

## Model of tackling Corruption as Transnational Crime

### with a fair and Civilized Humanity Paradigm

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#### ABSTRACT

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*It has declined to the urgency of transnational corruption crimes. Indonesia has ratified the UN convention on anti-corruption and is required by international cooperation in the fight against corruption in potential across national borders. The NPLS 'commitment to joint against corruption (UNCAC) and the g20 anti-working group (ACWG) show the need for reinforcement in the extradition agreement for corruption crimes which not only harm the state but also harm the very nature of joint cooperation in the eradication of corruption crimes. Criminal corruption has made policy against corruption different. The death penalty expected to provide absolution turned out to be inadequate to eliminate the crimes of corruption. A fair and civilized humanitarian outlook projected as a United States of inter-states action towards the elimination of crime by paying attention to the humanities, justice and justice, and by sanctions against transnational corruption crimes plus one third of the basic penalties, social work and the obligation to build public facilities for the state, and without alternative inability.*

**Keywords:** Corruption, United Nations Convention Against Corruption, Transnational, Country, Law.

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### 1. Introduction

The law and justice, like the two immeasurable sides of an unbreakable coin, were paralyzed by the law intended to bring about justice and justice. But to get justice, the seeker has to go through the most unfair procedures. So, the law became interested in several parties, not to please the people but to bring misery upon the people. Law cannot bring justice among the people, so much less law enforcement has been so high in voting that it makes a legal certainty impossible. A progressive idea of law, which was foisted by Satjipto Rahardjo is a long thought struggle for the application of Indonesian systems that are always statically, corrupt, and do not lend a structural to the laws that live in society. Indonesian law has lost its social base, a multicultural base, and is sensibly enforced in a building of a legal system, which laws are then coerced, and imposed with structural violence by law enforcement officials. Because of Indonesia's judiciary system and problematic law enforcement conditions, where such measures can also be seen in direct contrast when we try the corruption crimes that have been committed<sup>97</sup>.

Corruption is an act by someone who usually ACTS as a public official and another role involved in such action that improperly abuses his power derived from public trust in them for a more one-sided advantage. The Latin - based corruption, that is, corruption, corruption, corruption, corruption, corruption, corruption, corruption, corruption. The euptus terms corrupt, corrups, lacertie, coriine, and corruption. In a

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<sup>97</sup> Rahardjo, S. 2010. *Sosiologi Hukum : Esai – Esai Terpilih*. Yogyakarta: Genta Publishing. Hlm. 96-97

broad sense, corruption is defined as the abuse or perversion of official office by a public official for personal gain, and all forms of governments around the world are vulnerable to corruption in practice. In Indonesia, corruption has become an incurable, long-lasting, systemic disease. As a result of corruption that is sweeping the national economy and ruining the system of government, corruption has not only affected poverty and brought misery upon people's lives. Therefore, the rule of law-invitations has tasted corruption as an extraordinary crime (extraordinary crime).

Cross-country crime, also known as transnational crime, causes much harm to a country and region-specific areas within the country. The range of distortions that can take places, such as the widespread criminal corruption that has affected people, the infrastructure, and the world's environment. Problems have arisen - problems such as poverty and conflict have also resulted from transnational crime. With its nature that crosses borders - borders that also impact other countries, transnational crime becomes a threat to global security<sup>98</sup>.

The resulting problem of numerous criminal corruptions has created the United Nations convention against bribery (UNCAC), which is spearheaded by the United Nations. The draft of the United Nations convention began in 2000, where the United Nations general assembly in his 55th congregation, through a resolution of 55/61 on December 6, 2000, saw the need to formulate a global instrument of international law against corruption. Such instruments would be essential to bridge different legal systems and promote effective eradication of criminal corruption. The United Nations convention against the challenge (UNCAC) was accepted by the United Nations general assembly on October 31, 2003, at the UN headquarters in New York in the United States, and the process of its signing of the convention was resumed on December 9 to 11, 2003, in Merida Mexico until September 19, 2005, at UN headquarters and 140 countries have signed the convention. The signing process corresponds to section 67, section 1 UNCAC. It has been ratified by 47 countries and Indonesia, which has become the 48th in line to ratify it<sup>99</sup>.

## 2. Methods

This post is the result of an approach made by juridical normative observation through a legal approval (statue approach) and case approach (approach), the fabrications of materials using several articles on corruption, the law - laws involving the no.20 years of 2001 and the UNCAC (the United Nations convention against bribery) that involve international in reducing the crime rates, which ultimately creates an idea for criminal corruption.

## 3. Results and Discussions

In the second quarter of 2007, the company's net profit in the first quarter of 2007 fell to Rp775.1 trillion from Rp775.9 trillion in the same period last year. Corruption is not limited to mere officials, from the legislative domain as well as the executive. The

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<sup>98</sup> Kemlu.go.id. 2016. Penanggulangan Kejahatan Lintas Negara Terorganisir. Retrieved February 5, 2016, from <http://www.kemlu.go.id/id/kebijakan/isu-khusus/Penangulangan-Kejahatan-Lintas-Negara-Terorganisir.aspx>, retrieved at 15.00 WIB

<sup>99</sup> Abdurofiq, A. 2016. Politik Hukum Ratifikasi Konvensi PBB Anti Korupsi di Indonesia. *Jurnal Cita Hukum*, 4(2), hlm.187-208. <https://doi.org/10.15408/jch.v4i2.4099>

rupiah's exchange rate against Rp9,300 per dollar was recorded at Rp9,310/9,315 per dollar the day before, he said. Based on that amount, it is a huge sum compared with the total penalties imposed by the judges' council on Rp 102,985,000,000, and Rp 625,080,425,649 as the understudy of corruption will be at a considerable cost to the state<sup>100</sup>. It is also discussed from an international perspective that corruption is primarily a crime in the white-collar crime and has a complex and consequential role to the international community. The 8th UN congress concerning "prevention of crime and treatment of inaction" which has validated the resolutions "mitigation government" in Havana in 1990 that defined the impact of corruption:

1. Corruption within the scope of the public official

- a. Can destroy potential effectiveness of any kind of government program;
- b. Victimize groups and groups;
- c. Can hinder development (evolutionary development);

2. There is a strong link between corruption and the various forms of economic crime, money laundering, and organized crime<sup>101</sup>.

From a legal perspective in Indonesia, corruption is vividly explained in 13 chapters found in 1998's no. 31 acts turned into 2001 no. 20 the year 2001 law on the elimination of criminal corruption. Chapters - they explain in detail deeds that can be punishable by criminal corruption. Some forms of corruption crimes which can be essentially grouped as follows:

1. State financial losses
2. Bribery
3. Embezzlement in office
4. extortion
5. Foul play
6. Conflict of interest in the procurement
7. gratuity

And as of now, corruption is already entrenched in the country, until transnational corruption occurs. The possibility of INNOSPEC is the possibility of bribing the Tetraethyl Leads (TEL) of the Gasoline project in 2004-2005, which involved the British state, Singapore, and British virgin island and the gratified case of the former Director of the Indonesian Emirate Satar Garuda, as well as many other cases.<sup>102</sup>. we will have to reinforce international cooperation which is carried out through law enforcement networks around the world. The KPK is a country with a history of such things as Vietnam, Australia, Singapore, the USA, the United Kingdom, China, Japan, Germany, and many others. Having a network like this would be crucial to Indonesia to facilitate investigations and arrests, owing to the myriad of corruption operations that use foreign jurisdiction as a place to hide and save money generated by wire unimpeded money<sup>103</sup>.

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<sup>100</sup> CNN Indonesia. 2020. Icw: Kerugian Negara Akibat Korupsi Rp39,2 T Di 2020. Retrieved November 10, 2020, from <https://www.cnnindonesia.com/nasional/20200930124534-12-552660/icw-kerugian-negara-akibat-korupsi-rp392-t-di-2020>, diakses jam 13.00 WIB

<sup>101</sup> Arief, B. N. 2007. *Masalah Penegakan Hukum dan Kebijakan hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana Prenada Media Group, hlm. 148.

<sup>102</sup> Indonesia Corruption Watch. 2017. Korupsi Transnasional. Retrieved November 10, 2020, from <https://antikorupsi.org/index.php/id/article/korupsi-transnasional>, retrieved at 19:00 WIB.

<sup>103</sup> Simandjuntak, M. E. 2013. *Mutual Legal Assistance: Kerjasama Internasional Pemberantasan Korupsi*. *Masalah-*

According to the Indonesian Survey Corruption Watch (ICW), there were 271 corruption cases in 2019 years, and a total of 580 suspects and state losses reached rp8.04 trillion. The case was handled by the KPK, prosecutor RI, and POLRI from January 1, 2019, to December 31, 2019. According to icw's pattern of corruption in Indonesia mostly bribery mode, a total of 2019 bribes of 51 crimes at a value of 169.5 billion. They will follow the same methods as mark up or inflating 1 case, the misuse of budget 39 cases, the embezzlement of 35 cases, the abuse of authority 30 cases, the fictitious 22 cases, the fictitious reports of 21 cases, the illegal taking of 11, the gratuity of 7 cases, the extortion of 7 cases, and the markdown 1 case<sup>104</sup>.

#### 4. Conclusion

There's still a lot of pro bono work to be done on this corruption crime. By creating ideas that could create rules that would eliminate the perpetrators of corruption and also narrow the motion to commit criminal corruption, as well as create rules that would make the perpetrator responsible for what he has done and a crime that would be a crime against corruption.

The writer proposes an idea for a measure of corruption by cracking down on the perpetrators of corruption. My idea, which is:

- In the first half of 2008, the company's foreign exchange reserves reached us \$58.9 billion. Any relationship would be expected to provide easy access in and out of interest to the investigation. As listed in chapter 3 of UNCAC regarding actions that could be criminalized as crimes of corruption: Article 15 of the unsolicited of national public activism, article 16 of civil rights and civil conduct, article 17 of misintegration or other articles of property by a public official, article 18 of trading in moderation, article 19 of function, article 21 of cultivation in the private sector, Of some of the actions that are criminalized in uncac, there are glorify offences and there are also non-proliferation offences. Neither goes apart from the state agreements-the participants in the convention, if the action is questionable then there is an acceptance of all convention participants to set up the act in the legislation - the national law thus incurring the obligation of the state party and If a nonparticipant act meant that there was no agreement between covenant participants to declare the act criminally. Therefore, it is in anticipation that we should establish a joint extradition agreement with a country that does not appear on the convention side and make it deal to deal with Indonesia in order to facilitate cooperation and investigations and arrests overseas<sup>105</sup>.
- After that for corruption crimes in a major category, involving judicial, executive, legislative. Assets perpetrators have had to be seized by the state and are given only 1/3 of the assets seized as an extraordinary measure of responsibility and compensation for extraordinary crime. This corruption crime is detrimental and detrimental to society, and it is also impeding the development of the state. Therefore, by confiscating its assets, perpetrators of corruption will sense what it

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*Masalah Hukum*, 42(1), hlm. 131-138. <https://doi.org/10.14710/mmh.42.1.2013.131-138>

<sup>104</sup> Abdi, A. P. 2020. ICW: Penanganan Korupsi Selama 2019 Anjlok, Modus Suap Mendominasi. Retrieved November 10, 2020, from Tirtoid website: <https://tirtoid.icw-penanganan-korupsi-selama-2019-anjlok-modus-suap-mendominasi-ezNs>, retrieved at 19.00 WIB.

<sup>105</sup> Hiariej, E. O. S. 2019. United Nations Convention Against Corruption dalam Sistem Hukum Indonesia. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 31(1), hlm. 112. <https://doi.org/10.22146/jmh.43968>

is like to live among the lower levels who often victimize corrupt people while serving as state officials and thus have a deterrent.

- Criminals who commit criminal corruption should be punished without the benefit of the sentence cited in article 34 paragraph (3) the 2006 government rule no.28 regarding the release of remission after serving a third of the prison term. Since corruption is an extraordinary crime and human rights as outlined by the United Nations Convention Against Corruption (UNCAC)
- The next phase of the final sentence for criminals of corruption will have to perform unpaid jobs in the labor force to build tools and infrastructure and/or become a teaching force in a place of need.

In the face of transnational corruption, extradition cooperation between unpartnered countries is vital. Hence, governments and the United Nations (UN) play a vital role in tackling this criminal corruption, which will prevent more misery from being created by criminal corruption.

## References

- Abdi, A. P. (2020). ICW: Penanganan Korupsi Selama 2019 Anjlok, Modus Suap Mendominasi. Retrieved November 10, 2020, from Tirto.id website: <https://tirto.id/icw-penanganan-korupsi-selama-2019-anjlok-modus-suap-mendominasi-ezNs>
- Abdurofiq, A. (2016). Politik Hukum Ratifikasi Konvensi PBB Anti Korupsi di Indonesia. *Jurnal Cita Hukum*, 4(2), 187–208. <https://doi.org/10.15408/jch.v4i2.4099>
- Arief, B. N. (2007). *Masalah Penegakan Hukum dan Kebijakan hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana Prenada Media Group.
- CNN Indonesia. (2020). Icw: Kerugian Negara Akibat Korupsi Rp39,2 T Di 2020. Retrieved November 10, 2020, from <https://www.cnnindonesia.com/nasional/20200930124534-12-552660/icw-kerugian-negara-akibat-korupsi-rp392-t-di-2020>
- Hiariej, E. O. S. (2019). United Nations Convention Against Corruption dalam Sistem Hukum Indonesia. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 31(1), 112. <https://doi.org/10.22146/jmh.43968>
- Indonesia Corruption Watch. (2017). Korupsi Transnasional. Retrieved November 10, 2020, from <https://antikorupsi.org/index.php/id/article/korupsi-transnasional>
- Kemlu.go.id. (2016). Penanggulangan Kejahatan Lintas Negara Terorganisir. Retrieved February 5, 2016, from <http://www.kemlu.go.id/id/kebijakan/isu-khusus/Penanggulangan-Kejahatan-Lintas-Negara-Terorganisir.aspx>
- Rahardjo, S. (2010). *Sosiologi Hukum : Esai – Esai Terpilih*. Yogyakarta: Genta Publishing.
- Simandjuntak, M. E. (2013). Mutual Legal Assistance: Kerjasama Internasional Pemberantasan Korupsi. *Masalah-Masalah Hukum*, 42(1), 131–138. <https://doi.org/10.14710/mmh.42.1.2013.131-138>