Impoverishment Punishment as a Progressive Approach in Handling Corruption: Legal Studies and Practices in Indonesia

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Abstract *Corruption is one of the criminal acts that has a destructive impact on development and public trust. In an effort to strengthen the eradication of corruption, impoverishment punishment is proposed as a progressive approach that aims to provide a deterrent effect and restore state losses. This study aims to analyze the effectiveness of the application of impoverishment punishment in handling corruption in Indonesia. The method used is a juridical-sociological approach, by examining applicable regulations and the impact of their application in practice.The results of the study show that impoverishment punishment has great potential in reducing corruption rates, especially with the confiscation of assets from crime which can reduce the motivation of perpetrators to commit corruption. However, the implementation of this punishment faces various challenges, including the lack of regulatory synchronization, technological limitations in asset tracking, and political resistance. This study recommends strengthening regulations, increasing the capacity of financial forensic technology, and public education to support the effective implementation of impoverishment punishment. With the right strategy, impoverishment punishment can be one of the key instruments in building a stronger and more equitable corruption eradication system.*

Keywords: *Impoverishment Punishment, Corruption, Progressive Approach*

1. BACKGROUND

Corruption is a serious problem faced by almost all countries in the world, including Indonesia. In 2023, the Transparency International report ranked Indonesia 110th out of 180 countries with a Corruption Perception Index (CPI) score of 34, indicating that corruption is still a major challenge. One of the major corruption cases that has attracted attention is the corruption case of the 2020-2021 COVID-19 Social Assistance (Bansos) funds involving high-ranking officials from the Ministry of Social Affairs. This case caused state losses of up to trillions of rupiah and damaged public trust in the government. In addition, in 2022, there was a corruption case in the management of funds at PT Asabri which resulted in state losses of more than IDR 22 trillion, making it one of the largest corruption cases in Indonesia. In Indonesia, corruption has become a systemic and widespread problem, often involving high-ranking state officials, law enforcement officers, and the private sector. The impact of criminal acts of corruption is very detrimental, both directly in the form of state financial losses and indirectly through the weakening of public trust in the government and the legal system. (Corruption Eradication Commission. 2023)

President Prabowo Subianto's latest speech in 2024 reaffirmed the government's commitment to fighting corruption firmly and progressively. President Prabowo emphasized the importance of legal system reform, strengthening law enforcement agencies, and implementing modern technology to trace assets resulting from corruption. In his speech, he

also called for the need for harsher penalties for perpetrators of corruption, including total confiscation of illegally obtained assets, as an effort to provide maximum deterrent effect and restore public trust in the government.

In an effort to eradicate corruption, Indonesia has issued various regulations and policies, including Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption which has been amended by Law Number 20 of 2001. In addition, various institutions such as the Corruption Eradication Commission (KPK) were formed to strengthen law enforcement against corruption cases. However, the level of corruption in Indonesia is still high, as seen in the Corruption Perception Index (CPI) report which shows that Indonesia's position remains in the low category. (Yasmira Mandasari Saragih, 2023)

One approach that has begun to be introduced to reduce corruption rates is the application of impoverishment penalties to perpetrators of corruption. This penalty aims to seize profits or assets from corruption, so that it not only provides a deterrent effect, but also recovers state losses. The concept of impoverishment penalties is considered a progressive step in the criminal law system because it emphasizes restorative justice while closing the opportunity for perpetrators to return to corruption by utilizing the proceeds of their crimes. (Hidayat, E. 2022)

However, the implementation of impoverishment punishment in corruption cases still faces various challenges. One of them is the weak tracing and confiscation of assets resulting from corruption, especially assets that have been hidden abroad. In addition, political resistance and lack of regulatory harmonization are also significant obstacles in the implementation of this punishment. It is not uncommon for perpetrators of corruption to take advantage of legal loopholes to avoid impoverishment punishment, so its effectiveness as a tool for eradicating corruption is still questionable.

The study of the effectiveness of the implementation of impoverishment punishment is important, considering the potential of this punishment to become one of the main instruments in eradicating corruption. This study aims to analyze how impoverishment punishment is implemented in practice, the extent to which it is effective in providing a deterrent effect, and what factors support or hinder its implementation. By analyzing these various aspects, this study is expected to provide strategic recommendations to increase the success of the implementation of impoverishment punishment in dealing with corruption in Indonesia.

On the other hand, the application of impoverishment punishment must also consider the principles of justice and protection of human rights. This punishment does not only focus on punishment, but must also be directed at recovering state losses and strengthening a just

legal system. Thus, the application of impoverishment punishment needs to be carried out carefully and measuredly so as not to cause negative impacts, such as excessive criminalization or violation of the perpetrator's basic rights. (Kurniawan, D. 2021)

This study uses a juridical-sociological approach to explore more deeply the implementation of impoverishment punishment in Indonesia. The juridical approach is used to analyze the legal framework governing impoverishment punishment, including relevant national and international regulations. Meanwhile, the sociological approach is used to see how this punishment is accepted by society and its impact on corrupt behavior.

Through this research, it is expected to obtain a comprehensive understanding of the effectiveness of impoverishment punishment as a progressive approach in eradicating corruption. The findings of this study are expected not only to contribute to the development of legal science, but also to be input for policy makers to develop more effective strategies in combating corruption.

With the existence of impoverishment punishment, it is hoped that there will be a paradigm shift in the enforcement of corruption laws, from simply giving prison sentences to more holistic efforts to impoverish perpetrators and return state losses. In this context, it is important to ensure that all parties involved in eradicating corruption, including law enforcement officers, state institutions, and the community, have the same commitment to support the implementation of impoverishment punishment effectively.

Implementation of impoverishment punishment requires strong synergy between various law enforcement agencies, such as the Corruption Eradication Commission (KPK), the Prosecutor's Office, and the Police. In addition, the role of the court in issuing fair and legal decisions is also key to the success of implementing this punishment. No less important is technological support, such as a digital-based asset tracking system, which can help identify and confiscate assets resulting from corruption more effectively.

Challenges in implementing impoverishment penalties also include the need to educate the public about the importance of this step in eradicating corruption. The public needs to be involved in monitoring and reporting corruption cases, so that it can strengthen law enforcement efforts. This education also aims to build public trust in the legal system and anti-corruption institutions.

However, the implementation of impoverishment penalties must be supported by comprehensive policies and adequate regulatory harmonization. (Fitria Ramadhani Siregar, 2023) One of the main problems in handling corruption cases in Indonesia is the weak law

enforcement against the confiscation of assets resulting from corruption. In several cases, such as the PT Asabri and Jiwasraya corruption scandals, a number of confiscated assets do not fully reflect the value of state losses due to corruption. This shows the need to strengthen the asset tracking and confiscation system, both domestically and abroad. (Pratama, I. 2019)

In addition, international collaboration is also a crucial factor in prosecuting corruption cases involving assets abroad. Until now, Indonesia still faces obstacles in enforcing effective Mutual Legal Assistance (MLA) with other countries. Without strong international cooperation, assets from corruption hidden abroad are difficult to track and return to the country.

In this case, the use of advanced technologies such as *blockchain* and big data analytics *is* a promising solution. This technology can help authorities track suspicious financial transactions that may originate from corruption. On the other hand, strengthening human resource capacity, both in law enforcement institutions and related institutions, is very important to ensure the effectiveness of the use of this technology. (Central Bureau of Statistics. 2022)

Strong political commitment is also needed to ensure that impoverishment penalties can be applied consistently without discrimination. This includes protecting the independence of law enforcement agencies such as the Corruption Eradication Commission (KPK), as well as implementing policies that protect law enforcement officers from political intervention that could undermine the handling of corruption cases.

To overcome resistance that may arise from certain parties, it is necessary to conduct massive socialization regarding the benefits of impoverishment punishment for the wider community. By confiscating the assets of corruptors, the state not only recovers financial losses, but also sends a strong message that corruption is a serious crime that will not be tolerated.

Problem Formulation Based on the description of the background, the author formulates the research problem:

1. How is the impoverishment penalty applied in practice, and to what extent is it effective in providing a deterrent effect?

2. What are the factors that support or hinder its implementation?

2. RESEARCH METHODS

This study uses a normative legal approach, which aims to analyze the legal concept, legislation, and legal doctrine related to impoverishment punishment as a progressive approach

in handling corruption. The type of research used is descriptive legal research, with the aim of describing the application of impoverishment punishment in the Indonesian legal system and analyzing its effectiveness in eradicating corruption.

The data used in this study are secondary data, consisting of laws and regulations, books, journals, articles, and other legal documents relevant to the research topic. Data collection techniques are carried out through literature studies, namely by reviewing existing legal sources, such as laws, government regulations, and academic literature related to impoverishment penalties. The data obtained will be analyzed qualitatively by identifying and mapping existing legal norms, as well as analyzing their relevance and application in the context of eradicating corruption.

This research will be conducted by analyzing various sources of law applicable in Indonesia, both written and developed in practice. (Irma Fatmawati, 2023) With this normative approach, it is expected to obtain a deep understanding of the impoverishment penalty in the Indonesian legal system, as well as provide recommendations to increase the effectiveness of the penalty in dealing with corruption crimes.

3. RESULTS AND DISCUSSION

Implementation of Impoverishment Punishment and Its Effectiveness in Providing a Deterrent Effect

Impoverishment punishment, as one form of additional punishment imposed on perpetrators of corruption, aims to eradicate the root causes of corruption which often involve personal and material gain. In practice, impoverishment punishment in Indonesia refers to efforts to confiscate or transfer some or all of the wealth obtained illegally from the proceeds of corruption. The main purpose of this punishment is to return state losses, reduce social inequality, and provide a deterrent effect for perpetrators of corruption.

Basically, the impoverishment penalty is regulated in Law No. 31 of 1999 concerning the Eradication of Corruption, which was later amended by Law No. 20 of 2001. In this law, it is stated that in addition to imprisonment, perpetrators of corruption can be subject to impoverishment sanctions, which can be in the form of confiscation of assets directly related to the proceeds of the crime. This sanction can also involve the return of assets whose origin cannot be explained, which in practice can include assets such as land, buildings, vehicles, and bank accounts.

In practice, the implementation of impoverishment sentences is often a major challenge due to various factors, such as the difficulty in tracing and proving the origin of the wealth owned by the defendants. Several corruption cases in Indonesia involve perpetrators who have hidden or disguised assets through intermediaries, such as family or shell companies. Therefore, law enforcement officers such as the Corruption Eradication Commission (KPK) must work extra hard by using legitimate evidence and thorough investigation methods to prove that the wealth is indeed derived from criminal acts.

However, there are some cases where the impoverishment penalty has been implemented effectively. One striking example is in major corruption cases involving state officials or businessmen who have very large and widespread wealth. Through cooperation between the Corruption Eradication Committee (KPK), the prosecutor's office, and other institutions, the state has succeeded in confiscating most of the illegally obtained assets. However, it is not uncommon to find difficulties in its implementation, especially when the assets have been moved or hidden before the investigation process begins.

In addition to technical issues in proving and confiscating assets, there are also factors related to legal and judicial policies. Some argue that impoverishment penalties have not been fully implemented optimally by the courts, especially due to the lack of firmness in imposing such sanctions. Courts handling corruption cases are also often faced with political or economic pressure, which can influence the final decision in the case. Therefore, although impoverishment penalties are regulated by law, their implementation in practice sometimes does not run as it should.

The effectiveness of impoverishment punishment in providing a deterrent effect is also questionable. While most people believe that confiscation of wealth will provide a greater deterrent effect than just imprisonment, a number of studies show that impoverishment punishment is not necessarily effective in preventing future corruption. This is due to the very strong economic motivation for perpetrators of corruption to continue to find ways to hide their wealth or avoid impoverishment punishment with various cunning methods. (Law, F. 2014)

Furthermore, impoverishment punishment does not always have a direct impact on changing the behavior of public officials or corruptors. Many perpetrators still feel that the risk of arrest and punishment is much smaller compared to the potential benefits they can gain through corruption. This shows that the law, although harsh, is not enough to influence the mentality of corruptors who have been seduced by the temptation of great wealth.

In addition, even if the state successfully confiscates wealth from corruptors, it is not uncommon for the results of the confiscation to be difficult to return or use optimally for the

benefit of the state or society. In some cases, even though assets have been confiscated, the administrative and legal process to reuse them for the public interest takes a long time and often faces bureaucratic obstacles.

In relation to this, some circles have also proposed that the impoverishment penalty should not only be limited to the confiscation of assets, but also involve the imposition of additional, heavier penalties, such as the revocation of the right to hold public office or a ban on doing business in certain fields. Such measures are expected to provide a more effective deterrent effect, because perpetrators of corruption not only lose their assets, but also the opportunity to re-engage in activities that can benefit them materially.

Overall, the effectiveness of impoverishment punishment in providing a deterrent effect is highly dependent on several factors, such as the strength of law enforcement, the ability of law enforcement agencies to track and seize assets, and an independent judicial system that is not influenced by political interests. Without improvements in these aspects, impoverishment punishment may continue to face major challenges in practice. (Rahul Ardian Fikri, 2020)

Impoverishment punishment also needs to be balanced with stronger preventive efforts, such as anti-corruption education, transparency in the management of the state budget, and strengthening the supervision system for public officials. In this way, it is hoped that corruption can be prevented before it occurs, and impoverishment punishment can be more effective in reducing the negative impacts caused by corruption.

Ultimately, although impoverishment punishment has the potential to reduce the number of corruptors and provide a deterrent effect, its implementation must be accompanied by a strong commitment from the government, law enforcement agencies, and the community to create a more transparent, fair, and effective legal system. If all parties work together to address this issue, then impoverishment punishment will be able to make a significant contribution to eradicating corruption in Indonesia.

Supporting or Inhibiting Factors of Impoverishment of Corruption Crimes

Factors that support or inhibit the impoverishment of corruption crimes have a very important role in determining the extent to which impoverishment penalties can be applied effectively in the Indonesian legal system. Impoverishment as part of criminal sanctions for corruption aims not only to provide a deterrent effect, but also to restore state losses. However, there are many factors that influence the success or failure of the application of this penalty. Some of these factors can be divided into supporting factors and inhibiting factors. (Santoso, M. 2018)

Supporting Factors of Impoverishment of Corruption Crimes

One of the main supporting factors in the implementation of impoverishment punishment is the existence of a strong legal basis. Law No. 31 of 1999 which has been updated by Law No. 20 of 2001 provides a clear legal basis regarding the eradication of corruption and the confiscation of assets obtained from such crimes. This legal certainty provides a solid basis for law enforcement officers to confiscate assets obtained through corruption and return them to the state. With a clear legal basis, confiscation actions can be carried out in a more organized and transparent manner.

Furthermore, the existence of institutions such as the Corruption Eradication Commission (KPK) greatly supports the impoverishment process. The KPK as an independent institution has broad authority to investigate, investigate, and prosecute corruption cases, including to impoverish perpetrators of corruption. The KPK's ability to conduct in-depth and complex investigations allows them to find and track assets hidden by perpetrators of corruption. In addition, the KPK has the experience and trained human resources to handle major cases, which facilitates the application of impoverishment penalties.

Another supporting factor is the existence of strong political support to eradicate corruption. Governments that have a political commitment to reduce corruption in Indonesia tend to pay more attention to the implementation of impoverishment penalties. Strong anti-corruption policies, especially in governments that prioritize transparency and accountability, can strengthen these impoverishment efforts. Support includes the allocation of sufficient funds and resources for law enforcement agencies to carry out their duties.

Public education and awareness are also important supporting factors. When the public has a better understanding of the legal consequences of corruption, including impoverishment, it is hoped that a stronger anti-corruption culture will be created. With increased public awareness, social pressure on corruptors to be held accountable will increase, which can increase the effectiveness of impoverishment penalties. An educated public is also more likely to support stricter legal policies against corruption.

In addition, international cooperation in monitoring cross-border assets can also be a significant supporting factor. Many corruptors place their assets abroad to avoid confiscation by their home countries. International cooperation allows countries to work with other countries to track and seize assets that are moved abroad. Through mechanisms such as Mutual Legal Assistance Treaties (MLAT), Indonesia can utilize international assistance to support impoverishment.

Factors Inhibiting Impoverishment Due to Corruption

One of the main inhibiting factors in the implementation of impoverishment punishment is the weakness of the judicial system. Although impoverishment punishment has been regulated in law, its practice still faces major challenges in the Indonesian judicial system. Several corruption cases are not handled thoroughly or court decisions are not firm in imposing impoverishment punishment. Political influence and external pressure can influence legal decisions, leading to injustice in the implementation of impoverishment punishment. In some cases, even though there is sufficient evidence, judges do not impose impoverishment punishment or decide to reduce the sentences of corruption perpetrators. (Supriyanto, 2020)

In addition, the difficulty of proving the origin of illegally obtained wealth is a major obstacle in the application of impoverishment. Many corruptors are clever at hiding assets or transferring their wealth to third parties, such as family or shell companies. This concealment is done in various ways, including through the use of offshore bank accounts, purchasing property in other people's names, or investments hidden outside the reach of the law. The process of proving that the wealth actually comes from criminal acts of corruption requires a long time and large resources, which is often a major obstacle in the application of impoverishment penalties. (Lidya Rahmadani Hasibuan, 2015)

Limited resources and capabilities of law enforcement agencies are also inhibiting factors. Although the KPK has the authority to investigate and prosecute corruption cases, they often face a lack of adequate budget and human resources. In-depth investigations related to impoverishment require specialized expertise in finance and forensics, as well as sophisticated technological support. Without adequate support, it is difficult for law enforcement agencies to carry out these tasks effectively.

Complicated bureaucracy and lengthy procedures also hamper the implementation of impoverishment. The process of confiscating assets not only involves lengthy legal steps, but also must go through complicated administrative procedures. In many cases, there is also overlapping authority between institutions that handle corruption cases, such as the Corruption Eradication Commission, the prosecutor's office, and the courts. This can lead to poor coordination, thus slowing down the impoverishment process.

The permissive political culture factor towards corruption is also a significant obstacle. In some circles, corrupt practices have become a culture or habit that is accepted in political and economic life. Public officials or businessmen involved in corruption often have extensive power networks, which allow them to avoid punishment or slow down the judicial process. The

unwillingness to take firm action against corruptors who have strong connections with power can hamper the implementation of impoverishment penalties.

Lack of transparency in the management of confiscated assets is also an obstacle in the implementation of impoverishment. Although the state can successfully confiscate assets, sometimes the process of managing and reusing these assets for the benefit of the state does not go well. In some cases, the results of the confiscation are actually "stored" in an unclear bureaucracy and are not used optimally for development. The lack of supervision of the use of confiscated assets also makes the public lose confidence in the effectiveness of impoverishment punishment.

Overall, supporting and inhibiting factors for impoverishment of corruption crimes play a major role in determining whether this punishment can be implemented effectively in Indonesia. While supporting factors such as a clear legal basis, the existence of strong law enforcement agencies, and political support can facilitate the implementation of impoverishment penalties, inhibiting factors such as a weak judicial system, difficulty in proving the origin of wealth, and limited resources and complicated bureaucracy are challenges that must be overcome to make impoverishment more effective in eradicating corruption.

4. CONCLUSION

Impoverishment punishment as a progressive approach in handling corruption in Indonesia has great potential to provide a deterrent effect and return state losses due to corruption. Although it has been regulated in Law No. 31 of 1999 which was amended by Law No. 20 of 2001, its implementation in practice still faces a number of challenges, especially in terms of proving the origin of wealth suspected of being the result of criminal acts. The success of this punishment is highly dependent on the capacity of law enforcement agencies, such as the Corruption Eradication Commission, in tracking and confiscating hidden assets and the seriousness of law enforcement officers in enforcing the law without external influence.

Factors supporting the implementation of impoverishment punishment include a clear legal basis, strong support from law enforcement agencies, and political commitment from the government and society to eradicate corruption. These factors allow the eradication of corruption through impoverishment to be more effective and transparent. However, there are also a number of inhibiting factors that reduce its effectiveness, including a weak judicial system, difficulty in proving the origin of wealth, limited resources owned by law enforcement agencies, and a political culture that is permissive of corrupt practices. In addition, complicated bureaucracy and lack of transparency in the management of confiscated assets are major

challenges that need to be overcome to ensure that impoverishment can truly restore state losses and provide maximum deterrent effects.

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