Jurnal Pendidikan Sejarah dan Riset Sosial Humaniora Vol. 2, No. 2 December (2022)
ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

THE SENTENCING EFFECTIVITY ON THE CRIMINAL OFFENSE OF CORRUPTION THROUGH THE PERSPECTIVE OF INDONESIAN STATE ADMINISTRATIVE LAW: A REVIEW

Handaru Arya Ahmad Musyaffar[1*], Radhitya Pratama[2]

[1,2]Faculty of Law, Semarang State University

[*]Corresponding Author:
Email: handaruarya@students.unnes.ac.id, radhityapratama@students.unnes.ac.id

---

Abstract.

Corruption is an act of abusing the legally given power by an entitled public officer or a legal entity, at the length of acting outside from their official capacities that are within the legal duty, with the intention of taking advantage from the policy's loopholes that are mainly regulating the act of conduct. Presently, corruption can be described as an act that are done by the person per se, not per the Actions solely, in which every Actions that 'Actions' outside of its formal domain of conduct, should be considered as a corruption. Many scholars condemn the act of corruption as a discourse of discrepancy throughout the form of interpersonal, social, moral, and legal order from its own. This study's methodology is the legal normative approach. This study's methodology, which employs this normative legal approach, is based on both a situational approach and a state law approach, adopting the literature study approach, which entails compiling information from a range of publications, including books, journals, websites, and online sources. Analysis in this study was based on information from sources about the laws and regulations that relate to the penalty of corruption offenses as observed in criminal law and state administrative law.

Keywords: *Corruption, Abuse of Power, Personal Benefit*

---

1. INTRODUCTION

In the scope of the psychological factors, the reasons on why people are corrupt can be described using the research written by Kendra Dupuy and Siri Neset from the CMI titled "*The Cognitive Psychology of Corruption: Micro-level Explanations for Unethical Behaviour*".[1] The research stated that most of the corruptors were from those who are holding the 'power' of a certain domain.[2] The corruptors are also considered as the people who believe in sayings on how personalized control must be used to pursue personal goals for one's own benefit. This reaction was of course prompted by the

---

[1] Kendra Dupuy and Siri Neset, "The Cognitive Psychology of Corruption - Micro-Level Explanations for Unethical Behaviour," *U4 Anti-Corruption Resource Center* 2 (2018): 31.

[2] Dupuy and Neset, 3–5.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

conceited egos laying within one's managerial actions which at the end will created some poor choices that in result bring material losses for that in result bring material losses for the one-in-control. Overconfidence may also lead to corruption in organizations that was based on subjective confidence in personal judgments overpowers the objective accuracy.[3] In the greater range of the psychological factors, the act of corruption invariably was caused by the situation, rather than the person. It is mainly owing to specific type of psychological bias known as "self-serving bias" where the managerial people tend to process details in ways that foster preceded viewpoints and extend their self-interestedness.[4] Confirmation bias or mostly known as myside bias, could be defined as the tendency to ignore details or data that are contradicting with people's opinions and ways of thinking, may also have played an important role, whereas its stellar effect is defined as the predisposition for a first glance to impact the whole values and opinions about a specific things.[5]

In the economical extent, the act of corruption can be described by using the research about "*Corruption Around the World: Causes, Consequences, Scope, and Cures*" written by the Latin American author that commonly known as Vito Tanzi—whose dedication has made his recent book that was titled "The Uncertain Economics of Disasters, Pandemics, and Climate Change" to be one of the best selling books—concluded that the act of corruption was highly affected by the 'supply and demand'. If were to be explained thoroughly, the supply could derived from the public officials and the demand can come from the public itself. While the demand can be further labelled as everything that has a connection outside the causes of the corruption, such as: rules and policing methods, specifically distinguishable taxing systems, specific squandering or decision making, and purveying goods and services under the dominant pricings, the supply can only be additionally labelled as everything that has a connection within from the causes of the corruption, such as: administrative culture, public sector wage levels, punitive processes, organisational controls, the openness of obligations, regulations, and mechanisms, managerial-related things that are set to be trailblazed by the higher-ups (from the personal or interpersonal self).[6]

Corruption cases are not the latest news in Indonesia; however, the development of this case has risen exponentially throughout the years, both in terms of the quantity and the quality of the national losses are becoming more organized and wider in a scale-

3 Dupuy and Neset, 6–11.
4 Robert A. Prentice, "Ethical Decision Making: More Needed Than Good Intentions," *Financial Analysts Journal* 63, no. 6 (2007): 17–30, https://doi.org/10.2469/faj.v63.n6.4923. Cited in Kendra Dupuy and Siri Neset, "The Cognitive Psychology of Corruption - Micro-Level Explanations for Unethical Behaviour," *U4 Anti-Corruption Resource Center* 2 (2018): 6.
5 Daniel Kahneman, *Thinking, Fast and Slow* (London: Penguin Books, 2011). Cited in Dupuy and Neset, "The Cognitive Psychology of Corruption - Micro-Level Explanations for Unethical Behaviour," 6–7.
6 Vito Tanzi, "Corruption Around the World: Causes, Consequences, Scope, and Cures" (International Monetary Fund, 1998), https://www.imf.org/external/pubs/ft/wp/wp9863.pdf.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

wise manner.[7] The vastly increasing acts of corruption that have been spiraling out of control will be a total catastrophe for the country's wellbeing if were not treated soon enough. The increasing amount of corruption scandals has scattered beyond the legislative and executive branches and has extensively turned into an immoral subculture among our people. Corruption plagues both the Indonesian government and the international community. Corruption is widespread and is directly threatening to our democratic principles that promote clarity, responsibility, and decency, which are presently being resounded by the international society.[8]

Corruption is defined as something vile, sinful, and catastrophic. Speaking about corruption will expose such an actuality since corruption involves ethicality, putrid existence and environments, stances in governmental bodies or instrument, misuse of authority in office because of the given gratifications, economic and political factors, and when a person assigns their family members or personal collectives into an institution without any vettings being done.[9] Per the definition, there are a few other buzzwords in defining of corruption, such as: the criminal offenseions itself, acts of opposing the already existing regulations, ameliorating one's own or somebody else’s, negatively impacting the public expenses, misusing the power, and exploiting advantages or any services in accordance with it. As a matter of fact, the criminal act of corruption should never be considered as a regular criminal act, but relatively should be considered as an immense criminal act. All of these problematic mess are as a direct result to the prior conventional approaches that have always been ended in a failure on resolving the corruption problems.

In Indonesia, the applicable criminal law system that affords jail sentence for a corruption, would only be used as a last resort (*ultimum remidium*), and its application must take human rights into account. As in accordance with the Article 2 Section (1) of Law No. 31 of 1999 about the Eradication of Criminal Actions of Corruption, which described *“anybody who illegitimately engages in the crime of enriching oneself or another individual or a corporate entity that can damage the State's funding or the Economy at large, will henceforth be punished by imprisonment. With life sentences or prison terms for a minimum period of 4 (four) of and a maximum of 20 (twenty) of,*

[7] Simon Butt, *Corruption and Law in Indonesia*, 1st Ed. (London: Routledge, 2011), 1–9, https://doi.org/doi.org/10.4324/9780203584729.

[8] Mohammad Ataur Rahman and Sumsuzzaman Sobuz, “Administrative Corruption (An Explanative Overview),” *University of Dhaka*, n.d., 7–9, https://doi.org/10.4324/9780429501555-15.

[9] Arnold J. Heidenheimer, *Political Corruption Concepts and Contexts*, ed. Michael Johnston, 3rd Ed. (New York: Routledge, 2017), 3–5, https://doi.org/doi.org/10.4324/9781315126647.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

coupled by a fine of at most Rp. 200,000,000 (two hundred million rupiah) and a highest of Rp. 1,000,000,000. (one billion rupiah)".[10][11]

The criminal offense of corruption being designated as an substansial crime in Indonesian penal law policy can be interpreted as; in order to fight corruption, a specific penal law is required that solely departs from the general legal norms of criminal law that are regulated within the Book of Criminal Code. Because corruption is an exceptional criminal offense, thus the judgment must take priority over other cases in its prevalancy.[12] Although the constitution states that the sanction for a person who commits a criminal act of corruption is lifetime in jail, but the reality is quite different, with court rulings oftenly exerting an extremely reduced sentences and even exonerate the offenders of criminal offenseions of corruption from all punitive measures.[13] This is very saddening, by seeing the fact that the prosecution has been already been sustained by the order, yet there are still some who are illegitimately neglected it. However, since the Law No. 28 of 1999 regarding the State Administrators effectiveness was sustained, therefore it still takes effect in showing the integrity through the state administrative law.

II. METHOD

This research is based on a legal normative method. Because the method in this paper is premised on a situational approach and a state law approach, in which where this normative legal method is used. By using the literature study method of various books and journals as well as other sources from websites and the internet as data collection techniques. In the end, collecting reading sources that the author deems relevant to the topic being discussed so that concrete and clear results are produced. Meanwhile, the analysis used by the author in this study is a qualitative analysis with data sources on applicable laws and regulations regarding punishment for corruption crimes seen in criminal law and state administrative law. The approach used in this research is a statutory approach through a review of all laws related to the topics discussed, a conceptual approach is also used by providing analysis related to how to solve the problems in this research.

The research was conducted using the library study approach because the data collection process was from books, journals, the internet, or other written literature as the basis for writing. Theory was created from searching for information through books, newspapers and other literature as a method of collecting data which is then called

[10] Undang-Undang Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi" (1999), para. 2 section (1), https://peraturan.bpk.go.id/Home/Details/45350/uu-no-31-tahun-1999.

[11] Fristia Berdian Tamza, "Prison Penalty In Providing A Determination Effect For Criminal Actions Of Corruption," *Corruptio* 3, no. 2 (2022): 87–100, https://doi.org/10.25041/corruptio.v3i2.2736.

[12] Staffan Andersson and Frank Anechiarico, *Corruption and Corruption Control: Democracy in the Balance*, *Corruption and Corruption Control: Democracy in the Balance*, 1st Ed. (New York: Routledge, 2019), https://doi.org/10.4324/9781351206990.

[13] Michael Johnston and Scott A. Fritzen, *The Conundrum of Corruption Reform for Social Justice*, 1st Ed. (London: Routledge, 2021), 16–17, https://doi.org/doi.org/10.4324/9780367224554.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

literature study.[14] Theoretical studies, references, and other literature studies that have to do with culture, values, and norms that develop in research are referred to as literature studies.[15]

At the data analysis stage, the authors set several stages of the procedure. First, determine in advance the type of case study that the researcher wants to do, namely the Effectiveness of Sentencing of Criminal Offense of Corruption in the Perspective of Indonesian State Administrative Law. The next stage that researchers will do is collect data from various sources using literature study methods, such as books, journals, research reports, official writings published by the government or official institutions, the internet, and other literature. After the data is collected, the researcher will proceed to the next stage, namely the analysis of available data.
After that, the researcher will compile the results and discussion in a descriptive writing that is an explanation of the problems that occur, which then in the end draw conclusions. Readers need to know that the data presented by the researcher is qualitative data packaged in a narrative text that explains the Actions that happened before and the final result is a discussion and conclusion.

III. RESULT AND DISCUSSION

Corruption in general was described as a behavior of stealing in the midst of society is a phenomenon that is not commendable. A criminal act in the form of stealing people's money by the higher-ups seems to be a routine occurrence in Indonesia. The foul act of stealing people's money is commonly referred to as corruption, which can be interpreted as an act that is inappropriate and harms many people for the sake of self-interest and lust. Diversion or misuse of state funds for personal or other people's gain is called corruption. Corruption when seen in the Latin word which is mentioned as "*corruptiō*" and "*corrumpere*" is interpreted in English as "destroy" or "destruction".[16]

With this brief explanation, corruption refers more to the type of decay that leads to the destruction of oneself, society, and the state. Manifestations resulting from Actions of corruption that start from bribery and fraud to the socio-political direction, Actions of corruption do not always lead to collapse, on the contrary—corruption—is considered as a less than optimal behavior that is used when other ethical methods are deemed unavailable, flawed, or too expensive. The act of corruption was carried out in a massive manner and was structured in an extraordinary way, the perpetrators of corruption were extraordinary, and the impact Actions caused by Actions of corruption were extraordinary, so they were classified as extraordinary crimes. Corruption is carried out in a detailed, thorough and organized manner, the perpetrators of which are people who all have power or authority over certain positions who can act as they wish, which will have a detrimental effect on the state (economy and society).[17]

---

[14] Suharsimi Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktik*, Ed. Rev. VI (Jakarta: PT. Rineka Cipta, 2010).
[15] Sugiyono, *Metode Penelitian Kuantitatif Kualitatif Dan R&D*, Bandung (Alfabeta, 2012).
[16] United Nations Office on Drugs and Crime, *Module 1: What Is Corruption and Why Should We Care?*, *Unodc.Org*, 2022, 8.
[17] United Nations Office on Drugs and Crime, 9–12.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

To prove whether something is worth to be called effective or not can be seen from its scorecard throughout the cases it has handled. If the entirety of the scorecard was considered to be scored in a good manner, then it is worthy to be labelled as effective. But, if it was considered to be in a bad manner, then it is unworthy to be labelled as effective. In this case, the effication given by the rules of the administrative law can be recognized by the people easily. Moreover, if the majority of the Indonesian people appeared themselves to follow the regulation, the quality of the regulation's effectiveness could notwithstanding be inquired. The more people who obey the regulations primarily through stiff obedience and/or suppressive discernment, the lesser the quality of the regulation's effectiveness as sociologically can be; in the contrary, the more citizens who obey the regulation through internalized compliance, the greater the level of the regulation's effectiveness as a whole.

On the Law No. 28 of 1999 regarding the 'Clean and Free State Administrators from Corruption, Collusion, Nepotism', it was pretty clear that the administrative instruments are prohibiting every act of corruption in any forms, hence every act of corruption are considered as an act that acting outside from the regulated rules, thus must be given sanctions. Government actions, particularly executive actions, must be based on their implementation by the authority over a position in State Administrative Law. A criminal act of corruption occurs when an official who is authorized for his position commits a bad act that causes harm to the state and society by stealing or controlling money for personal gain. Parameters that, according to state administrative law, limit the discretionary power of the state apparatus, such as the mixtures of authority as well as in the indiscriminate manner.

In the context of state administrative law, the strategy for eradicating corruption includes several areas of change, including the following: through good leadership or governance, the role of the elected legislative body is the main pillar of a national integrity system that is based on responsibility and adheres to state laws, as well as a strong democratic system. The state's primary responsibility is to acknowledge the democracy of the people through elected officials for the benefit of the nation and state; the legislature's supplementary responsibility is to ensure that the executive's actions are have been able to take responsibility. The legislature, as a supervisory, regulatory, and public service body, should be at the heart of every fight to accomplish and promote sustainable governance in order to prevent any possibility in various forms of corruption in Indonesia. In similar manner, the executive, as authorised person and the representative of the people, must run the greatest possible government in accordance with the responsibilities of the state constitution and Pancasila, as the nation's ideology. Other special attention is focused on the organizational structure of the government as a whole, these changes are very necessary to prevent systematic corruption, how and where to make these changes, including by providing adequate salaries to live for civil servants and policymakers, so that a professional life in administrative institutions would become a pretty good choice for competent individuals. Also, by removing the community's perception and stigma of government institutions that are filthy and dominated by people that are hungry for personal and group power. Furthermore, the government must continue to spread the information to citizens regarding their right to receive the finest benefits from the state in consistent with human rights values, along

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

with publicly release a handbook for civil servants that citizens and government contractors could indeed easily access and learn.

In the meantime, numerous different regulation can be decided to carry out from the codification of the law, as specified in Law No. 3 of 1971 regarding the Eradication of Criminal Actions of Corruption, which is an attempt by Indonesian government agents to form a coherent and fairly comprehensive corruption offense. The description of corruption offenses is clearly stated in this law and can comprise the majority of existing cases of corruption, examination procedures are simplified, and the evidentiary process is simplified. Then, by the time Law No. 20 of 2001 and Law No. 3 of 1971 was amended, particularly with the existence of a reverse proof system, would facilitate the process of proving corruption cases in court. Further to that, Law No. 28 of 1999 was managed to passed to incorporate a clean and free state free of corruption, collusion, and nepotism. It is hoped that with the passing of this legislation, state administrators will be able to carrying out their duties and obligations sincerely and conscientiously.

The Point of Tangencies in Criminal Offense of Corruption with the Indonesian Administrative Law Perspective

The report from the ICW (Indonesian Corruption Watch) agency shows that the trend of prosecuting corruption cases that occurred in 2021 is described as follows:[18]

1. Mapping cases based on mode, it was found that Actions of corruption with the highest number of cases were misuse of budgets and fictitious project activities, where the budget listed was not in accordance with their use and illicit projects where no results were created but payments had been made.

2. Based on the type of corruption, it was found that the most cases were state financial losses of 475 cases with a loss value of Rp. 29,217,484,851,263 followed by bribery with a total of 21 cases with a bribe value of Rp. 143,959,700,000.

3. Based on sector, as many as 40 sectors became fields of corruption with the highest being village funds with a total of potential loss values up to IDR 233,310,616,052.

4. Corruption cases based on institutions in 2021 are dominated by government agencies, with 176 cases of village government, 146 district governments, 33 city governments, 22 provincial governments, 5 ministries, 5 non-ministerial government agencies, as well as the DPR and DPRD with a total of 6 cases.

[18] Diky Anandya, Kurnia Ramadhana, and Laola Easter, "Laporan Tren Penindakan Kasus Korupsi Tahun 2021," *Indonesia Corruption Watch*, 2022, 17–35, https://antikorupsi.org/sites/default/files/dokumen/Laporan Tren Penindakan Kasus Korupsi Tahun 2021.pdf.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

In State Administrative Law, government actions, especially the executive, must be based on their implementation by the authority over a position. If an official who is authorized for his position commits a bad act that causes harm to the state and society by stealing money or controlling it for personal interests, it is commonly referred to as a criminal offense of corruption. Parameters that limit the discretionary power of the state apparatus in terms of state administrative law, for example *détournament de povouir* (combination of powers) and *abus de droit* (arbitrarily).[19] However, when viewed from the criteria of criminal law that limit the free movement of power in the state apparatus, it appears in the form of elements of *wederrechtlijkheid* and "abuse of power".[20]

Problems that occur later will be easy to solve if point of contact (grey area) between criminal law and state administrative law is used, especially in corruption. Regarding the point of contact between state administrative law and criminal law, it is contained in Law No. 20 of 2001 regarding the Eradication of Criminal Actions of Corruption, in addition there are the State Finance Law, the Supreme Audit Agency Law, and the State Treasury Law. The theory and practice in handling corruption cases and the formation of laws and regulations, state administrative law, have always been inside the area of criminal law and civil law. When discussing state administrative law, the court concerned is the State High Court of Business which adjudicates the realm of authority abuse, whereas in the case of a criminal offense of corruption it is an abuse of authority (by citing the Article 3 of Law No. 31 of 1999 regarding the Eradication of Corruption). The element of abuse of authority in Article 3 of the Corruption Crime Act is tentative, which means it is an option when other elements include opportunities and facilities were obtained as a result of a certain positioning. Authority abuse in criminal law is an offense against the law and must be accompanied by *mens rea* (devious intent). The form of *mens rea* is that there is actus reus in the form of fraud, conflict of interest, and illegality so that it is included in a criminal act. The outcome of authority abuse and arbitrariness in state administrative law is the emergence of decisions from authorized officials that are invalid and can be canceled.[21]

The principles and doctrine of material criminal law autonomy can be found in the judge's ruling on the criminal offense of corruption, for example in the Tanjung Pinang District Court Decision No.3/Pid.Sus-Tipikor/2015/PN.Tpg, in legal

---

[19] Disiplin F. Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi," *Jurnal Wawasan Yuridika* 2, no. 1 (2018): 8, https://doi.org/10.25072/jwy.v2i1.158.

[20] Indriyanto Seno Adji, *Korupsi Dan Penegakan Hukum*, Cet.1 (Jakarta: Diadit Media, 2009), 10. Cited in Disiplin F. Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi," *Jurnal Wawasan Yuridika* 2, no. 1 (2018): 9, https://doi.org/10.25072/jwy.v2i1.158.

[21] Andi Nirwanto, Arah Pemberantasan Korupsi Ke Depan (Pasca Undang-Undang Administrasi Pemerintahan). Makalah yang disampaikan pada Seminar Nasional HUT IKAHI Ke 62 di Hotel Mercure Ancol Jakarta pada tanggal 26 Maret 2015. Cited in Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi," 9–10.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

considerations, the Panel of Judges in this case considered the doctrine or legal opinion of the expert:[22]

"Considering, that in connection with the meaning of the element of "abuse of authority" it turns out that there is no explicit understanding found in the elucidation of this Law, therefore by taking into account the opinion of Prof. Dr. Indriyanto Seno Adji, S.H., M.H. in his paper about "Antara Public Policy" titled *Publiek Beleid, Principle of Actions Against the Law of Materials in the Perspective of Criminal Actions of Corruption in Indonesia*, which in essence is the notion of "abuse of authority" in criminal law, especially in criminal Actions of corruption does not have an explicit understanding of its nature, then an extensive approach is used based on the doctrine put forward by H.A. *Demeersemen* on the study of "*De Autonomie van het Materiele Strafrecht*" (Autonomy from material criminal law)...".

The Panel of Judges then cited a decision No. 1340K/Pid.1992 of the Supreme Court of the Republic of Indonesia, which interpreted the component of authority abuse, according the Panel of Judges said:[23]

"Considering, that the teaching on "*Autonomie van het Materiele Strafrecht*" was accepted was further strengthened by the Supreme Court Decision of the R.I. No. 1340 K/Pid/1992 dated 17 February 1992. By the Supreme Court of the Republic of Indonesia. legal smoothing (*rechtsvervijning*) was carried out by taking over the meaning of "abusing authority" in Article 52 Section (2) letter b of Law No. 5 of 1986 (regarding the State Administrative Court), which has used its authority for purposes other than those for which it was granted or what is known as *'detournement de pouvoir'*."

The decision occurred in 2015 where the Government Administration Law has been in force since it was promulgated into a Law in 2014. However, in deciding cases, the Panel of Judges preferred to use the notion of abuse of authority in the State Business High Court Act rather than the limits on authority abuse in the Government Administration Law. Regarding the prohibition of abuse of authority, Article 17 Section (2) of Law No. 30 of 2014 regarding Government Administration is a prohibition on exceeding authority, a prohibition on mixing authority, and/or a prohibition on acting arbitrarily. Then it is also explained each point in each Section (1), Section (2), and Section (3) that:[24]

---

[22] Pengadilan Negeri Tanjung Pinang, "Putusan Pengadilan Negeri Tanjung Pinang Nomor 3/Pid.Sus-TPK/2015/PN.Tpg" (2015), 94, https://putusan3.mahkamahagung.go.id/direktori/putusan/dff0720a4fbcebba25b8b4cb1a91a786.html.

[23] Pengadilan Negeri Tanjung Pinang, 95.

[24] Undang-Undang Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 30 Tahun 2014" (2014), paras. 17 (1)-(3), https://www.dpr.go.id/dokjdih/document/uu/1612.pdf.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

1. An action beyond the authority is defined as any action that goes beyond the term of office or time limit for the enactment of authority, goes beyond the boundaries of the enactment of authority, and/or is contrary to the provisions of the legislation.

2. Mixing up authority in areas that are outside the purview of the mandate or subject matter of the mandate and go against the intent of the mandate.

3. Acting arbitrarily in cases where there is no legal justification and/or going against a Court Decision that is legally binding.

In terms of authority abuse, the authors make a summary of several judge's rulings regarding elements of abuse of authority from before the Law No. 30 of 2014 regarding Government Administration and after the Government Administration Law came into effect.[25]

Prior to the Passage of Law No. 30 of 2014 Regarding Government Administration

Decision No. 704K/Pid/2011 of the Supreme Court of the Republic of Indonesia

1. Case about procurement of tankers not according to procedure (by direct appointment).

2. The judge's view of this case is that considered to have abused his authority because he used budget funds that were not in accordance with their designation (not for the benefit of the agency).

3. The law discovery method used is narrowing of the law by providing limits to elements of abuse of authority that were previously considered too broad.

Decision No. 1198K/Pid.Sus/2011 of the Supreme Court of the Republic of Indonesia

1. Case about acceptance of PT. SAT

2. The judge's view of this case is that not thorough, not fast, not accurate, and not thorough in carrying out their duties so that it constitutes an authority abuse. The authority abuse carried out by a subject (a person) who does not have authority.

[25] Kevin D Zega, "Titik Singgung Tindak Pidana Korupsi Dengan Hukum Administrasi Negara," *Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia (MaPPI - FHUI)* 1, no. Korupsi (2022): 62–69, http://mappifhui.org/wp-content/uploads/2020/03/Titik-Singgung-Tindak-Pidana-Korupsi-dengan-Hukum-Administrasi-Negara.pdf.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

3. The law discovery method used is using a logical interpretation by looking at the provisions of regulations elsewhere and interpretation of harmonization by adjusting to other regulations.

Decision No. 979K/Pid/2004 of the Supreme Court of the Republic of Indonesia

1. Case about provision of BLBI funds.

2. The judge's view of this case about the component or aspect of authority abuse is based on expert opinions of Prof. Jean Rivero and Prof. Waline from France. Both of them define authority abuse as:

    a) Abuse of authority to carry out actions that are in conflict with the law or regulation. Jean Rivero and Waline in the public interest or to benefit the personal, group or group interests;

    b) Abuse of authority occurs when an official's actions clearly benefit the public but deviate from the purpose for which this authority is granted by law or other regulations.

    c) Abuse of authority in the sense of misusing mechanism that should have been used to fulfill certain aims, but were instead carried out using other procedures.

The law discovery method used is the doctrinal interpretational by applying the doctrine of material criminal law autonomy and the expert opinion of Jean Rivero and Waline.

Following the Passage of Law No. 30 of 2014 Regarding Government Administration

Verdict No. 3/Pid.Sus-TPK/2015/PN. Tpg

1. Case about engineering land prices the procurement of New School Units

2. The judge's view of this case is that interpreting abuse of authority with the doctrine of material criminal law autonomy H.A. Demmerseman and interpret the element of abuse of authority as using his authority for other purposes than the granting of said authority.

3. The law discovery method used is the doctrinal interpretation by applying the doctrine of material criminal law autonomy and narrowing the law by providing limits to elements of abuse of authority that were previously considered too broad.

Verdict No. 46/Pid.Sus-TPK/2016/PN. Mdn

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

1. Case about compensate for assets that are actually provided with grants without compensation.
2. The judge's view of this case is that interpret the aspect of authority abuse by quoting the opinion of R. Wijono and the abuse of authority is carried out by a subject (a person) who does not have authority for purpose other than early purpose.
3. The law discovery method used is doctrinal interpretation, citing the opinion of R. Wiyono.

Verdict No. 44/Pid.Sus-TPK/2014/PN.Plg

1. Case about procurement of dump trucks not in accordance with procedures (through auction).
2. The judge's view of this case is that interpret abuse of authority for purposes other than the original intent given authority.
3. The law discovery method used is the narrowing the legislation by placing restriction on aspects of authority abuse that were previously deemed to be overly wide.

If you look at the provisions contained in Law No. 30 of 2014 regarding Government Administration, government officials who abuse their authority can be processed administratively at the State Administrative Court not at the General Court (District Court and High Court) or the Non-Corruption Court. The administrative process that must be passed by officials who violate it is processed by the Government Internal Supervisory Apparatus with the result of no errors, administrative mistakes, or administrative errors that result in financial losses for the state. In addition, there are two alternative results of the process, namely:[26]

1. If the results of government internal apparatus supervision take the form of administrative errors, then the follow-up that can be given is administrative improvements in accordance with statutory provisions.
2. If the results of government internal apparatus supervision take the form of administrative errors that result in financial losses for the state, returns for state financial losses must be returned within 10 (ten) working days of the decision being made and the results of supervision being issued. If the administrative error is not due to an element of abuse of authority, the provisions for returning it are borne by the Government Agency; if the

[26] Undang-Undang Republik Indonesia, Undang-Undang Republik Indonesia Nomor 30 Tahun 2014, para. 20.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)

administrative error is due to an element of abuse of authority, the provisions for returning it are borne by the Government Official.

If an official is suspected of violating regulations (abuse of authority) following the completion of a supervisory process of the Government Internal Supervisory Apparatus, the official concerned can go directly to the State Administrative Court to question whether there is an element of authority abuse or not.[27] The court process at the State Administrative Court cannot interfere with the process of enforcing criminal law which may occur, the application process can only be opened when the criminal process has not yet started.[28] In other words, when a problem has entered the realm of crime and the process of investigation and trial has been completed, the state administration legal process can be dropped instantly.Judging from the explanation that has been submitted, there is a point of contact between criminal law and administrative law in which there is a difference between Law No. 20 of 2001 regarding Amendments to Law No. 31 of 1999 regarding the Eradication of Criminal Actions of Corruption with Law No. 30 of 2014 regarding the Government Administration. In Chapter I, which regulates General Provisions Article 1 of Law No. 30 of 2014 explains governmental authority, was explained as the capacity of a state administrator, official, or agency to make decisions and/or take action in the conduct of the national business.[29] That authority is an important thing to run the government (has full power over the creation of an important decision). In point 18 of Article 1 of the Government Administration Law, it is regulated that the court that has the right to hear cases is the State Administrative Court.[30] The establishment of Law No. 30 of 2014 regarding Government Administration is a guideline for executives in administering government and the legal basis for administering government so that there is an increase in good governance and is expected to prevent fraudulent practices corruption—especially, collusion, and nepotism—in the administration of government due to office authority.

IV. CONCLUSION

The involvement of administrative law in public service supervision, specifically in the field of public welfare services, largely processes as a superintendent in order to minimize the amount of corrupt practices in Indonesia, notably in the field of view of the bureaucratic system and state institutions. State administrative law is the instrument utilized by the state to oversee a fair and prosperous government system. The instrument aims to streamline all aspects of state life through bureaucratic system, public administration, making plans, execution, and monitoring and supervision of all

[27] Undang-Undang Republik Indonesia, para. 21.

[28] Peraturan Mahkamah Agung Republik Indonesia, "Peraturan Mahkamah Agung Republik Indonesia Nomor 4 Tahun 2015 Tentang Pedoman Beracara Dalam Penilaian Unsur Penyalahgunaan Wewenang" (2015), para. 2 (1), https://jdih.mahkamahagung.go.id/index.php/legal-product/perma-nomor-4-tahun-2015/detail.

[29] Undang-Undang Republik Indonesia, Undang-Undang Republik Indonesia Nomor 30 Tahun 2014, para. 1 point 5.

[30] Undang-Undang Republik Indonesia, para. 1 point 18.

government actions so that the state system remains stable and observable with good results. Measurability and stability are essential, because with according to that, the intended results of government activities can be accomplished with observable type and amount, as in the preliminary concept in the government action planning stage. Further to that, the constitution's involvement as a true sense of sociopolitical agreement inside it should governs government services as one of the primary goals of the state's institution, namely recognizing the wellbeing of fair and equal manner with the intention of giving prosperity to people.

This transnational transition is rooted in universal applications deal, which could also significantly raise the government's involvement in delivering the best service necessary to the greater community. State officials must be perceived as state apparatus or public officials in this case, who must accomplish the components of becoming assigned by an authorized official, taking the high ground or stances, and having to carry out part of the responsibilities of the state or state instrumentation. Authority is important to running the government (has full power over the creation of an important decision). In order to increase good governance and prevent corrupt practices, especially collusion and nepotism, in the administration of government due to office authority, Law No. 30 of 2014 regarding Government Administration was established as a guideline for executives administering government and the legal basis for them. Between criminal law and administrative law, there is a point of contact (gray point) or point of tangencies. The State Administrative Court's court procedures cannot impede any potential criminal law enforcement efforts; applications from the suspect can only be filed if the criminal prosecution has not yet begun. In other words, the state administration legal process can be immediately abandoned once a matter has crossed the line into criminal activity and the investigation and trial processes have been finished.

REFERENCES

Adji, Indriyanto Seno. *Korupsi Dan Penegakan Hukum*. Cet.1. Jakarta: Diadit Media, 2009.

Anandya, Diky, Kurnia Ramadhana, and Laola Easter. "Laporan Tren Penindakan Kasus Korupsi Tahun 2021." *Indonesia Corruption Watch*, 2022. https://antikorupsi.org/sites/default/files/dokumen/Laporan Tren Penindakan Kasus Korupsi Tahun 2021.pdf.

Andersson, Staffan, and Frank Anechiarico. *Corruption and Corruption Control: Democracy in the Balance*. *Corruption and Corruption Control: Democracy in the Balance*. 1st Ed. New York: Routledge, 2019. https://doi.org/10.4324/9781351206990.

Arikunto, Suharsimi. *Prosedur Penelitian: Suatu Pendekatan Praktik*. Ed. Rev. V. Jakarta: PT. Rineka Cipta, 2010.

Butt, Simon. *Corruption and Law in Indonesia*. 1st Ed. London: Routledge, 2011. https://doi.org/doi.org/10.4324/9780203584729.

Dupuy, Kendra, and Siri Neset. "The Cognitive Psychology of Corruption - Micro-Level Explanations for Unethical Behaviour." *U4 Anti-Corruption Resource Center* 2

(2018): 31.

Heidenheimer, Arnold J. *Political Corruption Concepts and Contexts*. Edited by Michael Johnston. 3rd Ed. New York: Routledge, 2017. https://doi.org/doi.org/10.4324/9781315126647.

Johnston, Michael, and Scott A. Fritzen. *The Conundrum of Corruption Reform for Social Justice*. 1st Ed. London: Routledge, 2021. https://doi.org/doi.org/10.4324/9780367224554.

Manao, Disiplin F. "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi." *Jurnal Wawasan Yuridika* 2, no. 1 (2018): 1. https://doi.org/10.25072/jwy.v2i1.158.

Pengadilan Negeri Tanjung Pinang. Putusan Pengadilan Negeri Tanjung Pinang Nomor 3/Pid.Sus-TPK/2015/PN.Tpg (2015). https://putusan3.mahkamahagung.go.id/direktori/putusan/dff0720a4fbcebba25b8b4cb1a91a786.html.

Peraturan Mahkamah Agung Republik Indonesia. Peraturan Mahkamah Agung Republik Indonesia Nomor 4 Tahun 2015 Tentang Pedoman Beracara Dalam Penilaian Unsur Penyalahgunaan Wewenang (2015). https://jdih.mahkamahagung.go.id/index.php/legal-product/perma-nomor-4-tahun-2015/detail.

Prentice, Robert A. "Ethical Decision Making: More Needed Than Good Intentions." *Financial Analysts Journal* 63, no. 6 (2007): 17–30. https://doi.org/10.2469/faj.v63.n6.4923.

Rahman, Mohammad Ataur, and Sumsuzzaman Sobuz. "Administrative Corruption (An Explanative Overview)." *University of Dhaka*, n.d. https://doi.org/10.4324/9780429501555-15.

Sugiyono. *Metode Penelitian Kuantitatif Kualitatif Dan R&D*. Bandung. Alfabeta, 2012.

Tamza, Fristia Berdian. "Prison Penalty In Providing A Determination Effect For Criminal Actions Of Corruption." *Corruptio* 3, no. 2 (2022): 87–100. https://doi.org/10.25041/corruptio.v3i2.2736.

Tanzi, Vito. "Corruption Around the World: Causes, Consequences, Scope, and Cures." International Monetary Fund, 1998. https://www.imf.org/external/pubs/ft/wp/wp9863.pdf.

Undang-Undang Republik Indonesia. Undang-Undang Republik Indonesia Nomor 30 Tahun 2014 (2014). https://www.dpr.go.id/dokjdih/document/uu/1612.pdf.

———. Undang-Undang Republik Indonesia Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi (1999). https://peraturan.bpk.go.id/Home/Details/45350/uu-no-31-tahun-1999.

United Nations Office on Drugs and Crime. *Module 1: What Is Corruption and Why Should We Care? Unodc.Org*, 2022.

Zega, Kevin D. "Titik Singgung Tindak Pidana Korupsi Dengan Hukum Administrasi Negara." *Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia (MaPPI - FHUI)* 1, no. Korupsi (2022): 87. http://mappifhui.org/wp-content/uploads/2020/03/Titik-Singgung-Tindak-Pidana-Korupsi-dengan-Hukum-Administrasi-Negara.pdf.

ISSN: 2621-119x (Print)
ISSN: 2598-4934 (Online)