

# SEVERITY OF CRIMINAL CHARGES IN LAW ENFORCEMENT OF CORRUPTION CASES IN INDONESIA

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## Abstract

The research with the title "Light Weight of Criminal Charges in Law Enforcement of Corruption Cases in Indonesia" aims; To examine the factors that influence the determination of the light weight of criminal charges in law enforcement of corruption cases in Indonesia. Therefore, to study and analyze it using normative juridical methods with several approach methods, namely: 1) statutory method, 2) conceptual juridical method, 3) historical approach and 4) comparative approach. The legal philosophical basis for determining the severity of criminal charges in corruption cases is contained in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, which refers to Pancasila and the 1945 Constitution to create a just and prosperous society, and aspects that affect the disparity in determining the severity of criminal charges due to 1) human resources of public prosecutors; 2) the consequences of the defendant's actions. Human resources of the public prosecutor; 2) the consequences caused by the defendant's actions. Therefore, several things that need to be considered are 1) The need to increase the human resources of public prosecutors both in terms of quality and quantity, so that public prosecutors who handle corruption cases must describe all the facts revealed in the trial by considering; 1) factors of the defendant's actions, 2) aspects of the consequences of the defendant's actions, 3) factors outside the corruption crime but which are related to the corruption crime case.

**Keywords:** *Prosecution, Law Enforcement, Corruption Cases.*

## Abstrak

Penelitian dengan judul "Ringannya Tuntutan Pidana dalam Penegakan Hukum Kasus Korupsi di Indonesia" bertujuan untuk mengkaji faktor-faktor yang mempengaruhi penentuan berat ringannya tuntutan pidana dalam penegakan hukum kasus korupsi di Indonesia. Oleh karena itu, untuk mempelajari dan menganalisisnya menggunakan metode yuridis normatif dengan beberapa metode pendekatan, yaitu: 1) metode perundang-undangan, 2) metode yuridis konseptual, 3) pendekatan historis, dan 4) pendekatan komparatif. Dasar filosofis hukum untuk menentukan beratnya tuntutan pidana dalam kasus korupsi terdapat dalam Undang-Undang No. 31 Tahun 1999 jo. Undang-Undang No. 20 Tahun 2001, yang merujuk pada Pancasila dan UUD 1945 untuk menciptakan masyarakat yang adil dan makmur, serta aspek-aspek yang mempengaruhi disparitas dalam penentuan beratnya tuntutan pidana disebabkan oleh 1) sumber daya manusia jaksa penuntut umum; 2) konsekuensi dari tindakan terdakwa. Oleh karena itu, beberapa hal yang perlu dipertimbangkan adalah 1) Kebutuhan untuk meningkatkan sumber daya manusia jaksa penuntut umum baik dari segi kualitas maupun kuantitas, sehingga jaksa penuntut umum yang menangani kasus korupsi harus menggambarkan semua fakta yang terungkap dalam persidangan dengan mempertimbangkan; 1) faktor tindakan terdakwa, 2) aspek konsekuensi tindakan terdakwa, 3) faktor di luar tindak pidana korupsi tetapi yang terkait dengan kasus tindak pidana korupsi.

**Kata Kunci:** *Tuntutan, Penegakan Hukum, Kasus Korupsi.*

## **INTRODUCTION**

Corruption is an extraordinary crime that still occurs in almost all countries in the world, including in the Republic of Indonesia with all the ways the Government has done to eradicate corruption because corruption does not only cause losses to state finances but can torment the Indonesian people.

A figure of Sociological Jurisprudency Roscoe Pound stated that the politics of criminal law (Criminal law policy) as one of the efforts in tackling crime in rational criminal law enforcement because the implementation of law enforcement is a systematic and integrated authority from the stages of investigation, prosecution, justice by courts and correctional institutions.

One aspect that determines the law enforcement of corruption in Indonesia is the determination of the severity of criminal charges by the public prosecutor. The determination of the severity of criminal charges in law enforcement of corruption cases must be seen broadly from the investigation stage to the prosecution and judge's decision.

The determination of the severity of criminal charges is central and very important that must be examined and considered properly by the Public Prosecutor, because it is a consideration for the Judge in deciding a corruption case.

## **RESEARCH METHODS**

The research method used is normative juridical using the Statutory Approach, Conceptual Approach, Historical Approach, and Case Approach,

## **DISCUSSION**

### **Factors Affecting the Determination of the Severity of Criminal Charges in Law Enforcement of Corruption Cases.**

The determination of the severity of criminal charges for defendants in corruption cases in Indonesia is a juridical aspect that must be considered and well understood by the Public Prosecutor, because the criminal charges in corruption cases filed by the Public Prosecutor are expected to not only provide legal certainty but also be able to provide a sense of justice and legal benefits to all parties, both for the state / government, society and the interests of the perpetrators of corruption themselves.

In formal juridical terms, the philosophy of corruption law is based on the

philosophical basis in Law Number: 31 of 1999 as amended by Law Number: 20 of 2001 concerning the Eradication of Corruption, which shows that there are two aspects that encourage the issuance of the law, namely:

- a. The crime of corruption is very detrimental to state finances or the state economy
- b. Corruption hinders national development and must be eradicated in order to realize a just and prosperous society based on Pancasila and the 1945 Constitution.

Therefore, the determination of the severity of the criminal charges imposed by the Public Prosecutor against the defendant must be appropriate, proportional and fair to the state, government, society and the defendant himself.

Based on the research, it is found that in the jurisdiction of the East Nusa Tenggara High Prosecutor's Office there is still inconsistency in determining the severity of criminal charges for defendants in corruption cases.

That this condition occurs both in corruption cases where the prosecution is carried out separately and in corruption cases where the prosecution is not separate, this is influenced by the human resources of the Public Prosecutor himself.

That based on existing data, the East Nusa Tenggara High Prosecutor's Office has a small number of prosecutors with various levels of education spread across the East Nusa Tenggara High Prosecutor's Office and 17 (Seventeen) District Attorney's Offices and 2 (Two) District Attorney's Branch Offices, namely the number of prosecutors 206 people, with an S1 education level of 127 people and S2 as many as 78 people while S3 is only 1 person.

That from these data, not all of them are involved in handling corruption cases because there are prosecutors who are assigned to handle general criminal cases as well as handling civil and state administrative cases and other duties in accordance with applicable laws and regulations. In addition, there are several prosecutors who for certain reasons such as health and age are no longer involved in handling cases, so it can be seen that there is still a shortage of prosecutors, even those prosecutors who already exist, when viewed from the level of education, those with a Bachelor's degree (S1) are more than prosecutors with a Master's degree (S2), even prosecutors with a Doctoral degree (S3) are only one person, this of course can have an impact on the performance of handling corruption cases both from the stages of investigation, prosecution and legal efforts.

The human resources factor of the Public Prosecutor is very influential in determining the severity of criminal charges in corruption cases, because it has an impact on the lack of comprehensiveness of the Public Prosecutor in analyzing every fact revealed in the trial and the provisions of the laws and regulations relating to the corruption case. In addition, the inadequate human resources of the Public Prosecutor will have an impact on the handling of corruption cases that are not optimal.

## CONCLUSION

Based on the description above, it can be concluded that the occurrence of disparities by the Public Prosecutor in determining the severity of criminal charges in corruption cases is caused by several factors, namely: **First**, the human resources of the Public Prosecutor, **Second**, the number of prosecutors in each work unit is uneven/lacking so that it has an impact on case handling that is not optimal.

Based on these conclusions, the suggestions that can be given are as follows:

1. The need to encourage prosecutors to increase their knowledge by continuing their studies to a higher level and including prosecutors in training activities related to handling corruption cases.
2. It is necessary to add prosecutors to work units that are still experiencing shortages so that the handling of corruption cases is maximized.

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