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The Effectiveness of Law Enforcement in Combating Corruption and Recovering State Losses

Nazaruddin Al-Farisi^{1*}, Siti Lintang Saputri²

¹ Universitas Muhammadiyah Yogyakarta, Yogyakarta, Indonesia

² Universitas Aisyiyah Yogyakarta, Yogyakarta, Indonesia

Abstract:

Corruption is an egregious criminal offense that not only causes financial losses to the state but also undermines public trust, governmental integrity, and the enforcement of the law. This study aims to analyze the effectiveness of law enforcement in combating corruption and recovering state losses in Indonesia. The study employs a normative legal method using legislative, conceptual, and case-based approaches through a literature review of laws and regulations, court decisions, scholarly journals, and legal doctrine. The results indicate that Indonesia has a relatively comprehensive legal framework through Law No. 31 of 1999 as amended by Law No. 20 of 2001, Law No. 19 of 2019 on the Corruption Eradication Commission (KPK), and asset recovery mechanisms strengthened by the ratification of the UNCAC. However, the effectiveness of anti-corruption efforts still faces obstacles in the form of weak integrity among officials, poor inter-agency coordination, disparities in sentencing, and difficulties in asset recovery. The study concludes that the fight against corruption must be conducted in an integrated manner through the strengthening of regulations, institutions, and the integrity of law enforcement officials, as well as through prevention, proportional sentencing, and the optimization of state asset recovery.

Keywords:

Asset Recovery; Corruption; Corruption Offenses; Criminal Liability; Law Enforcement.



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1. Introduction

Corruption is a form of criminal offense that has far-reaching implications for the life of the nation and the state, as it not only involves financial losses to the state but also affects the quality of governance, development, social justice, and public trust in state institutions. From a criminal law perspective, corruption can be understood as the abuse of power or authority to obtain unlawful gains, which ultimately harms the public interest. These characteristics lead to corruption being classified as an “extraordinary crime,” meaning that combating it requires more specialized legal instruments and law enforcement strategies than those used for conventional crimes (Wahyu, 2020; Karunia, 2022). Constitutionally, the eradication of corruption is linked to the principle of the rule of law, as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This principle implies that the administration of government must be based on the law, including in the exercise of authority and the management of state finances.

The specific legal framework for combating corruption is set forth in Law No. 31 of 1999 on the Eradication of Corruption Offenses, as amended by Law No. 20 of 2001. This law regulates various forms of corruption, including acts that cause financial loss to the state, bribery, gratuities, extortion, and abuse of authority. In fact, in the preamble to the law, corruption is viewed as a crime that infringes upon the social and economic rights of the people, and therefore its eradication must be carried out with extraordinary measures. This legal framework was subsequently strengthened by Law No. 30 of 2002 on the Corruption Eradication Commission, which has been amended, most recently by Law No. 19 of 2019. These amendments have implications for the status, authority, and operational mechanisms of the Corruption Eradication Commission (KPK). The KPK was established primarily to strengthen the fight against corruption through its functions of prevention, coordination, monitoring, supervision, investigation, inquiry, and prosecution.

However, the effectiveness of this institution remains highly dependent on legal certainty, independence, coordination among law enforcement agencies, and the integrity of the officials who run it (Endrassanto, 2021; Tallaut & Adhari, 2022). The issue of combating corruption does not end with the existence of laws and regulations, but also lies in their implementation and enforcement. Studies on the enforcement of anti-corruption laws indicate that problems still exist in the areas of legal substance, the structure of law enforcement, and legal culture. Weak integrity among officials, poor interagency coordination, and inconsistent application of the law can undermine the effectiveness of anti-corruption efforts. Karunia (2022) argues that the issue of anti-corruption law enforcement must be viewed through the interplay between legal substance, legal structure, and legal culture; thus, combating corruption cannot rely solely on the establishment of legal norms.

In addition to law enforcement issues, the recovery of financial losses to the state is also a crucial component of anti-corruption policy. Criminal acts of corruption are fundamentally intended not only to punish the perpetrators but also to recover the losses caused by such acts. Therefore, asset recovery mechanisms play a vital role in the anti-corruption system. This approach aligns with Indonesia’s commitment to the 2003 United Nations Convention Against Corruption (UNCAC), which was ratified through Law No. 7 of 2006. Strengthening asset recovery is essential because the success of anti-corruption efforts is not measured solely by the number of perpetrators convicted, but also by the state’s ability to recover assets and compensate for the losses caused by such crimes. On the other hand, trends in corrupt practices indicate that perpetrators are not always individuals; rather, they may include corporations or public officials who abuse their positions and authority to obtain unlawful gains.

Research by Wardhani and Suartha (2020) shows that corporate criminal liability for corruption has been established under the Law on the Eradication of Corruption, although there are still issues regarding the application and interpretation of these liability provisions. Meanwhile, Trisakti and Pujiyono (2022) emphasize that corruption committed by government officials is closely linked to the abuse of official authority, as stipulated in Article 3 of the Anti-Corruption Law. Given these conditions, there is a gap between the normative objectives of legislation and the reality of law enforcement regarding corruption crimes. The existence of the Anti-Corruption Law, the KPK, law enforcement agencies, and asset recovery mechanisms does not in and of itself guarantee that the eradication of corruption is proceeding optimally.

In fact, developments in national criminal law through Law No. 1 of 2023 on the Criminal Code have created a need for harmonization with the specific provisions of the Anti-Corruption Law to prevent uncertainty or a weakening of anti-corruption policies (Pinem et al., 2023). Therefore, studies on the eradication of corruption-related criminal offenses should focus on analyzing the integration of legal substance, law enforcement institutions, criminal liability, sentencing, and public participation. This approach is expected to contribute to the development of a criminal law system that is more effective, just, and capable of strengthening efforts to achieve a clean, transparent, and ethical government.

2. Methods

This study employs a normative legal methodology with a qualitative approach, aimed at analyzing legal provisions, concepts, principles, and law enforcement practices in the fight against corruption in Indonesia. Normative legal research focuses on the study of applicable legal norms by linking statutory provisions, legal doctrines, and developments in judicial practice. The approaches used include the statutory approach, the conceptual approach, and the case approach. The statutory approach is used to examine various provisions governing corruption offenses, particularly Law No. 31 of 1999, as amended by Law No. 20 of 2001 on the Eradication of Corruption Offenses, Law No. 30 of 2002, as last amended by Law No. 19 of 2019 on the Corruption Eradication Commission, and Law No. 1 of 2023 on the Criminal Code. A conceptual approach is used to understand the concepts of corruption offenses, criminal liability, sentencing, law enforcement, restitution of state losses, and the principles of clean and ethical governance. Meanwhile, a case-based approach is employed by analyzing relevant court decisions on corruption offenses to examine the application of legal norms to specific cases.

The legal materials used consist of primary, secondary, and tertiary sources. Primary legal materials include legislation, court decisions, and international legal instruments related to the eradication of corruption, including Law No. 7 of 2006 on the Ratification of the United Nations Convention Against Corruption (UNCAC). Secondary legal sources include law books, scholarly journals, research findings, academic articles, and expert opinions relevant to the research problem. Tertiary legal materials, such as legal dictionaries, encyclopedias, and other reference sources, are used to clarify the legal terminology and concepts employed in the research. The collection of legal materials is conducted through library research by identifying, cataloging, classifying, and analyzing legal materials relevant to the research subject. The analysis of legal materials was conducted using a descriptive-analytical and qualitative approach, specifically by outlining the applicable legal provisions and then interpreting them based on legal principles, theories, and doctrines to gain an understanding of the effectiveness of law enforcement in combating corruption.

The analysis also involves comparing legal norms with their application in court decisions to identify consistency, issues, and gaps between *das sollen* and *das sein*. Furthermore, the results of the analysis are used to assess the extent to which

Indonesia's criminal justice system is capable of providing legal certainty, justice, and public benefit in the fight against corruption. The validity of legal arguments is ensured through the triangulation of legal sources that is, by comparing statutory provisions, court decisions, scholarly literature, and expert opinions. Using this method, the study is expected to provide a comprehensive analysis of legal issues in the fight against corruption while formulating strategies to strengthen law enforcement oriented toward a clean, transparent, and ethical government.

3. Results and Discussion

3.1. Legal Framework and the Effectiveness of Law Enforcement in Combating Corruption

The research findings indicate that the legal framework for combating corruption in Indonesia essentially has a fairly comprehensive normative foundation. The primary instrument for combating corruption is found in Law No. 31 of 1999, as amended by Law No. 20 of 2001 on the Eradication of Corruption. This law regulates various forms of conduct categorized as corruption offenses, including acts that cause financial loss to the state, bribery, gratuities, extortion, and abuse of authority. Institutionally, the fight against corruption is further strengthened by Law No. 30 of 2002 on the Corruption Eradication Commission, which was subsequently amended for the second time by Law No. 19 of 2019. Thus, from a normative perspective, Indonesia has established a system for combating corruption that encompasses substantive criminal law, procedural law, law enforcement institutions, and prevention mechanisms.

One of the key provisions in this legal framework is Articles 2 and 3 of the Anti-Corruption Law. Article 2 essentially regulates acts of unlawfully enriching oneself, others, or a corporation that may harm state finances or the national economy, while Article 3 regulates the abuse of authority, opportunity, or resources obtained through one's official position or status to benefit oneself, others, or a corporation, which may harm state finances or the national economy. These two articles serve as a crucial foundation for handling corruption cases, particularly since many such cases involve the use of public office and authority. However, their application cannot be separated from the principle of legality, the proof of criminal elements, and the protection of the defendant's rights. Developments in judicial practice subsequently revealed a need to improve consistency in sentencing. This need was addressed, among other things, through Supreme Court Regulation No. 1 of 2020 on Guidelines for Sentencing Under Articles 2 and 3 of the Law on the Eradication of Corruption.

This regulation provides guidance for judges in determining the severity of a sentence by considering the degree of fault, the impact, the benefits gained, and other relevant circumstances. These guidelines are essential for reducing sentencing disparities in corruption cases and enhancing legal certainty. A study of Supreme Court Regulation No. 1 of 2020 indicates that these guidelines are part of legal reforms aimed at establishing more measured and just sentencing. Nevertheless, the existence of a relatively comprehensive legal framework has not automatically led to effective anti-corruption efforts. There remains a gap between *das sollen* and *das sein*—that is, between the normative goals of the law and its implementation in practice. The effectiveness of law enforcement is influenced not only by the quality of the law's substance but also by the structure of law enforcement and legal culture. Karunia (2022), drawing on Lawrence M. Friedman's legal systems theory, demonstrates that the fight against corruption must take into account the interrelationship between the substance of the law, the legal structure, and the legal culture. Thus, sound regulations will not yield optimal results unless they are accompanied by law enforcement officials of integrity and a societal legal culture that supports the fight against corruption.

Institutional changes to the KPK through Law No. 19 of 2019 also play a crucial role in analyzing the effectiveness of law enforcement. The law affirms that the KPK is a state institution within the executive branch that, in carrying out its duties and authorities, is independent and free from the influence of any other branch of government. The law also establishes the principles of legal certainty, transparency, accountability, the public interest, proportionality, and respect for human rights. Normatively, these provisions indicate that the fight against corruption is not only aimed at punishing perpetrators but must also be conducted in accordance with the principles of the rule of law and respect for human rights. The next issue concerns interagency coordination. Combating corruption is not solely the responsibility of the KPK but also involves the police and the Attorney General's Office. Therefore, effective anti-corruption efforts require coordination, oversight, information sharing, and a clear division of authority.

Law No. 19 of 2019 itself identifies synergy among the police, the Attorney General's Office, and the KPK as a key element in strengthening anti-corruption efforts. If this coordination does not function optimally, there is a risk of overlapping jurisdictions, differing case-handling strategies, and suboptimal investigation and prosecution processes. Thus, the research findings indicate that the primary challenge in combating corruption is not merely a lack of legal norms, but also a matter of implementation. Indonesia's legal system actually provides sufficiently robust criminal instruments, but their effectiveness depends on the integrity of officials, the consistency of law enforcement, institutional coordination, the quality of evidence, and the courage of the judiciary to impose proportionate criminal penalties. The fight against corruption must therefore be understood as a systemic process that links prevention, enforcement, punishment, oversight, and the recovery of state losses.

4. Conclusion

Based on the results of this study, it can be concluded that, from a normative perspective, the eradication of corruption in Indonesia is supported by a relatively comprehensive legal framework through Law No. 31 of 1999, as amended by Law No. 20 of 2001 on the Eradication of Corruption, as well as the institutional framework of the Corruption Eradication Commission (KPK) established by Law No. 30 of 2002, as amended by Law No. 19 of 2019. This legal framework has provided the tools for prevention, preliminary investigation, formal investigation, prosecution, sentencing, and the recovery of state losses. However, the existence of these legal norms does not yet fully guarantee the effectiveness of corruption eradication, as there remains a gap between legal provisions and their implementation. The effectiveness of law enforcement is greatly influenced by the quality of the law itself, the integrity of law enforcement officials, interagency coordination, the consistency of court rulings, and the legal culture of society.

Therefore, the fight against corruption cannot rely solely on a repressive approach involving criminal penalties but must be developed through preventive and restorative approaches. The recovery of assets derived from corruption must be positioned as a crucial component of criminal law policy, as the goal of combating corruption is not only to punish perpetrators but also to recover losses incurred by the state and restore the rights of the public. In addition, corporate criminal liability and the strengthening of asset recovery mechanisms need to be continuously developed in line with the increasingly complex nature of corruption crimes. Harmonization between the Anti-Corruption Law and developments in national criminal law is also necessary to provide legal certainty. Thus, efforts to strengthen the fight against corruption must be carried out in an integrated manner through regulatory reform, institutional strengthening, enhancing the integrity of officials,

optimizing asset recovery, and public participation. This approach is expected to achieve law enforcement that not only serves as a deterrent but also fosters justice, legal certainty, and clean, integrity-driven governance.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.