

Implementation Of Criminal Punishments For Political Parties

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Abstract

Indonesia is a state of law, the law consists of general and special laws, so the law is used for a deterrent effect for those who violate the law, for special laws, the punishment is heavier because it is related to corruption, the corruption that can be related to political parties. In this writing, normative research is used, namely reviewing the legislation. so that normative research can help complete this research, and can find out the application of criminal penalties for corruption for political parties, so that corruption can be prevented and eradicated from political parties.

Keywords: application of criminal penalties, corruption, political parties

Introduction

Indonesia is a legal state where the citizens of the country obey the law, so that in science the law is divided into general and special law, special law is a law that develops from general law, so that the legislation used is a law that are special, and the punishments are very heavy, from imprisonment to fines, corruption does not only apply to individuals, but also involves members of political parties who serve as members of the people's representative council, meaning they share the results of their corruption with other parties. so that it is not uncommon for corruption to also drag the names of political parties in Indonesia, furthermore acts of corruption are evil acts, harming the nation, state and citizens. in a political party, there are members who are nominated as candidates for members of the council, so that when they are elected and have a position, the authority used is not in accordance with the corridors of the applicable legal authority. in criminal law recognizes criminal acts, in this case the legislators use the term *strafbaarfeit* to refer to criminal acts, *feit* in criminal law is a reality, and *strafbaar* means punished, it can be interpreted that the whole of *strafbaarfeit* is a reality that can be punished. ¹According to Simons, unlawful acts that

¹ Evi Hariati, "Tindak Pidana Korupsi", (Sinar Grafika, Jakarta, 2007)., h.5



have been violated by individuals or groups, so that those who can be held accountable for their actions and by law have been declared as punishable actions. In criminal law related to criminal acts, it has elements of criminal acts, (1) subjective elements consisting of (a). intentional and negligent, (b) the purpose of an experiment or posing, (c) various purposes, (2) objective elements consisting of (a) unlawful nature, (b) the quality of the perpetrators where the perpetrators are state officials or civil servants. Criminal law is the law that regulates crime, the crime can be general and specific, for special crimes or crimes here is corruption. Corruption is an act that has bad intentions or evil, rottenness, can be bribed, and dishonesty. Corruption in Latin, namely: corruption is the same as bribery, corruptor is the same as destroying. The causes of corruption are: a. weak religious education, b. colonialism, a foreign government does not inspire the loyalty and obedience needed to stem corruption, c. absence of harsh sanctions, d. government structure.

Political parties are organizations that are nationally formed by individuals or groups that have Articles of Association and Bylaws, with the aim of defending the interests of the people, members of political parties and maintaining the integrity of the nation and state. Political party law, namely law number 2 of 2011 concerning amendments to law number 2 of 2008 concerning political parties, which, political parties, have political party finances, which are used for the purposes of political parties themselves, so that political party finances are a right and obligation that can be valued in money, in the form of money or goods, wealth or goods, assets owned and become the responsibility of political parties. The relationship between political parties and members of political parties cannot be separated, because members of political parties can make the existence of political parties more prominent. But the relationship between members of political parties and political parties is stated in the regeneration. According to the author's view, regeneration in political parties can lead to corruption, so that from this regeneration, political parties assisting the regeneration can become members of the people's representative council. Therefore, from this research, a formulation of the problem can be drawn, namely: how to apply the criminal law of corruption for political parties.



The application of criminal penalties for corruption for political parties.

Law is a regulation that directs and provides a deterrent effect to every criminal, whether general or specific. Special crimes are often referred to as special crimes. In a special crime by default, it does not have a specific definition, but based on the ²explanatory memory or MvT (van Toelichting memory) from article 103 of the Criminal Code, the term special crime can be interpreted as a criminal act specified in certain laws outside the Criminal Code. The forms of special crimes are as follows: a. corruption, b. money laundering crime, c. criminal acts of illegal logging, d. gross violation of human rights. In point A above, corruption crimes have characteristics, namely: corruption cases usually involve more than one person, different from general criminal cases, or corruption is said to be an excessive request for pocket money and an increase in the frequency of official travel. The characteristics of corruption that have been described, then there are modes or targets of the crime of corruption itself, where this opportunity often occurs in political parties, in this case it is directed to members of the legislature (DPR), then the government, when described in terms of modes or opportunities for corruption within the House of Representatives, including: a. multiply/enlarge the budget line for allowances and facilities for leaders and members of the council, does not rule out the possibility of a political party allotment in it, so that the return on capital for members of the council who have previously spent funds for elections, or the existence of a political party financial system, so that political parties often carry out political party activities, more funds or budgets of political parties are used, so that members of the council from certain political parties wish to help contribute funds or budgets for political parties which are taken from budget sharing or mega projects which are often organized from the state, b. distribute the Regional Revenue and Expenditure Budget (APBD) for the needs of council members through fictitious foundations, c. Manipulating evidence of official travel. Next in terms of opportunities for government corruption crimes, namely: a. use of the remaining funds without accountability and without procedures, b. deviation of procedures for filing and disbursing regional treasury funds, c. manipulating regional budgets, d. abuse of

² Aziz Syamsuddin, "Tindak Pidana Khusus", (Sinar Grafika, Jakarta, 2016), h.13.



authority in public services. In corruption crimes, there is not only an intention from the perpetrators, but there is an incentive where they exceed the limits of their authority, for example the authority to manage the mega project budget, in which the mega project budget is cut or exaggerated so that the budget can contribute to political parties, as well as Logically in the government environment there are members of political parties, meaning that members of political parties always remember the political parties that have appointed them as members of the council in the people's representative council, besides the crime of corruption has elements of corruption, which is stated in article 2 paragraph (1) Law Number 31 of 1991 in conjunction with Law Number 20 of 2001, namely: every person who violates the law commits an act of enriching himself or another person or a corporation that can harm the state or a country's economy "Article 2 paragraph 1", Article 3: any person who with the aim of benefiting himself or others or a corporation, abuses the authority, opportunity, or facilities available to it because of its position or position which can harm state finances or the state economy.³when viewed from the perspective of state losses, the impact of corruption: a. destroys the order of norms in society, b. great suffering in this case economic, legal and social suffering, c. economic suffering where a weak economy can lead to community misery

In the context of law number 20 of 2001 concerning amendments to law number 31 of 1999 concerning the eradication of criminal acts of corruption, which is stated in the examples of article 11, article 12 stated that the criminal penalty is only a fine, as well as imprisonment, even though for extraordinary crimes namely corruption, can not only be jailed or fined, but the application of criminal penalties can be applied to a political party, where the members of the political parties who serve in parliament, the criminal sentence can be applied, meaning that the members of the political party and proven in court, the decision in court is not only a punishment imprisonment or fines, but also suspension of political parties, when members of the political parties are found guilty of corruption. In the law of proving a criminal act of corruption, so that some special provisions of the law of proving a criminal act of corruption, proving as an activity is an attempt to prove something (the object being proven) through evidence

³ La Sina, "Dampak dan Upaya Pemberantasan Serta Pengawasan Korupsi Di Indonesia" (2008),26 Pro Justitia. (39-51).



that may be used in certain ways to state what is being proven. ⁴as proven, the process of proving activities carried out with three parties: the judge, the prosecutor, and the defendant together with the lawyer, all aspects have been determined by law, the law of evidence is generally contained in the Criminal Code, as well as evidence outside the codification of the Criminal Code, namely in proving corruption. legal aspects of evidence in the Criminal Procedure Code, especially regarding evidence that can be used for proof. the object must be proven based on the crime charged. because it is the crime that has been charged that the principal (object) must be proven. Crime is made up of elements.

These elements, both the act and the elements attached to the deed, elements regarding the object, as well as elements about the person who made it, must be proven to prove whether a criminal act is criminal or not. the opinion of the author regarding corruption among political parties, where major cases or mega projects occur, so that there is a distribution of budgets or fresh funds from the management or construction of the mega project, so that political parties can be used as participation in corruption crimes, it is necessary to have concrete evidence, namely: a. In a political party, a political party financial system is used for the political activities of a political party, a political party as a legal entity legalized by law, and if the participation of a political party as a legal entity may occur, with an event the general chairman of a political party with his authority uses other terms such as funds -fresh funds for mega-projects, which instead of supporting public welfare, are directed to the development of political parties, political parties can be frozen for their legal entities, b. members of the People's Representative Council who serve in parliament on the pretext of improving the welfare of the community, but the distribution of the fresh funds is transferred to members of other political parties. However, to freeze a political party, evidence is needed, such as letters, conversation recordings, evidence of conversations through social media applications related to the distribution of fresh funds from mega project management.

⁴ Adami Chazawi, "Hukum Pembuktian Tindak Pidana Korupsi", (Bayumedia, Malang, 2011), h.79.

Freezing a political party as a legal entity, when the political party participates in a criminal act of corruption, it is necessary for this action to require accountability, meaning a. Political parties as legal entities can be held accountable because of a corporation, then b. political parties as corporations allow a criminal act to occur, c. Political parties as corporations benefit and benefit from the criminal act of corruption, so the explanation is based on the⁵ legal basis of Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. Suspension of political parties as a form of deterrent effect or additional sanctions in a law, especially the eradication of corruption for political parties, freezing of political parties can be in the form of: a. it is not allowed for the political party to participate in the election, b. the prohibition of political parties in the political activities of a political party. The suspension of the political party must be in accordance with the decision of a corruption court. Suspension of political parties as a form of deterrent effect or additional sanctions in a law, especially the eradication of corruption for political parties, freezing of political parties can be in the form of: a. it is not allowed for the political party to participate in the election, b. the prohibition of political parties in the political activities of a political party. The suspension of the political parties must be in accordance with the decision of a corruption court. Freezing of political parties is the same as alternative punishments or additional sanctions, or other terms are corruption impoverishment, meaning that the perpetrators of corruption or corruptors, both individuals and groups, in this case the existence of confirmation in a regulation or regulation in which the corruptors, while exercising their power and authority always live. If there is sufficient income,⁶ this impoverishment of corruption applies to individuals or political parties so that it is the same with freezing, confiscation of activities or personal assets.

⁵ Agil Oktaryal, Proborini Hastuti, “Desain Penegakkan Hukum Korupsi Partai Politik Di Indonesia” (2021) 7 Jurnal INTEGRITAS. (1-22).

⁶ Ahmad Yani, “Pemiskinan Korupsi Sebagai Salah Satu Bentuk Alternatif Dalam Tindak Pidana Korupsi” (2019) 2 SOL JUSTICIA. (36-42).



Conclusion

Implementation of criminal penalties for corruption against political parties, there needs to be severe penalties, so that heavy penalties can override a political party's political rights, it is better to temporarily stop the activities of political parties in elections, rather than rampant corruption, because corruption is an extraordinary crime

Bibliography

Aziz Syamsuddin, *Tindak Pidana Khusus* (Sinar Grafika, 2016)

Adami Chazawi, *Hukum Pembuktian Tindak Pidana Korupsi* (Bayumedia, 2011)

Evi Hariati, *Tindak Pidana Korupsi* (Sinar Grafika, 2007).

Ahmad Yani, "Pemiskinan Korupsi Sebagai Salah Satu Bentuk Alternatif Dalam Tindak Pidana Korupsi"(2019) 2 Jurnal SOL JUSTICIA. 36-42.

Agil Oktaryal, Proborini Hastuti, "Desain Penegakkan Hukum Korupsi Partai Politik Di Indonesia" (2021) 7 Jurnal INTEGRITAS. 1-22.

La Sina, "Dampak dan Upaya Pemberantasan Serta Pengawasan Korupsi Di Indonesia" (2008),26 Pro Justitia. 39-51.

Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption

Law of the Republic of Indonesia Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties