The Significance of Financial Punishment on Corruptors as An Effort to Recover State Losses

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Abstract

This study aims to reveal (1) the significance of financial punishment for perpetrators of corruption act as an effort to recover the state losses; and (2) the obstacles of the realization. The eradication of corruption is accompanied by the failure to repay the state's losses because the sanctioned means are oriented towards conventional crimes. The state is increasingly losing money because the mode and scale of corruption is growing. On the other hand, the problem can only be solved through conventional mechanisms. A reform on financial criminal is necessary because it has an objective orientation to restore state losses caused by corruption. It also faces obstacles that pose challenges to the realization of the financial crime. This study is a sociolegal study. It combines empirical and normative studies. The results show at least two important points. Firstly, the need for financial penalties for perpetrators of corruption acts as an effort to recover state losses. It is because of two factors: (1) ineffective conventional crimes in recovering state losses and (2) the potential of deterrent effect of the financial charge. Secondly, there are obstacles on the realization of financial charge for perpetrators of corruption as an effort to recover the state losses. They are, among others, (1) the inability of sanctions to return state losses; (2) government intervention in eradicating corruption; and (3) the community satisfaction index that uses corporal punishment, not the return of state losses.
Keywords: financial, state losses, corruption, criminal charge

Introduction

Indonesia's current legal failure has drawn criticism from the public, especially in the paradigm of eradicating corruption. Corruption in Indonesia gets a red report card and requires more attention (Sihombing, 2018). In this case, the ideal of eliminating corrupt practices in Indonesia is still far from reality. The widespread practices of corruption is justified as a major problem. Historical facts prove that the decline of the state can be caused by corruption. However, there are also many countries that have managed to get out of the corruption problem, such as Britain, France, the Netherlands, South Korea, and Singapore (Alatas, 1987). The condition describes the concern over the community and experts because corruption has the implication of reducing public trust in the government substantially. In addition, it has an impact on increasing the cost of social services when the quality of social services decreases. The process of sentencing and administering criminal acts is a parameter in current actual practice, which is increasingly becoming the main choice of means of law enforcement for criminal acts of corruption. In its development, it has generated new problems, such as the overcapacity of the Penitentiary and controversial policies, such as parole and so on (Artika, 2014). It is followed by a form of special treatment for corruption convicts which is ironic compared to the treatment of conventional prisoners (Nugraheny, 2019). The facts have become spaces for the emergence of the idea to reform the Indonesian criminal law system, especially in terms of punishment to convicted criminal acts of corruption.The implementation of criminal sanctions in the law, especially imprisonment in the eradication of corruption, has many weaknesses. On the other hand, it cannot be eliminated completely because criminal sanctions also have an important role as an element of repressive law enforcement against corruption. The weakness is related to the lack of judicial ability to restore state losses caused by corruption. Even though conventional crimes are accompanied by fines, replacement money, and court fees, it looks very lacking in covering the state's losses (Pradiptyo, 2011). Conventional crimes are currently not sufficient to cover state losses, given the large state losses caused by corruption, which are not only in the form of direct losses or the corrupted money. Law enforcement officials must have a sustainable view that the conventional criminal acts used at this time have not been able to recover the damage or losses caused by corruption. Conventional corruption handling faces various obstacles. The most obvious is the state losses.

The losses includes (1) losses that are clearly caused by criminal acts of corruption in the form of lost money, wealth, state assets; (ii) ongoing losses that are caused by the impact of corruption such as wrong policy directions, environmental damage; and (iii) losses that arise due to the burden of state costs in financing the prevention,

handling, and trial of corruption crimes (Handayani & As'Adi, 2019; Karjoko et al., 2020; Paeh, 2017). One tangible manifestation to take as an example is that the consequences of an act of corruption can damage the environment. Under certain conditions, it can be classified as policy corruption that leads to forms of agreement containing spoils, lobbying, or negative political will. Consequently, nowadays Indonesia is experiencing the dredging of natural resources by foreigners and the exploitation of natural and forest products that can cause damage to the environment. Ironically, the permits and legitimacy come from government policies. Therefore, now is the time to give a breakthrough against the misguided phrase that policies (*beleid*) cannot be punished because the assessment is not through the legal aspect (*rechtmatiegheid*), but tends to assess the benefits of the policy (*doelmatiegheid*). This adage is just a side of the misguided legacy of the New Order government to legitimize the government's actions. Therefore, the post-reform era must be able to become a momentum for legal reform, including criminalizing policy makers, which in fact results in invaluable state losses. Thus, there should be a new step to optimize financial penalties for perpetrators of corruption to recover state losses. Corruption has become a problem which, based on the consequences, can massively harm state's finances and economy with national impacts. Therefore, the state financial losses as well as the state economic losses must be followed up with efforts to return them to the state.

Methods of Study

This study is a socio legal study. It used primary data and secondary data. The primary data was obtained from the implementation of the Forum Group Discussion with law enforcement practitioners on corruption crimes. They were, among others, the Corruption Eradication Commission (KPK –*Komisi Pemberantasan Korupsi*), the Attorney General's Office, and academicians in the field of criminal studies. The secondary data are relevant laws and regulations as well as literature to inventory expert doctrines related to law enforcement on corruption and financial crimes. It was processed using qualitative analysis with components of data reduction, data presentation, and generate conclusions.

Results and Discussion

The Urgency of Financial Charge for Corruption Perpetrators as An Effort to Recover State Losses

Conventional Crime Charge Has Not Effectively Recovered State Losses

Conventional crime charges are still oriented to the provision of corporal punishment to perpetrators of corruption. Currently, conventional punishment is not able to restore state losses caused by corruption. It is natural that, sometimes, the law is not able to solve problems within society (Sunstein, 2001; Wardiono, 2012). The law can experience a crisis, chaos, and then die if it is unable or deemed unable to solve people's problems. The complexity of the eradication of corruption crimes then narrows to the question of the ineffectiveness of conventional punishment for the perpetrators of corruption, especially in returning state losses (Kristiana, 2016). Therefore, it is necessary to think about the paradigm of giving conventional punishment to perpetrators of corruption. Based on existing practices and ideas, there are at least two different treatments in responding to the various corruption problems. The first is negative for corruptors but it is positive for eradication of corruption. It is the prohibition of remissions for convicted corruption. Whether the impoverishment of corruptors is needed or not, there are new problems that arise with criminal policies against perpetrators of corruption. The second is common knowledge that convicts of corruption still get various facilities that are not obtained by ordinary prisoners. It is also driven by deviations from relevance that, today, the development of the regime of criminal acts of corruption can no longer only be understood in the context of public office and environment (Hamzah, 2007). It is also valid in the private sector. In other words, *attention is being paid to the shadow cast by corruption in the private sector* (Siregar & Puri, 2018). Therefore, the expansion of the meaning of corruption needs to be initiated and studied in new perspective to enforce the law, especially in terms of recovering state losses, which are expanding due to the expansion of the scope of corruption (policy corruption and private-sector corruption). Likewise, it is necessary to pay the attention including the variety of cases and the consequences caused by the crime of corruption (Judge et al., 2011). Sampson states the possibility that corruption could occur and be widespread in the industrial environment (Sampson, 2010). Thus, state through the role of law must be able to expand the reach of law enforcement in the context of dealing with or responding to the evolution of changes in the criminal act of corruption. Law enforcement against the corruption so far has not been able to restore state losses due to corruption. On the other hand, it adds to the burden on state with the costs incurred in handling corruption. Therefore, conventional punishment is currently unable to act as a means of eradication of corruption and an effective means of recovering state losses. The fact can be understood because there is no mechanism for returning state losses that is effective and targets perpetrators of corruption from various backgrounds, including from internal government and corporate actors. The state is forced to be at a loss, even though the convict has been sentenced due to the ineffectiveness of existing facilities such as reverse proof and asset recovery or asset recovery. The KPK also considers conventional punishments, namely fines, replacement money, and the costs of

conventional cases that currently exist have not been effective in recovering the damage caused by criminal acts of corruption, especially policy corruption in macro-scale.

Financial Crime Charge May Cause a Deterrence Effect

One of the goals of punishment is to create a deterrent effect so that there is a decrease in the quantity of criminal acts. Corruption is classified as an extraordinary crime because it violates the social and economic rights of the community. State losses caused by corruption are far greater than the explicit amount of money corrupted. The crime also causes great damage to the life of society and the state. Therefore, eradication of corruption can no longer be done "normally". It requires extraordinary enforcement. Newly different steps are needed to increase the deterrent effect. The punishment or sanction given should also consider the social, economic, and environmental damage caused by corruptors. Therefore, efforts in the context of eradication of corruption can no longer be carried out in the conventional or ordinary way as applied in practice. However, efforts to eradicate corruption are required to use extraordinary formulations and methods to recover state losses effectively. Thus, alternative steps or the efforts are needed to the increase the deterrent effect on perpetrators of corruption and the preventive effect on society in general. For example, China's model of policy control with a supervisory board can be an effective method to formulate the eradication of corruption in Indonesia, which is also full of corrupt practices in the government environment. In China, the Supervisory Board is Established by the State Council in 1987, the Oversight Department is responsible for monitoring Government Departments, state organs, and public officials, as well as maintaining administrative discipline. The Supervision Department has the authority to impose the administrative sanctions (*xingzheng chufen*) in cases involving more than 2,000 Yuan ranging from reprimand to release. Cases involving over 2,000 Yuan or criminal activity must be investigated and forwarded to the prosecutor's office for possible prosecution. Following the establishment of the Oversight Department, the Provincial Governments established their own supervisory bureau during 1988, with offices extending to the county level. On the other hands, the ministry of center established a special bureau responsible for supervisory work in the industry; financial, banking, and foreign affairs; government, education, and public health; agriculture; and construction and transportation; and three regional bureaus and offices in various government ministries and state-owned enterprises (Wederman, 2004).

Based on the description, it can be understood that punishment for criminal acts of corruption in China is supported by a control mechanism in the form of clear and firm supervision. Firmness must also be supported by all elements, especially political parties. Control of political parties is necessary to generate party cadres with an anti-corruption spirit. However, the Indonesian political elite has instead become an example of a new formula for acts of corruption, ranging from petty and covert corruption to massive and collective corruption. China is an example of a state that realizes the party as the vanguard of eradicating corruption. Anti-corruption education must be given to every cadre before going directly into the world of politics. Efforts to eradicate corruption in China that are so hard can be seen directly from the number of corruptors who are sentenced to death. The death penalty, the prison sentence, or compensation sentence is very heavy. This is intended to foster a deterrent effect and fear of corruption (Kompas, 2010). However, it is also necessary to make comparisons with states that are oriented towards financial crime in eradicating corruption. Law enforcement that has been passed so far has not been able to provide a deterrent effect or act as a means of preventing corruption. This has a significance, considering the state losses caused by corruption are very high and it deserves to be saved. The value of state losses in 2019 alone caused by corruption is already very large and is shown in the following table (Komisi Pemberantasan Korupsi, 2018).

Number	Information	Number of Cases	Number of Actors	State Loss Value	Bribery Value	Extortion Value	Money Laundering Value
1	Attorney	109	216	IDR 847.8 billion	IDR 256.6 million	IDR 3 billion	IDR 11 billion
2	Police	100	209	IDR 1.3 trillion	IDR 202.1 million	IDR 707 million	-
3	KPK	62	155	IDR 6.2 trillion	IDR 200 billion	-	IDR 97 billion

Table: Data on State Losses Due to Corruption. Source: Corruption Crime Statistics kpk.go.id

The data above describes only state losses due to corruption. They do not include the long-term consequences or state losses from costs to resolve cases of criminal acts of corruption that requires special and unusual handling. Therefore, a financial criminal formulation is needed to compensate the state losses caused by the criminal acts

of corruption and the costs incurred to handle the cases. Germany also applies sanctions with a combination model against perpetrators of corruption. It is the closest model to be applied in Indonesia. Based on the Law Number 20 of 2001 on Corruption, the model offered is a combination of sanctions that includes imprisonment and fines. In some cases, it can also be combined with imprisonment and fines for the accused of corruption. However, It has not achieved the desired target, in particular the goal of returning state financial and economic losses. The condition is also influenced by the orientation of the purpose of punishment in Indonesia which, based on textual and contextual analysis, tends to lead to the provision of sorrow or retaliation for the actions and consequences of the perpetrator's actions. The criterion also gains legitimacy from the community who psychologically have a level of satisfaction if the perpetrator is sentenced to the maximum amount of punishment, in this case corporal punishment. In fact, corporal punishment does not guarantee the return of state financial and economic losses. On the other hand, the punishment that has been imposed on the perpetrator is trapped in the interpretation of the *ultimum remidium* principle as a last resort but, in practice, it becomes the first tool used to prosecute perpetrators of corruption. It causes the perpetrators to only carry out imprisonment or corporal punishment without any attempt to restore state financial or economic losses due to corruption. The combined fine sentence can optionally be replaced with a maximum imprisonment of one year. In this case, it is not proportional to the nominal loss caused by the criminal act of corruption. The Indonesian model is an inverted mirror of the German model. In Germany the perpetrator must first return the state losses due to the corruption before be subject to imprisonment. The condition is reversed in Indonesia, the perpetrator is immediately sentenced to imprisonment that may cancel the return of state financial and economic losses due to the corruption case.

Types of Criminal Sanctions	Combination, confiscation of assets, and imprisonment
Sanction Responsiveness	The perpetrators are prioritized to return assets resulting from corruption and are still subject to imprisonment
Asset Return Business	Foreclosure
Purpose of Sanction	Restore state assets and provide a deterrent effect

Table: Criminal Sanctions for Corruption in Germany in STRAFGESETZBUCH (STGB) Penal Code or German Criminal Code.

Based on the tabulation above, the eradication of corruption in Germany uses a combination model of sanctions. It combines the process of returning state losses due to the corruption first before the perpetrators are also sentenced to prison terms. Germany has its own procedures that combine sanctions in the form of confiscation and imprisonment for perpetrators of corruption. It is the reason that Germany has not ratified the United Nations Convention against Corruption (UNCAC), which is the international basis for eradication of corruption (Wolf, 2013). The German government suspends the signing and implementation of the UNCAC because it chose to use its own procedures to eradicate corruption because the application of combined sanctions was able to decrease the number of corruption and state losses could still be returned. UNCAC has a more perspective of returning state losses without additional punishment for perpetrators of corruption. It is considered not yet effective in creating a deterrent effect for the bureaucracy, corporations, and society. Although political influence also contributed, Germany still suspends the implementation of the convention (Wolf, 2013).

Obstacles in Realization Financial Crime Charges for Corruption Perpetrators as an Efforts to Recover State Losses

The Substance of Sanctions Has Not Facilitated Recovery of State Losses

The characteristics of punishment in Indonesia, based on its legal substance, tend to still prioritize the basic crimes regulated in the Wetboek van Strafrecht. Based the legitimacy of the transitional rules of the 1945 Constitution of the Republic of Indonesia, It is still applied as the Law Number 1 of 1946 on Regulations on Criminal Law referred it as the Criminal Code (KUHP –*Kitab Undang-Undang Hukum Pidana*). The factor is motivated by laws and regulations that are still rooted and based on the Criminal Code as a *ratio legis*. Furthermore, it is dominated by forms of sanctions that are oriented towards imprisonment (corporal punishment) and are complemented by fines (complementary financial charge). In some cases, it also recognizes capital punishment. The basic criminal reference (*lex generali*), namely the Criminal Code, has an orientation that corporal punishment has a punishment nature. This is the evidence that the makers of the Criminal Code in the colonial era expected to create order in the colonial community through fear towards the colonial government and a deterrent effect through the means of prioritizing the provision of corporal punishment. Thus, the types of crimes as mentioned above are regulated as principal crimes in the Criminal Code. Article 10 of the Criminal Code also regulates criminal sanctions. It can be classified as follows.

"Criminals consist of basic punishment, capital punishment, imprisonment, confinement, fines and additional penalties for revocation of certain rights, confiscation of certain goods, and announcement of judge's decision."

In its development, corruption is regulated separately as a *lex specialis* of the Criminal Code through the Law Number 31 of 1999 on the Eradication of Criminal Acts of Corruption as amended by the Law Number 20 of 2001 on the Amendments to the Law Number 31 of 1999 on the Eradication of Criminal Acts of Corruption. The criminal sanctions for the perpetrators can be found in Article 2 and Article 3 reads as follows.

paragraph (1)

"Any person who, unlawfully, commits an act of enriching her/himself or another person in a corporation that can harm the state's finances or the state's economy, is sentenced to life imprisonment or a minimum of 4 years and a maximum of 20 years and a minimum fine of Rp200,000,000.00 (two hundred million rupiah) and a maximum of Rp1,000,000,000.00 (one billion rupiah)."

paragraph (2)

"In this case, the corruption as referred to in paragraph (1) is committed under the certain circumstances, the death penalty may be imposed.

Furthermore, Article 3 of the Law reads as follows.

"Every person who aims to benefit her/himself or another person or a corporation abuses the authority, opportunities, or facilities available because of her/his position or position that can harm the state's finances or is sentenced to life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 1 (one) year imprisonment. 20 years and/or a fine of at least Rp50,000,000 and a maximum of Rp1,000,000,000."

Based on the sanctions in these articles, the main types of criminal offenses that can be classified include the death penalty, imprisonment (i.e., imprisonment for life and for a certain period), and fines. The model of imprisonment and fines as referred to above is considered the most relevant step at this time. However, the aspect of the successful return of state losses due to corruption from the provision of a model of imprisonment and fines needs to be reexamined, especially as a means of law enforcement against corruption in Indonesia. For more than twenty years since the corruption law was enacted, the facts have proven not to be the main catalyst that determines the decline in corruption rates in Indonesia. The fact is also exacerbated by the existence of the Corruption Eradication Commission (KPK), which is increasingly not to be supported by the cooperation to eradicate corruption. Law enforcement against criminal acts of corruption seems negligent with returning losses or lost state assets caused by criminal acts of corruption. The corruption rate in Indonesia is still high and has not shown a significant decline. Therefore, imprisonment and fines have not been effective as a formula to reduce the number of corruption in Indonesia. The description above also received clarification from Kristina that the limitations in efforts to restore the state losses due to corruption are the limitations of sanctions and the power to make changes (Kristiana, 2021).

Government Intervention Against Corruption Eradication

Politics can be interpreted by constellation of legal and political relations. Mahmodin states that law is a political product. It is full of political interests that characterize it. It is in line with the opinion of Rahardjo, who views the law as the result of a political process (Sulaiman, 2017). Thus, the legal position always goes hand in hand with politics because their relationship affects each other. In general, corruption can be interpreted as an abuse of power or trust that is used for personal gain. The definition of corruption is also includes the behavior of public sector officials, both the politicians and civil servants, who enrich themselves in unlawful and inappropriate ways, or people who have close relationships with bureaucratic officials and abuse the power entrusted to them. Corruption in the context of public service is an act of 'administrative corruption' with a focus on the actions of individuals who hold control in their positions as public officials, as policy makers, or as employees of the government bureaucracy, over various activities and decisions. It is in accordance with Klitgaard's idea that corruption occurs due to monopolistic power practices, with considerable opportunities for discretionary action, but there is no adequate supervision through the performance of the accountability system or *Corruption=(Monopoly+Discretion)-Accountability* (Klitgaard, 1998). Thus, if there is a power that exercises authority in a monopoly, accompanied by a large enough space to take action on its own initiative due to the uncertainty of the regulation in granting authority, and at the same time it is not accompanied by strong demands for accountability, then it is certain that corruption will emerge there (Kumorotomo, 2002). Corruption can happen in all fields, even in its wildest form it can be used in policy forums. The policy in question is a means used in committing corruption crimes, so it is called policy corruption. Policy corruption is the type of corruption committed by actors with the certain positions of authority through whose approach the perpetrators of the crime are seen that people with high social status, respected, and of course have intellectual abilities above people in general. Therefore, the type of crime is referred to as *white-collar crime*, which is a crime committed by people in the work environment using white-collared clothing as an illustration of high positions, honor, and social status (Hartono, 2016). The impact of policy corruption is significant and can even be felt by future generations. Unfavorable political determination plays a role in influencing the shift in policy functions, from a means for the

welfare of the community to a means for making personal or group gains that are detrimental to state finances and the economy.

The definition of the notion of corruption as an acts carried out with an intention to obtain some advantage that is contrary to official duties and other truths. An act of something official or someone's belief, which unlawfully and wrongfully uses several advantages for her/himself or others that is contrary to duty and other truths (Surachmin & Cahaya, 2011). According to Subekti and Tjitrosoedibio, corruption or corruptive in the Legal Dictionary is a fraudulent act, a crime that is detrimental to state finances (Subekti & Tjitrosoedibio, 1973). Ederlherz uses the term white collar crime it refers to the acts of corruption:

"White collar crime an illegal act or service of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, to obtain business or personal or personal advantage"(Edelherz, 1977).

The definition of corruption refers to white collar crime. It covers all illegal acts carried out physically with conspiration or bad attitude for personal gain. Bayley states that corruption exists in non countable forms, ways, and amounts. There are many excuses for corruption as there are ways in which government influences individuals in the society. The opportunities for corruption are as numerous as the number of roles one can play in a government. Corruption can occur in the distribution of export licenses, decisions to conduct criminal case investigations, efforts to obtain reports on a court case, acceptance of best students at a university, selection of candidates for government positions and contract approval, and the implementation of contract (Loebis & Scott, 1955). The high number of corruption cases involving government is a fact that corruption is not only understood as fraud and lack of governance but it is related structurally to political issues (Balachandrudu, 2006; Ionescu, 2010). Concentrated power is assumed to quickly invite corruption but based on the study of Altunbas and Thornthon, even a decentralized regime can provide the potential for corruption (Altunbaş & Thornton, 2012). Therefore, the optimal size of government can also be measured through the retention of corruption cases in various sectors (Barreto & Alm, 2003). The relationship between economic corruption and political corruption is to be related to the behavior of power, authority and is influenced by the operation of the power system. Consequently, the political policy factor that involves law and law enforcement institutions is no longer functioning or has lost its integrity (Arief, 2001). Therefore, the political intervention factor is one of the factors that has not been formulated as a criminal sanction against corruption in Indonesia.

Community Satisfaction Index Favors Corporal Criminal Sanctions, Not Recovery of State Losses

Legal culture within society is a non-legal factor that has an orientation that settlement by giving criminal charges is the best step or what can be referred to as the *primum remidium* principle. It is the opposite of the *ultimum remidium* principle. It is a view or perception of the community. If it is left unchecked periodically, in the long term it can create social power or even creates legal legitimacy from within the community. These social forces continue to provide space and influence the law with various realities related to the dynamics of changes within the society. Therefore, the legal culture, which in this case is a representation of society, plays an important role in the legal system because it has a position as the driving force or central point of the legal system. Therefore, an effective regulation that can be enforced or implemented depends on the elements of social attitudes and values that exist in the community. However, legal culture is not directly able to move the legal system in practice because it is intertwined with legal substance and structure (Friedman, 1975). The description reflects the classification of the legal system as written in the core of legal system theory. Thus, society as the central point is a parameter and an object that must be changed through various formulas to change the whole system. It also includes the position of the community as a parameter and a source of legitimacy. The satisfaction of today's society can be seen from the quantity of punishment given. Perpetrators of crimes against whom were sentenced to light prison terms often lead to conflict with the news of public dissatisfaction on the sentence. On the other hand, criminals who are given heavy sentences tend not to cause polemics in the community. Society legitimizes a large portion of punishment as a means of retaliation for the actions and consequences caused by criminals. In the study of criminology, the phenomenon can be studied from the character of society, which tends to retribution in kind and even more against the perpetrators of crime. If these parameters are not or have not been met, then the society will interpret them through actions that reflect legal chaos. It can be found in vigilante action as a form of community trial against criminals which ironically for now only targets conventional crimes, not extraordinary crimes like corruption.

The enforcement of criminal law through a restorative justice approach is the basis for the essence of improving the law enforcement system against corruption in Indonesia because the enforcement of criminal law that has been passed so far has not been able to provide a deterrent effect or act as a means of preventing criminal acts. Some facts can be used as references. For example, the results of the imposition of criminal verdicts on defendants of criminal acts of corruption so far have not been effective as a means to recover losses to the state, both losses due to the corruption and losses in the form of costs incurred by the state to handle the corruption cases due to several disadvantages. The disadvantages include the substance of the regulation, which still contains optional clauses in it, inconsistent law enforcement officers, and no systematic and structured asset recovery efforts or mechanism

for returning assets from criminal acts of corruption. However, the idea is hampered by the existing condition. The phrase *ultimum remidium* or the placement of a criminal as the last part is misinterpreted. *Ultimum remidium* is actually the last step if other legal means cannot be implemented. In the case of recovering state financial and economic losses, the losses must be returned first using existing legal means. Then, if the legal means are not capable, then a new criminal charge can be used. This literacy is inversely proportional considering the punishment or law enforcement system for corruption in Indonesia. Indonesia still places criminal charges as the main choice. Instead, it aborts or practically all forms of return of assets and obligations of the perpetrators of corruption that are considered to be invalid to recover the state financial and economic losses. In its development, the application of the *ultimum remedium* has encountered problems. If an act has been legitimized, it really harms the interests of the state and society. According to both applicable laws and sociological feelings of the community, criminal sanctions are the main choice (*premium remedium*). The idea of *premium remedium* in punishment is no longer the last choice but it is the first choice to deter people who commit criminal offences. The *ultimum remedium* is a legal principle that places criminal law as the last tool in law enforcement. On the other hand, *premium remedium* is a modern criminal law theory that criminal law is the main tool in law enforcement.

The community is faced with the stigma that if the convict of corruption has been imprisoned, the business is finished. In fact, there are state losses that cannot be recovered by existing legal mechanisms. The state continues to lose money and the assets is not recovered. The state also faces the condition of spending a lot of money to investigate corruption cases. Therefore, it is necessary to give emphasis and understanding to the public regarding the chronic, latent, and consequences in the form of extraordinary losses experienced by the state and society due to corruption in Indonesia. The task that is carried out is to change the mindset and orientation of people's satisfaction, which is still stigmatized towards conventional punishment by optimizing the form of corporal punishment. The foregoing efforts must be made to change it through measures that support and show the results of recovering state losses due to corruption through financial charges.

Society tends not to respond to state losses due to corruption. It creates a mindset that state losses due to corruption have been returned by imprisoning the perpetrators of corruption. In practice, it is not entirely true because the recovery of state losses requires extraordinary resources and handling. Therefore, the mechanism for returning state losses through financial penalties needs to be carried out to change the orientation of the community's satisfaction.

Conclusion & Suggestion

Conclusion

The need for financial punishment for perpetrators of corruption is an efforts to recover state losses. There are some factors that underlie the idea. Firstly, conventional crimes have not been effective in recovering state losses. Secondly, financial punishment has the potential to cause a deterrent effect.

The realization financial crime for perpetrators of corruption as an effort to recover state losses faces some obstacles. Firstly, the substance of the sanctions has not facilitated the return of state losses. Secondly, government intervenes the eradication of corruption. Thirdly, the community satisfaction index is oriented towards severe corporal punishment, not the return of state losses.

Suggestion

This study proposes some a suggestion. The President and the House of Representatives elaborate the ideas of a financial charge model with the main objective being to restore state losses by revitalizing related laws as the foundation of future implementation.

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