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A Comparative Study of the Law on Handling Corruption Crimes in Indonesia and Singapore

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ABSTRACT

Corruption is a serious threat to social, economic and political development in Asia, including Indonesia and Singapore. Singapore has successfully created an efficient and focused criminal law approach in tackling corruption, while Indonesia faces challenges in optimizing its legal tools. Differences in the definition of corruption, the types of criminal offenses regulated, and law enforcement approaches indicate the need to consider the cultural context and legal system in corruption eradication strategies. In writing this journal, a comparative legal method approach is used to analyze corruption regulations in Indonesia and Singapore. The main data collection is done through the analysis of legal documents, such as laws, government regulations, court decisions, and other regulations related to corruption criminal law in both countries. Data is also obtained through legal literature, journal articles, research reports, and other official sources of information. The results of this analysis have the potential to provide important insights into global efforts to address rampant corrupt practices.

Keywords: Corruption, criminal law, comparative law, Indonesia, Singapore

INTRODUCTION

Corruption is a form of dishonesty or criminal act committed by a person or an organization entrusted with a position of power, to obtain illegal benefits or abuse of power for a person's personal gain.[1] Corruption can involve many activities that include bribery, the sale of influence, inflation, and may also involve the practice of law in many countries. Corruption can be committed by people who have power and strategic positions, such as government officials, civil servants, and professionals. This corruption phenomenon is one of the most difficult to eradicate from time to time, from generation to generation. There are many news circulating, almost every day and even a summary every year this corruption crime always increases from before. Starting from small communities to government rulers. Even Indonesia

[1] D Putri, "Corruption and Corrupt Behavior.," *Journal of Education, Religion and Science* 5 (2021): 49–54.

itself has legal regulations that specifically regulate corruption crimes, namely Law No. 20 of 2001 concerning Corruption Crimes. In the law, there are also provisions regarding sanctions for corruption crimes, both prison and administrative sanctions, namely in articles 5-12 of Law No. 20 of 2001. It is difficult to deny because there are many various factors behind the occurrence of this corruption crime, starting from economic factors, often carried out to obtain profits such as money and property. Difficult economic factors can influence corruption.[2] And one of the most influential in various countries is about the law enforcement factor whose problem is always weak in enforcing the sentence. This is still the biggest enemy of various countries, especially in Indonesia. The problem of corruption will continue to grow and be ingrained in the lives of all Indonesian people and leaders and state administrators. Corruption continues to grow along with increasingly complex interests and this is happening in various parts of the world, including Singapore.[3]

This paper also aims to find out how the comparison of legal sanctions for corruption crimes that occur in Singapore, corruption crimes can be categorized as a national problem that must be faced seriously through a balance of firm and clear steps by involving all potentials that exist in society, especially the government and law enforcement officials. From the description explained above, the following problem formulation can be drawn: how to handle corruption in Indonesia and Singapore and the criminal sanctions.

METHOD

The research method used in this study is a normative juridical method that uses primary legal materials, secondary legal materials and tertiary legal materials. Normative legal research can also be referred to as doctrinal legal research.[4] Normative Juridical Research refers to legal norms contained in laws and regulations and court decisions as well as legal norms that exist in society.[5] The type of research specification chosen in this study is descriptive analytical, while the definition of the analytical descriptive method is a method that functions to describe or give an overview of the object being studied through data or samples that have been collected as

[2] Bambang Waluyo, *Pemberantasan Tindak Pidana Korupsi (Strategi Dan Optimalisasi)*, ed. Dessi Marliani Listianingsih Tarmizi, 1st ed. (Jakarta: Sinar Grafika, 2016).
[3] Tinuk Dwi Cahyani and Sholahuddin Al-Fatih, "Peran Muhammadiyah Dalam Pencegahan Dan Pemberantasan Tindak Pidana Korupsi Di Kota Batu," *Justitia Jurnal Hukum* 4, no. 2 (2020): 117–23, https://doi.org/10.21532/apfj.001.18.03.01.14.Volume.
[4] Ishaq, *Metode Penelitian Hukum*, 1st ed. (Bandung: CV. Alfabeta, 2017).
[5] Johny. Efendi, Jonaedi. Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris*, 1st ed. (Depok: Prenamedia Group, 2018).

they are without conducting analysis and making conclusions that apply to the public. Researchers obtain ready-made data collected by other parties in various ways or methods both commercially and non-commercially such as textbooks, journals, magazines, documents, laws and regulations, and so on. Data collection is carried out by means of *library research*. Literature Studies is conducting research by studying and reading literature that is related to the problem that is the object of research.

RESULTS AND DISCUSSION

In the realm of criminal law, issues related to criminal acts are a very fundamental and important core. All kinds of problems in criminal law tend to be related and centered on the problem of criminal acts. Therefore, understanding the concept of corruption has a very important value. Although various experts have tried to define corruption, there are variations in the structure of the language and the way it is delivered, but in essence they have similar meanings. Another opinion regarding the limitation of corruption states that this is the behavior of individuals who take advantage of their position and authority for personal gain, while harming the public interest and the state.

Corruption is generally carried out by people who have power in a position so that the characteristics of corruption crimes are always related to the abuse of power, in the perspective of organized crime, corruption is ultimately used as a modus operandi to build itself as a great force of organized chaos, as stated by Syed Hussain Alatas that corruption is the main weapon of organized crime to consolidate power and freedom to act. In other words, corruption is a part or subsystem of organized crime.[6]

The element is said that the existence of criminal acts of corruption is based on the existence of mistakes in the form of intentionality (dolus, opzet, intention) which is colored by unlawful nature. In Dutch, there is basically no criminal without offense, with the term "Geen Straft Zonder Schuld". This principle is not found in the[7] Criminal Code as well as the principle of legality, because this principle is a principle that exists in the form of written law. Based on

[6] H Elwi. Danil, *Korupsi, Konsep, Tindak Pidana Dan Pemberantasannya*, 2nd ed. (Jakarta: Rajawali Pers, 2016), https://books.google.co.id/books?hl=id&lr=&id=7PUbEAAAQBAJ&oi=fnd&pg=PA1&dq=ciri+tindak+pidana+korupsi+menurut+Syed+Hussein+Alatas&ots=MyomPT89K9&sig=iKn4uJxI-wUpO4kSaPU2g91P1rg&redir_esc=y#v=onepage&q=ciri tindak pidana korupsi menurut Syed Hussein Alata.
[7] Retno Anggoro Putri, "Optimalisasi Peran Bantuan Hukum Timbal Balik Dalam Pengembalian Aset Hasil Tindak Pidana Korupsi" 3, no. 1 (2020): 33–57, https://doi.org/10.22437/ujh.3.1.33-57.

the provisions of Article 43 of Law No. 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law No. 20 of 2001, the special body is called the Corruption Eradication Commission which has the authority to coordinate and supervise, including conducting investigations, investigations, and prosecutions.[8] In Law No. 31 of 1999, there is a type of criminal imposition that can be interpreted by the judge against the defendant for corruption crimes, namely against people who commit corruption crimes. The crime of corruption as referred to in article 2 paragraph 1 is committed under certain circumstances, such as when the state is in danger according to the applicable law, during corruption or when the state is in a state of economic and monetary crisis, then the death penalty will be imposed on the perpetrator of the crime of corruption with the criminal threat of life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty years). And in the content of article 3 which contains: for every person who with the aim of benefiting himself or others or a corporation, abuses the authority, opportunity, or means available to him because of his position or position that can be detrimental to the state finances or the state economy. Will be threatened with life imprisonment/at least one year.

And there are additional crimes in the form of tangible or intangible damages or immovable goods used for or obtained from corruption crimes, including companies owned by convicts where corruption crimes are committed, as well as from goods that replace these goods and payment of replacement money in the amount of as much as possible equal to assets obtained from corruption crimes. If the convict fails to pay the compensation no later than 1 (one) month after the court decision that has obtained permanent legal force, the convict shall not have sufficient property to pay the compensation, then the convict shall be sentenced to imprisonment for a long time that does not meet the maximum threat of his principal sentence in accordance with the provisions of Law No. 31 of 1999 jo Law No. 20 of 2001 concerning the Eradication of Corruption Crimes and its duration. The crime has been determined in the court decision, the property can be confiscated by the prosecutor and auctioned to cover the replacement money. Unlike in Indonesia, Singapore is known for its fast and efficient judicial system in handling corruption cases. This efficient court process may contribute to high rates

[8] Maria Goreti usboko, "PENYADAPAN OLEH KOMISI PEMBERANTASAN KORUPSI DITINJAU DARI ASPEK HAK ASASI MANUSIA MENURUT UNDANG-UNDANG NOMOR 39 TAHUN 1999," *Gastrointestinal Endoscopy* 10, no. 1 (2018): 279–88, http://dx.doi.org/10.1053/j.gastro.2014.05.023%0Ahttps://doi.org/10.1016/j.gie.2018.04.013%0Ahttp://www.ncbi.nlm.nih.gov/pubmed/29451164%0Ahttp://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=PMC5838726%250Ahttp://dx.doi.org/10.1016/j.gie.2013.07.022.

of prosecution and strict punishment. In Singapore, the regulations governing corruption-related crimes have been divided into two main regulations, namely the Prevention of Corruption Act which formulates special offences in the business sector, including bribery between private parties, and bribery offences against civil servants taken from the Singapore Criminal Code. This is adjusted to Singapore's background as a very business- and trade-oriented country. In the Prevention of Corruption Act, there are two striking articles, namely Article 5 and Article 6, which threaten a maximum penalty of 5 years in prison, with the possibility of increasing the sentence to 7 years. If the crime of corruption or bribery is related to a contract between the private sector and the government or a public institution, then the threat of punishment under Section 5 and Section 6 of the Prevention of Corruption Act is increased to a maximum fine of $100,000 or imprisonment for up to 7 years, which is applicable cumulatively. Articles 10 to 12 of the Prevention of Corruption Act regulate bribery in the context of tendering for work, services, supply of materials or goods, which includes contracts with the government, departments, or public bodies. The difference in legal sanctions affects the effectiveness of handling corruption. Singapore has tougher and more specific legal sanctions, which can help in deterring and stopping corruption. On the other hand, Indonesia has softer and more general legal sanctions, which can affect the effectiveness of handling corruption. Therefore, there is a need for improvements and adjustments to legal sanctions in Indonesia to increase the effectiveness of handling corruption.

CONCLUSION

Corruption is a serious threat to social, economic, and political development in many countries in Asia. Singapore has succeeded in creating an efficient criminal law approach and focuses on eradicating corruption, while Indonesia faces challenges in optimizing its legal apparatus. The differences in the definition of corruption crimes, the types of regulated crimes, and law enforcement approaches show the need to consider the cultural context and legal system in corruption eradication strategies. Through comparative analysis, it was found that efficiency, transparency, and institutional cooperation are the keys to success in efforts to eradicate corruption. As explained above, Singapore is a developed country where public awareness and attitudes and a culture of professionalism are ingrained. In addition, the Singapore government's commitment to eradicating corruption is very firm. Compare it with Indonesia, although we cannot deny that the KPK's dominant role in eradicating corruption has shown good progress so far. However, the comparison between the KPK's increasing efforts with a series of

calculations, and the increasingly widespread corruption crimes. Day by day, there is an increasing culture of dishonesty that has been embedded since childhood and a mindset where everything is about money, wealth and power, ranging from small communities to corporations and the government of the Indonesian state. No matter how big the KPK's efforts are, it will be difficult to completely eradicate corruption in Indonesia.

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