The Role of The Legal System and Law Enforcement in Handling Crimes of Corruption: a Comparative Analysis of Indonesia, Malaysia, and Thailand

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Abstract
The rampant criminal corruption in the homeland has not only hurt national finances but has been a violation of society's social and economic rights widely, corruption is no longer a national problem, it is a transnational phenomenon that international cooperation becomes essential in preventing, In reality the fire created by the corruption criminal requires extraordinary efforts in tackling and eradicating the criminal corruption. One of the efforts to avoid the downturn of Indonesia is to reduce and refinance the restructuring of its assets based on regulatory regulations based on the Indonesian legal system. In Indonesia, no society has the right to tackle corruption. Indonesia's fight against corruption is carried out by the three state institutions, the governmental authorities, and the commission on corruption (KPK). Eliminating corruption in one country is not optimum unless the government's political will supports the political government to fight corruption, the state institutions' union to fight corruption, and the enforcement of existing policy against corruption.

1. Introduction

The rampant criminal corruption (tipikor) in the fatherland has not only harmed national or economic finances but also has been a safeguard against the social and economic rights of the community, hindering the growth and perpetuation of national development to achieve a just and prosperous society. Typicor can no longer be classed as ordinary crimes, but has become extraordinary crimes. Conventional conventional methods that have long been used have proved unable to resolve corruption in society, so treatment must also be taken in extraordinary ways. Given that one of the thievery elements in section 2 and section 3 of act no. 31 in 1999 Jo act no. 20 in 2001 to fight against corruption (the thievery law) is the elimination of the state's financial losses, it provides a consequence that eradication of tipikor is not only a deterrent to serious prison crime, But it is also a restoration to the financial system of corruption as defined in the context and general explanations of the tipikor law (Busro, Ahmad, 2011). The failure to return corrupt assets can diminish the meaning of 'punishment against corruption.

Basically asset return is a system of law enforcement that is carried out by the victims of the victims' countries to yank, rob, and eliminate the right to thieft-produced assets of pixorists through a series of processes and mechanisms both criminal and civil. Thievery assets both inside and outside the country are tracked, frozen, fished out, handed over and returned to countries caused by the typixor and to prevent the perpetrators from using stolen assets as a tool or tool of other criminal ACTS and create a learned effect on the perpetrator (Ginting, Jamin, 2020)

The thievery law regulates predictable mechanisms or procedures that could be the recovery of assets through criminal channels, and asset returns through civil pathways. In the tipikor law, the 2003 no. 7 2006 ratification convention between corruption (UNCAC) which also regulates

that asset recovery can be made through criminal recovery (UNCAC) and a civil recovery line (an asset recovery directly through civil recovery). Technically, the UNCAC arranges the return of assets for criminal corruption can go through a direct return from a defined court process to the bairganing system "and through an indirect return to foreclosure by judicial decree. The return of typhoid assets via the civil path is found in provisions under article 32 verses (1), chapter 34, chapter 38b verses (2) and (3) the typicor act. First, article 32 subsection (1) stipulates that in the case of investigators there is not enough evidence on one or more elements of corruption while there is no real financial damage to the state attorney, the investigator immediately submitted the case files of the investigation to the state's attorney. State attorney by file submitted by the investigator file a civil suit or submitted to an improper application. Second, strengthening the country's retraction is required by requiring the perpetrator to prove his or her unconvicted property, but also suspected of coming from criminal corruption. In the condition that the accused can't prove that the property obtained is not due to criminal corruption and that due to the management of his authority can cut off all or part of it for the state. The three assessments of property as referred to in the verse (2) were presented by the prosecutor in reading the requirement to the principal matter.

Filing a civil suit is conducted like a powerful weapon to direct assault on perpetrators in the recovery effort of corrupt criminal assets instead of receiving a criminal punishment. That would have to be if the assets mentioned in the previous verdict were yet to be found another unrecognized asset resulting from criminal corruption. A civil suit in the appropriation of type-generated assets, that is, a character that can only be made when criminal efforts no longer allow for use in the country's cost-loss efforts. The circumstances in which a criminal can no longer be used include not found sufficient evidence to die in the world of suspect, defendant, convict; The defendant is acquitted; There are allegations that

there is an untapped result of corruption for the state although the ruling has a force of law but. With the setup of a civil lawsuit for the appropriation of the assets in the thievery act in chapters 32, 33, 34, 38c, the tipicor act can be concluded that without such an arrangement, the appropriaty-generated assets by using the civil mechanism cannot be completed (Mulyadi Lilik. 2020).

2. Research Methods

The kind of study used by the author is normatif yuridis. That is legal research conducted by researching literature is called the study of the law of literature. The competition for authors in using this type of research is to know, analyze, and explain the role of the system of law and law enforcement in dealing with corruption: comparative analysis of Indonesia, Malaysia and Thailand.

In a normative legal study, the author USES a staituta apiproach approach. Research USES the type of legislation approach because it is primarily a capital market policy related to the role of the law system and law enforcement in addressing corruption crimes: a comparative analysis of Indonesia, Malaysia and Thailand

3. Result and Discussion

A. Analysis Of The System And Law Enforcement Corruption Crimes In Indonesia

The Indonesian government has ratified united niations convenantis againantis fraud (UNCAC) with a number 7 2006 invitation. According to the convention, there are practices that are criminalized and considered eligible for criminal corruption. Based on the background of papier diclaration of international conference against corruption (7-11 September 1997), there are six online effects of corruption against corruption. First, corruption is considered addictive. Second, corruption is deemed unlawful. Third, corruption can interfere with sustainable development (Prasetyo Teguh. Dkk. 2021), The fourth effect of corruption is that of damaging the market. Fifth, corruption can

adversely affect the quality of life, as if it were not corrupted by state spending adequately on education and public health care. The sixth or final impact, corruption is assumed to overstep human rights. When it comes to the rights of a society that is worthy of life, it is ignored because countries do not have the budget to increase public welfare through corruption. Based on those six effects of corruption, whether it be a aim for UNCAC as the united niations convenantis againantis environment explains: first, to prevent and eradicate corruption efficiently and effectively. Therefore, there must be coordination between the institutions against corruption, as well as protection against the society that aims to promote corruption. Second, international cooperation and technical realignment include the return of evil assets. The cooperation here is not only between convention parties but also with countries that are not the state party for the convention. Third, inequality, accounting and transparency and proper management in the public sector (Arsyad Sanusi, 2020).

Unlike other conventions that formulate elements of a crime or define a crime, the UNCAC does not define the appian definition of corruption. However, in the UNCAC chapter on criminalization and law enforcement, there are 11 in criminalized practices as corruption. One of the practices criminalized in the convention is corruption in the private sector. The prosecution of the corporation as the subject of the laws of corruption is rare in Indonesia, even its legal instruments have existed since 1999. Corporate accountability, on the one hand, has been regulated in the eradication of criminal corruption, but on the other hand, the corruption in the private sector is something new in the UN convention. In the United Nations convention on whether or not there isa criminalization of a number of ACTS. Large gairs, there are eleven ACTS: first, invitations of public officials or the bribery of national public officials (article 15 united niations convenantis againantis repeatedly). The course of action would be the janj, offering or giving to

a public official, directly or indirectly a worthy advantage to the official himself or to another person or corporation, in order that the official would act or refrain from carrying out any action in carrying out his official duties.

So, too, an act of solicitation or acceptance by a public official, directly or indirectly an appropriate advantage to the official himself or to another person or corporation, in order that the official act or refrain from carrying out any action in carrying out his official duties. Second, invitations of public opinion and public organzatons or the bribery of foreign public officials and officials from international public organizations (article 15 united niations conveningantiion againantis environment). Such actions include deliberate promise, offering or giving to a foreign public official oran official of an international public organization, a direct or indirect benefit to the official himself or to another person or corporation, in order that the official ACTS or refraining from carrying out any action in carrying out his official duties, In order to get or keep businesses or other uNACCeptable benefits associated with international treatment.So, too, ACTS involving deliberately requesting or receiving by a foreign public official oran official of an international public organization, directly or indirectly a viable benefit to the official himself or to others or corporations, in order that the official act or refrain from carrying out any action in carrying out his official duties (Adji Indriyanto Seno. 2019).

Whether a corporation can be held accountable is a fundamental question that has been planning for a long time. It is similar when speaking of corporate criminal accountability that has been debated since the early 19th century. Up until the millennial century, however, there were several countries that strictly held corporate accountability within its pietic laws such as Germany, Italy, Greece, Portugal and Spain. These countries, on the other hand, had a legal system similar to ours as the civil law system or the European continental system. These

countries cling to two doctrines presented by von savigny and malblainc. First, dielnquere university is non potest (the corporation cannot be convicted) and second, socetes dielnquere non potest (it is impossible to commit a crime) Savigny and malblainc's views did not notwithstanding the common law that corporations could not be prosecuted . In those countries, corporate accountability is known only to civil law courts and administrative law. In the context of Indonesian criminal law also familiar with corporate accountability, the theories used mostly were identified theories, aggregation theories, and vicarios surveys.

Further question, whose theory do we follow? Article 20 verses (1) and section 2 (2) the law a quo explicitly states: (1) in the case of corruption committed by or in the name of a corporation, the prosecution and the rationing of a criminal can be made against the corporation and the purses. (2) corruption crimes are committed by an apicorporation when crimes are committed by people both on the basis of relationships and on the other, acting within the shell of the corporation both alone and together. The terms, verses (1) and verses (2) chapters a quo are relevant. However, the more closely considered, between verses (1) and verses (2) employ two different theories. Chapter 20 verses (1) USES identifiable theories. Here the accused and the accused are stewards for and in the name of the corporation at the same time for and on behalf of the individual. Whereas the verse (2) USES aggregation theory. That the indicted and prosecuted are corporations. Further laws regarding criminal corporate accountability are set up in the 2016 rule of Supreme Court. Under the rule of the Supreme Court, there are three possible criminal responsibilities by the corporation. First, if crime provides profit or profit or fulfills corporate interests. Second, if corporations allow criminal ACTS. Third, if corporations do not make the necessary steps to prevent criminal ACTS, including the major repercussions after the crime has taken place. The Supreme Court rules

need to serve as gudance law enforcement officers to commit criminal prosecution against the corporation. The fundamental flaw in the rule of the Supreme Court is the second and third possible will crime by omsision on the root root of corruption. If delic formula does not explicitly list negative actions within the delic root, the second and third possibilities cannot be ensnared by a corporation (Sunaryati Hartono,2019).

Regarding the criminal accountability of the state institution as a corporation was heard through a debate in the Netherlands. In the 2002 demolition of fireworks involving the city government, criminal prosecution against the state was denied by the court. In the next development, in the zedierpolluton case in 2007, the court found criminal prosecution of the city government. In France, under criminal law in 1994, state criminal accountability is exempt.

If a criminal was involved in government agencies, it would be the person responsible for the job. The writer himself argued that the state would not be liable to criminal accountability, since the prosecution of the public prosecutor was for and on behalf of the state and that it was impossible for the state to and on behalf of the state to demand criminal accountability of the country itself. The second issue on the matter would be valid if the eradication of criminal corruption was ratified to the UNCAC act which was ratified to rule no. 6 of 2007 by entering corruption in the private sector. At present, corruption in the private sector is only a avowed act as found in article 21 of UNCAC but is not a criminal act: (Djoko Prakos, 2019)

B. Analysis Of The System And Law Enforcement Corruption Crimes In Malaysia

Malaysia is a country with a common law system law system. The historic source of the law between the corruption of Singapore and Malaysia is the same, as comes from the prevenantion of the jurisdicprudence act and the jurisdiction. This is because they were

part of the fedieras of malaya before Singapore was expelled from the fedieras on August 9, 1965. A crime of bribery in the private sector has been set up in legislation in Singapore and Malaysia. Delik bribery in the private sector is specifically arranged in prevention of restriction act, 1993 and in Malaysia, Malaysia antara-commisision act, 2009. Both arranged for bribery in the private and public sector. Bribery especially in the public sector, in Malaysia there is another protocol that regulates such as in the public offcers condiuct and the gudielnes waiting for 2002 and the gudielnes for GVNG and the gufts for the public service. Both legislation governs the active and passive bribery of individuals and corporate actors from the private sector. Both legislation was used after gratuity for bribery, but in different spheres.

Crime of bribery in the private sector has been carried out before Singapore and malayasa ratified UNCAC. The court ruling in the matter of lm kheng & anor v regna [1957] MLJ 199 shows this the giving of money is viewed as a conflict with prevenantion of apostasy, 1950 as a corruption committed with thought and malice so as to be dominated by wrongdoing. Another court ruling is in a public prosecutor v chan kt tong Sally [1991]1 MLJ 358. In the case of n tan chong hn, having ordered a simple home from Sally developer, chan kt tong Sally as manyoritas' stockholder in Sally's developer, waiting for an additional charge of a key under the table of $15,000 to hn, and then it was deposited to Sally, based on the prevenantion of the enforact, 1961 Sally was found guilty. In the case the gratuity expanded include the cost of subbing under the table of $15,000 and it stated that bribery is not only limited to private employees in practice in the private sector of the two countries. In Singapore, emphasis has been placed on the private sector focused on three areas: construction, the sale of household needs in shopping malls, and the reforestation and logistics services. Based on precision release CPB situaton in Singapore undier control (He Zengke, 2020)), in 2014 an 85% report of the 136 recorded

cases involving bribery in the private sector by individuals; Malaysia, according to ABU kasisim, keitua MACC, eradicating bribery in the private sector will be a MACC priority especially the government companes area as spread by shankair (2016). It is thought that these two countries' criminalized models can be a reference to delic detractors of bribery in the private sector of Indonesian law. Indonesia's crime of corruption is not just the ratification obligation. A crime perpetrated by the two countries has been tested for prior to Singapore and Malaysia's ratification of the UNCAC and has already been ratified in the court ruling, making it possible to make a comparison in the delic bribery in the private sector of national law (Saleh, Wantjik , 2019)

C. Analysis Of The System And Law Enforcement Corruption Crimes In Thailand

Corruption in thailaind is a crucial problem to force and is consistent with the corruption situation in some Asian countries. In general, how much better can be done on the streets of Thailand than in the country of asa, Indonesia. The main reason for corruption in Thailand is: (Yanuar, Purwaning M , 2019)

Many of the businessmen who tried to evade taxes by working with public officials to falsify diokumen.

Public officials do not have enough experience to control corrupt practices perpetrated by entrepreneurs.

Many public institutions are swept up in a culture of corruption.

Changes in the laws and regulations present a presence in the public officials 'decisions on the operating level After 2001 the pattern of corruption in Thailand has changed. The polts use new corruption methods for personal gain. They abuse their power and position to create opportunities for corruption. Legislation and regulations are to increase personal interest in collusion and nepotism. This new pattern of corruption is called conformity corruption, which is associated with

a conflict of interest. A conflict of interest arose from the influential polts that had the power to make decisions and involved cooperation between the polts, high level civil servants and entrepreneurs. One of the conantioh cases of "percorruption" is the corruption of the land defender in ratchada that involves the emperor emperor thaksini shnawatra. Corruption of permissiveness is treated differently because it is believed to be within the rule of law, so it cannot be punished outright. The government is listing corruption in 2 (two) scale, that is, "grandi scale" corruption and "corruption in the small scale. grandi scale are usually carried out by high-ranking government officers with abuse of their own power for personal gain. This type of corruption is called grandi corruption because the perpetrators gain huge profits that can cause great harm to people and countries. corruption in the small scale involved low-level government employees doing regular work and the profits derived from the perpetrators. (Heilbrunn, John, R. 2020)

Thailand has a number of regulates between corruption, one of its regulates is the organc act on intera-policyb.e. 2561 (2018) (" the new corruption act ") that hangs from the 1999 1999 eradication of corruption (" old oacc ") and all its regulations. Unlike the previous oacc, under these new laws, corporations belong to a corporation that is susceptible to bribery. A corporation is responsible if a bribe is given by a person, Prior to the year 1975 the Thai police corruption case was fully handled by law enforcement based on criminal law and other laws governing public officials. Poor police performance has resulted in widespread corruption. Until the end of 1975, the government issued regulations regarding the treatment of corruption and established the commission of corruption (offce of the commission of counantier commodities). But OCCC's limitations on authority make OCCC unable to overcome corruption. In the 1996 act - making societies were formed, the members of which were directly elected members of the

provinces. It was this agency that went on to mock the law on corruption in 1999. The bill then became the basis for the establishing of the NCCC (niational counantier licensed commson). Governments form the number of agencies designed to monitor, monitor and efficiently suppress corruption, including: Niational antara-shelf commisision (NACC), offce of public sector antara-commisision (PACC), ombudsman, offce of the auditor general (OAG), ombudisman, offce of the auditor general, royal tha polce, antara-money launding offce (amlo), the Supreme Court's criminal divson for persons holding the political postons. These institutions serve an interrelated purpose in guaranteeing transparency, justice, accounting and guaranteeing the rights of citizens. In performing the function, the NCCC has been authorized to investigate and prosecute both polts and officials. The NCCC was granted great authority to file layoffs against the polts, inspect the officials' wealth, obtain dokument, arrest and arrest for judicial action. NCCC merapikan beberapa strategi untuk memberantas Korupsi antara lain: Tindakan represif melalui penuntutan, Tindakan prevenantif, upaya-upaya penyadaran masyarakat antara Korupsi dengan melibatkan media dan LSM melalui berbagai Pendekatan, strategi transparansi didalam pemerksaan kekayaan pejabat dan polts, mendapatkan laopran kasus Korupsi, danprogram perlindungan saks. Komitmen atau didukungan pemerintah Thailaind juga telah memberikankan dukungan kepada NCCC untuk memberantas Korupsi. Pada tahun 2008 NCCC mendapat dukungan anggaran dari pemerintah sebesar US$ 21, 3 juta. DI tahun yang sama total tenaga ahl yang dimiliki NCCC sebanyak 740 orang

Thailaind mempunyai berbagai undang-undang dan peraturan untuk mencegah dan memberantas Korupsi. Undang-undang dan peraturan dibagi menjadi 2 kategor yaitu: hukum substantarave dan hukum prosedural. Hukum substantarave terdiri

dari: Tha Penal Codie dan Organc Act on Counantier Corruption (OACC) B.E. 2542 (1999).

The penal codie has described punishments for corrupt government employees that have been penal sentences between 5 and life span. At the end of the day, corruption was punished and had to return to its corruption. Oacc is discussing nc the existence of the NCCC. From the tha penal act, the oacc has discussed several things on conflctof nantierest and bribery cases. Whereas the procedural law consists of five major laws, namely: tha criminal procediure; Organc act on counantier antibiotics (oacc) b. e. 2542 (1999); The antara-money laundierng act b. e. 2542 (1999); The act of muital was legal cleaver criminal matters. 2535 (1992;) and the extraditon act b. e. 2551 (2008). Tha criminal procediure codie cleared for all criminal cases; OACC not only addresses the NCCC immersion but also emphasizes the authority or power to vestige a corruption case; Between money laundering act b. e. 2542 (1999) discussed more dietted about corrupt assets brought about by money cupping; The act of muital was legal cleaver criminal matters. 2535 (1992;) provide a conceptual framework for international cooperation in the penal proceedings from inception to achr conflict; And the extraditon act 2551 (2008) who was Thailand empowered (Quah, Jon S.T. 2020)

Thai has ratified and has become a member of the United Nations convention against corruption (UNCAC), and the oecd-yan convention against foreign bribery in international b. NACC also rules against private companies that are caught in the bribery of government officials and international agencies. The rule was issued to make private companies realize that corruption could result. Halaindi will soon bring about a general recovery and have a new government in the near future and nwatcha hopes that they will seriously root out corruption in the care of integrity and transparency (ta) the NACC.

4. Conclusion

Based on the foregoing discussion, the author can formulate a conclusion that the private-sector corruption management as found within the UNCAC is only a restricted but incriminal act, since no criminal sanction exists inside. Corporate criminal accountability in criminal corruption as regulated under laws constitutes defined theory and aggregation theory, but the Settings are inscrutable, enabling multitafsir. As for the Suggestions that can be proposed to other representatives of the people and the presdiens as constituents are the following: first, the act of elimination of corruption should immediately be adjusted to UNCAC and need to include corruption in the private sector that includes bribery and embezzling. This is due to the fact that corruption in the land always involves private and private corruption in bairang's procurement and services. Second, the arrangement for corruption accountability within the law on the elimination of criminal corruption should be corrected so that it is clear and there is no question of law enforcement in the context of law enforcement.

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