budget.

Seeing the basic tasks and functions of the legislative members at this time is undeniable as a result of the transition of the new order to the reformation period. The new order period which is identical with the ruling power, especially in the executive environment, makes all matters of our country today all must be supervised by the people according to the message of democracy where sovereignty is in the hands of the people. It is a good concept where the role of the people must be dominant in controlling the functions of the state so that the state does not act beyond the limits of its authority, especially to violate human rights. The function of the lali people is represented through their representatives who sit in the legislative ranks. The hope is the voice of the Indonesian people, approximately 300 million people can be represented and delivered through their representatives.

The good concept seems to need to be reviewed at this time. Without rejecting the existence of the notion of reform, the era of democracy and also the message of the Fourth value of Pancasila, the form of representation of the people seems to have a gap in the occurrence of misuse of the people's trust itself. By strengthening people's functions in the government, raising people's representatives in the House of Representatives (DPR) has extraordinary duties, principles, functions and authorities. In the constitution alone, it has been explained in Article 20A, namely:

- (1) The House of Representatives has the functions of legislation, budget functions, and supervisory functions.
- (2) In carrying out its functions, in addition to the rights stipulated in other articles of this Constitution, the House of Representatives has interpellation rights, inquiry rights, and the right to express opinions.
- (3) In addition to the rights stipulated in other articles of this Constitution, each member of the House of Representatives has the right to ask questions, submit proposals and opinions, and the right to immunity. Further provisions regarding the rights of the House of Representatives and the rights of members of the House of Representatives are regulated in law.

In a special law, namely the Republic of Indonesia Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Junto Regional Representative Council Law Number 42 of 2014 concerning Amendments to the Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the People's Representative Council of the Junto Region Law Number 2 of 2018 concerning the Second Amendment to Law Number 17 of 2014 concerning the People's Consultative Assembly, House of Representatives, The Regional Representative Council, and the Regional People's Representative Council (MD3) in article 69 also mentioned the function of the DPR as stated in the constitution. But actually in article 69 paragraph (2) this Law has a very extraordinary

moral message: (2) The three functions of legislation, supervision and budget as referred to in paragraph (1) are carried out within the framework of people's representation, and also to support the Government's efforts in carrying out foreign policy in accordance with the provisions of the legislation.

This means that in the above paragraph giving a message to the functions it carries out is truly within the framework of the representation of the people's mandate. But by looking at the high number of corruption occurring within the DPR, the true function of the DPR does not run according to its moral message.

The moral burden brought by the DPR also cannot be considered easy because in Article 71 of the Republic of Indonesia Law Number 17 of 2014 Junto Law of the Republic of Indonesia Number 42 of 2014 Junto Law of the Republic of Indonesia Number 2 Year 2008 concerning MD3 explained that the DPR has very extraordinary authority, they are:

- a. form laws that are discussed with the President for mutual agreement,
- b. giving approval or not giving approval to government regulations replacing the law proposed by the President to become a law;
- c. discuss the draft law submitted by the President or DPR;
- d. discuss the draft law proposed by the DPD concerning regional autonomy, central and regional relations, the establishment and division and integration of regions, management of natural resources and other economic resources, as well as financial balance between the center and regions;
- e. discuss with the President by taking into account the considerations of the DPD and provide approval for the draft law concerning the State Budget submitted by the President;
- f. discuss and follow up on the results of supervision submitted by the DPD on the implementation of the law concerning regional autonomy, the establishment, division and merger of regions, relations between the center and regions, management of natural resources and other economic resources, implementation of the state budget, taxes, education and religion;
- g. give approval to the President to declare war and make peace with other countries;
- h. give approval to certain international agreements that have broad and fundamental consequences for the lives of the people related to the financial burden of the state and require changes or the formation of laws;
- i. give consideration to the President in granting amnesty and abolition;
- j. giving consideration to the President in appointing ambassadors and accepting the placement of ambassadors of other countries;
- k. choose BPK members by taking into account the DPD's considerations;
- l. give approval to the President for the appointment and dismissal of members of the Judicial Commission;
- m. give approval to candidates for Chief Justice proposed by the Judicial Commission to be appointed as Chief Justice by the President; and
- n. elect 3 (three) constitutional justices and submit them to the President to be inaugurated by the President's decision.
- o. give approval to the President to declare war and make peace with other countries

In more detail, in carrying out the functions, authority and duties of the DPR it has also been regulated in articles 72 to article 75 of the MD3 Act. Even to elect the head of the Corruption Eradication Commission must go through the DPR as mandated by Article 30 of Law Number 30 Year 2002 concerning the Eradication Commission Corruption. Even though the candidate leading the KPK has gone through a selection process by the selection committee formed directly by the President.

According to Hariman Satria in his book "Anatomy of the Special Criminal Law" wrote that actually the presence of the selection committee was a form of delegation of the President's authority in recruiting KPK commissioners. Because if we look closely, the president is actually reducing his authority but the fact is that the fact is that the House of Representatives, rather than accepting the selection committee selection results, the DPR insisted on doing a fit and proper test based on its own standards and methods so that the DPR would continue to increase its authority. The problem is that the DPR's standards have become unclear and immeasurable. After all, it is worth checking out the DPR's ability to conduct a fit and proper test. The problem is that the DPR is not necessarily more expert than the selection committee or perhaps the candidates for the commission are more understanding or experts compared to DPR members who carry out the fit and proper test (Satria, 2014).

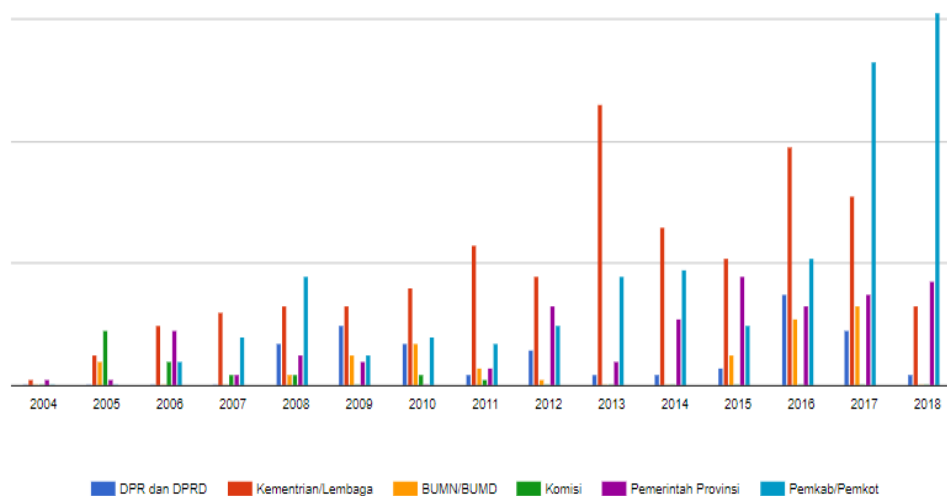
The statement above is true because if we look at DPR members, they have different backgrounds and the selection process is only through the electoral process as stated in Article 67, ie: "The DPR consists of members of political parties participating in general elections elected through general elections".

The Membership of the House of Representatives (DPR) carried out through a general election process is a form of democracy that occurs in Indonesia, but if members of DPR can conduct a fit and proper test against several leaders of state institutions, then who will conduct a fit and proper test for DPR members. This function can be carried out transparently by political parties that carry it. So that it becomes a question whether the chosen one really is the desired candidate of the people and whether the chosen one really has the required competencies.

From several functions, the authority and duties of the DPR members gave rise to a gap in the occurrence of corrupt practices. From starting to practice enriching oneself, abusing authority, bribery, gratuities to forms of corruption in a mode of trading influence (trading in influence).

Data from the KPK itself ranks the highest number of corruption in 2018 in the legislative environment.

Figure 1. Graph of corruption cases from 2004 to 2018



Source: kpk.go.id.

Figure 2. The number of corruption cases that occur in various places



Source: Instagram official.kpk

The data above shows the real facts released by the KPK itself saying that indeed the highest number of corruption occurred in the legislative environment. One of the causes is:

- 1) The duties, functions and authority of legislators are so broad.
- 2) Facilities obtained by legislators.
- 3) The amount of take home pay obtained is fantastic.
- 4) The selection of legal politics regarding the high criminal sanctions given.

The second and third factors can be seen from the Circular of the House of Representatives General Secretariat No. KU.00 / 9414 / DPR RI / XII / 2010 showing the salary structure of DPR members consisting of basic salary and allowances and other receipts. The amount of the basic salary and benefits is the same for all members of the Board. However, those who have positions as 'leaders of the board' (AKD) can bring home a salary of Rp. 2-3 million more. The following is a breakdown of the basic salary and benefits of Board members ([Kompas, 2011](#)):

- 1) Basic salary of Rp 4.2 million
- 2) Wife allowance of IDR 420 thousand
- 3) Child allowance (2 children) Rp. 168 thousand
- 4) The trial money/ package is Rp. 2 million
- 5) Functional Allowance Rp 9.7 million
- 6) Rice allowance (4 people) IDR 198 thousand
- 7) PPH Article 21 Allowance Rp. 1,729 million

The amount of basic salary and allowances for Board members actually reached Rp. 18.415 million. However, after deducting taxes and compulsory contributions from

the DPR by 10 percent, members are only entitled to Rp. 16,207 million. Meanwhile, the other components of acceptance of the Board members vary according to the presence or absence of a member's position on the Board's equipment. For ordinary members without the position of leader of the Board of Equipment the details are as follows (Kompas, 2011):

- 1) Honor allowance of Rp 3.720 million
- 2) Intensive communication allowance of Rp. 14,140 million
- 3) Increased benefits and supervision of a budget of Rp. 3.5 million
- 4) The cost of research and monitoring of the increase in the functionality and constitutionality of the Board is Rp. (Specifically the chairman and deputy chairperson of the Board's equipment are entitled to Rp. 500,000-Rp. 600,000)
- 5) Cost support for commission members who concurrently become members of the budget committee / committee of Rp. 1 million
- 6) Assistance for electricity and telephone subscriptions of IDR 5.5 million
- 7) The cost of absorbing community aspirations in the context of increasing the intensive communication performance of Rp 8.5 million.

With such details, ordinary Board members can take home a salary of USD 51.5672 million every month. The member who is also the vice chairman of the Board's equipment is able to bring in Rp. 53,647,200, while the concurrently chairman of the board of equipment can bring home Rp. 54,907,200 (Kompas, 2011). For the salaries of DPR members in the 2014-2019 period, there were several increases including increases in honor benefits, intensive communication allowances, increased allowances for supervision and budget functions, as well as electricity and telephone subscriptions. The increase in DPR members' allowance is stated in the Letter of the Minister of Finance No. S-520 / MK.02 / 2015 which was circulated on July 9, 2015 (CNN, 2015).

The following are data collected by parliamentary journalists regarding the increase in benefits proposed by the DPR and allowances approved by the Ministry of Finance (CNN, 2015):

1. Honor allowance
 - a. Chairperson of the agency/commission: the DPR proposes Rp. 11,150,000, only approved by 6,690,000
 - b. Deputy chairman: from the House of Representatives proposes Rp. 10,750,000, only approved Rp. 6,460,000
 - c. Members: The House of Representatives proposes Rp. 9,300,000, only approved by Rp. 5,580,000
2. Intensive communication allowances
 - a. Chairperson of the agency/commission: the DPR proposes Rp. 18,710,000, only approved by Rp. 16,468,000
 - b. Deputy chairman: The DPR proposes Rp. 18,192,000, only approved by Rp. 16,009,000
 - c. Members: The House of Representatives proposes Rp. 17,675,000, only approved by Rp. 15,554,000
3. Improvement of monitoring function benefits
 - a. Chairperson of the commission/body: The DPR proposes Rp. 7,000,000, only approved by Rp. 5,250,000
 - b. Deputy commission chairman/body: The DPR proposes Rp. 6,000,000, only approved by Rp. 4,500,000
 - c. Members: DPR proposes Rp. 5,000,000, only approved by Rp. 3,750,000
4. Electricity and telephone subscription assistance: The House of Representatives proposes Rp. 11,000,000, only approved by Rp. 7,700,000

By looking at the data above, it needs further assessment whether the people when nominating themselves as legislators really want to bring the people's voice and constitution or just take their fortune in politics to find work. The number of corruption cases in the legislative power seems to provide authority, facilities and salary increases received by legislative members needing special studies and evaluations.

Not long ago, came up a suggestion of some members of Parliament that proposes to reduce the number of corruption, then the legislative candidacy funds can be financed by the state. hopefully, being able to control the running of the budget by the state and reduce money politics. This issue clearly will further harm people's conscience because when the people need financial assistance for life and employment, the legislative candidates even ask for the state's nomination fee. Even though the legislative candidates are not necessarily wanted by the people. Not to mention the data shows the highest corruption rates occur in the legislative environment, so clearly this does not make sense. It should be a big challenge for legislative candidates who will run for office, whether they still want to advance when all their rights and benefits are reduced even in line with the State Civil Apparatus (ASN) in the region.

If the root cause is not trimmed, then there will be a view that the Presidential system that has been set by Indonesia becomes as if it was just a symbol, when Indonesia is led by its head of state a President. But the actual function is now far wider authority held by legislative powers or the DPR. The authority of the President to issue a form of legal product called a Government Regulation in Lieu of Law must also be approved by members of the DPR and if it is not approved then the regulation must be revoked as stated in article 22 paragraph (2) and paragraph (3) of the Constitution State of the Republic of Indonesia 1945. Even though the Law, even if it is not signed by the President, based on Article 20 paragraph (5) of the 1945 Constitution the draft law is lawful and must be promulgated.

CONCLUSION

The root of the main problem of the high number of corruption cases in the legislative environment is the responsibility, principal, function and authority that is at present. The extraordinary authority possessed by members of the Republic of Indonesia Parliament triggers irresponsible parties to tempt legislators to participate in corrupt practices. Real and even fundamental improvements need to be made if you want to reduce the number of corruption in Indonesia, especially those that occur in the legislative environment.

Amendments of the 1945 Constitution constitute is the first step that can be taken and subsequently revise the laws and implementing rules below them. In addition, it is necessary to review the take home pay value that will be received by legislative members. This is also needed in order to avoid public opinion that when becoming a legislative member is an event to restore nominating capital. When in the future their rights are reduced in truth, there will be seen legislative candidates who really want to become members of the legislature because of the calling of conscience and not just looking for work luck as a member of the parliament.

The process of receiving legislative members also needs improvement. Today's multi-party system is good in terms of democracy, but it becomes difficult to control to see parties that truly have credibility. Most of the life of political parties comes from its cadres who sit in parliament. So that it is also questionable about the process of recruiting cadres in it and nominating its members to become members of the legislature. So far, the people have only been forced to choose their representatives who have been prepared by political parties. The problem that arises needs to be watched out

for is the emergence of the practice of money politics and the people choosing their representatives like buying pig in a poke.

The legal policy in imposing sanctions on convicted corruptor is also not appropriate for reducing corruption rates. So far the legal politics taken is to provide the highest sanctions to convicted corruption to cause a deterrent effect. But in fact high sanctions are directly proportional to the value of bribes to be given. So that the issue which was discussed to give punishment for social work and corrupt impoverishment needs to be tried to see whether it is effective in giving effect to the corruptors in the future.

BIBLIOGRAPHY

- Andi Hamzah. (1985). *Korupsi dalam Proyek Pembangunan*. Jakarta: Akademika Pressindo.
- Hariman Satria. (2014). *Anatomi Hukum Pidana Khusus*. Yogyakarta: UII Press.
- Johnny Ibrahim. (2006). *Teori dan Penelitian Hukum Normatif*. Malang: Bayumedia.
- Undang-undang Dasar Negara Republik Indonesia 1945.
- Undang-Undang Republik Indonesia Nomor 17 Tahun 2014 Tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, Dan Dewan Perwakilan Rakyat Daerah.
- Undang-Undang Republik Indonesia Nomor 42 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 17 Tahun 2014 Tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, Dan Dewan Perwakilan Rakyat Daerah.
- Undang-Undang Republik Indonesia Nomor 2 Tahun 2018 Tentang Perubahan Kedua Atas Undang-Undang Nomor 17 Tahun 2014 Tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, Dan Dewan Perwakilan Rakyat Daerah (MD3).
- Undang-undang Nomor 30 Tahun 2002 Tentang Komisi Pemberantasan Korupsi.
- Surat Menteri Keuangan No S-520/MK.02/2015.
- Surat Edaran Setjen DPR RI No KU.00/9414/DPR RI/XII/2010.
- Kompas.com, Inilah Gaji Bulanan Para Anggota DPR at <https://nasional.kompas.com/read/2011/05/12/17195764/Inilah.Gaji.Bulanan.Para.Anggota.DPR>.
- CNN Indonesia Kenaikan Tunjangan Anggota DPR Dapat Restu Menkeu at <https://www.cnnindonesia.com/nasional/20150916081057-32-79022/kenaikan-tunjangan-anggota-dpr-dapat-restu-menkeu>.

