

judge decision in corruption

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10

Analysis of the Reasons for the Judge's Decision Which Relieves Defendants in Corruption Cases

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ABSTRACT

Purpose of the study:

This research article aims to explain the analysis of several reasons for the judge's decision which is considered to lighten the defendant in corruption cases in Indonesia.

Methodology:

This study used a normative research method with a philosophical approach.

Results:

The results of this study indicate that judges continue to impose light sanctions on state officials who are accused of corruption cases for various reasons that can be taken into consideration. The following is an analysis of some of these reasons: have never been punished; be honest and be kind; have family responsibilities; refund corrupted money; incorrect application of the law; have no authority; motivated by other people; have a sense of justice; serve the community; get public scorn; and refrain from engaging in corrupt behavior.

Applications of this study:

Theoretically, academics can use this research to add and develop their knowledge of the law. As for practitioners, especially judges, this research can be used as material for conclusions and considerations when making decisions in corruption cases, so that efforts to eradicate corruption can definitely be achieved.

Novelty/Originality of this study:

The corruption issue in Indonesia is influenced by the judge's decision in addition to the country's bad bureaucratic culture. The low judge's decision on corruption cases can also affect the number of state officials who commit acts of corruption. Several reasons that could influence the judge's decision to reduce the corruptors' sentences. In order to find a true legal truth, it would be useful to study the judge's reasoning for reducing the corruptor's punishment because the judge's decision is the most decisive stage in the legal status and fate of the defendant. This is why it is critical to do a more in-depth review of the law in order to ensure that it continues to operate as intended.

Keywords: reasons for mitigating, judge's decision, corruption

INTRODUCTION

In human life, in principle, it has been regulated by various existing norms. Thus, whoever violates will face punishment in accordance with the provisions contained in these norms. Like acts of corruption, of course, it clearly violates the law, but when studied more deeply, it is related to behaviors that are against societal morals in daily life as well as acts of corruption which is illegal under the law. Corruption harms society and the state as a whole. Corruption is an action that can only be carried out by state officials, because of the status and scope of work involved. Although corruption involving external officials is possible, it is relatively rare and restricted, because it is not easily accessible. Due to many cases of corruption committed, a bad reputation is rising for the social morals of officials in this country.

Society has negatively considered corruption to be a culture in this country's bureaucratic system. Corruption is an act that may have been considered normal for officials to do. If this is the case, then corruption is not just a legal issue, but is also closely related to human attitudes and behavior in daily life or what we can briefly call a social moral issue. The officials who commit corruption should serve as a good role model for the public, but instead, they

violate the law. A lack of self-control over attitudes and behaviors that should not be done is shown by the number of corrupt cases that officials commit. So that the issue of corruption cannot be separated from the problem of how the social morals of officials in this country are.

Law enforcement in corruption cases actually continues to be carried out, but the corruption cases also do not stop. In fact, more and more officials are being involved in corruption cases (Yanto, 2017). This shows that the handling of corruption cases so far has not been effective. The absence of a deterrent effect from officials implicated in corruption cases is a legal issue that the government should take seriously. Therefore, it is necessary to analyze the laws and regulations relating to corruption in order to determine the cause of the widespread official corruption, especially the judicious punishment imposed by judges on corrupt officials. The judge's decision is crucial in addressing corruption cases because it effects a corruptor's legal status. Do not allow the judge's decision to be ineffective or to fail to have a deterrent impact on the corrupt to stop more corruption.

The judge's decision is a legal process with significant implications for judicial enforcement. Justice seekers often view a judge's decision as the pinnacle of legal justice because it is a reflection of legal values that have gone through various considerations to produce a legal ruling (Mulyadi, 2014). The majority of people refer to the judge's decision as the case's conclusion, making this record the one that has the most dominant role in understanding the law. Especially in the case of corruption, the judge's decision will have a big impact as a visible indicator of the state's commitment to eradicating corruption. The strong commitment of the state to eradicate corruption in general will be seen from how effective judges decide in corruption cases.

3 A judge's decision is a statement made by a judge in a court hearing to conclude a case. The procedural law is obviously taken into consideration while making the judge's ruling, so that the judge's decision can be accounted for. The judge's decision can be understood as a form of evidence of a person's position in a legal case, which means assessing how much the level of the suspect's guilt in the law can be proven from the judge's ruling. So it is not surprising that in cases of official corruption, the judge will always strive for the lightest judge's ruling. This is related to their mode of portraying themselves as having minor faults or even being legally innocent. Therefore, the judge's decision has unconsciously been used as a shield by corrupt

officials to protect themselves from the consequences that should have come with violating the law.

There are several reasons in the judge's decision that relieve the defendant of a corruption case that must be fully understood and investigated. It is an interesting matter and important knowledge for the large community that judges can decide on corruption cases involving defendants with low sentences for certain reasons, which are considered to be the basis for decreasing sentences. It is essential to explore and explain the reasons for the judge's decision that relieved the defendant in the corruption case so that the public can understand and assess the merits of the judge's decision. This research reveals the opinions or responses of the general public, enabling courts to work harder to provide corrupt state officials more appropriate legal decisions.

Based on the above background, the formulation of the problem in this study is: how is the analysis of some of the reasons for the judge's decision considered to lighten the defendant's corruption case? This research article aims to explain the analysis of several reasons for the judge's decision considered to lighten the defendant in corruption cases in Indonesia.

RESEARCH METHOD

In this article, the normative legal research method was used. It examines the law as legislation in the applicable positive legal system (Ibrahim, 2005). Meanwhile, the approach used was the philosophy of law approach (Prasetyo, 2017). A legal philosophy approach was used to examine legal issues in depth, so that a more fundamental and comprehensive understanding of the law could be found (Muqadas, 1998). Studying philosophy can provide information, verification, complement, and in-depth explanation (Bakker & Zubair, 1990). The main legal materials used in this study were data in the form of legislation and other data found in books, journals, and various other scientific works related to this research. This study used a deductive analysis method defined in the legislation (Dimiyati, 2014). Descriptive analysis was also used to obtain a broad description of the legal issues being researched.

RESULTS & DISCUSSION

There are considerations in a judge's decision that include the judge's thoughts or opinions about the case, which can be in the form of mitigating or aggravating matters. The

12
judge in each decision is obliged to convey considerations of the case being examined in accordance with the existing legal provisions. Therefore, the judge will accept the legal evidence that is presented to him and give a decision in a professional manner. The outcomes of the process of investigation and prosecution are also related to the severity or light of the judge's decision. This has become a legal system mechanism that exists in law enforcement practices. Although different things have been encountered, these are very small in number. The judge's attachment to other mechanism rules cannot be released, because all the judge's decisions must be based on existing considerations. It is based on the basic legal considerations that occurred in the corruption case, just like the judge's decision on corruption in official corruption case (Sulardi, 2015).

The corruption issue, which has so far not been resolved, has damaged Indonesian law enforcement's reputation. People who often see many officials involved in corruption cases may have grown bored and pessimistic about the efforts of law enforcement officials to solve the corruption issue (Suartana, 2020). The thing that is most concerning is related to the judge's decision on corruption, which is considered less than perfect and has not significantly contributed to overcoming the corruption issue. It is proven by the number of state officials who are accused of corruption. In a series of law enforcement processes, the judge's decision stage is the final stage, so that is the main point, which is considered to play a strategic and crucial role in overcoming corruption. However, what has happened is that judges' decisions are poor in deciding official corruption cases. It is no longer an open secret that the corruptors who are caught will be sentenced to very light sentences, both in terms of length and legal standing. The following are some analyses of the judge's decision, which is considered to relieve the corruptors:

1. Never Been Sentenced

The reason most frequently cited by judges to reduce sentences in corruption is that the accused has never been convicted. Most, if not all, of them, including state officials, are certainly new legal cases for the defendants, so it is logical that they have never been punished. In addition, the fact that these corrupt state officials come from a wealthy background influences their behavior, which hardly violates the law. As a result, corruption cases are common legal issues that only corruptors have had to deal with. Even the corruptors may not think that they will be imprisoned for their actions. The situation of someone who has never been punished

seems to describe something that is unfortunate or regrettable for such a case to occur. Additionally, it may serve as a description of someone who was once in good standing but is currently involved in a legal case. As a result the judge may use it as a reason to relieve the defendant.

According to the panel of judges's decision in the corruption case involving the defendant Juliari Peter Batubara (former minister of social affairs) ²² at the Jakarta corruption court Number: 29/Pid.Sus -TPK/2021/PN.JKT.PST, the fact that the defendant has never been convicted is one of the reasons ² for mitigating sentences in the corruption case of state officials. Although Juliari Peter Batubara was sentenced to 12 years in prison and a fine of 500 million subsidiary ² 6 months in prison, it was a light sentence due to the corruption he committed in the context of the handling of Covid-19. In the judge's decision letter, it was stated that one of the reasons that could lighten the sentence of the defendant was that the defendant had never been convicted. The same thing happened to Azis Syamsudin (a former member of the People's Representative Council), who was involved in a corruption case. Through ³ the decision of the panel of judges for corruption in Jakarta Number: 89/Pid.Sus-TPK/2021/PN.Jkt, Azis Syamsudin was sentenced to 3 years and 6 months ² in prison and a fine of 250 million subsidiary to 4 months in prison. Based on the judgement letter, Azis Syamsudin's sentence was reduced because the defendant had never been convicted. In reality, there are still many examples of judges relieving corrupt defendants from punishment on the basis that they have never been convicted.

The fact that the corruptor has never been punished may be connected to a person's track record with the court. In other words, someone who has never received a punishment can be categorized as having good behavior. On the other hand, someone is labeled as a bad person if he/she has been punished. Therefore, since a corruptor who has never been punished implies that he has a clean record of behavior and is considered a good person, it is necessary to provide him with a suitable legal remedy, specifically a light sentence. This philosophy of legal justice ³⁰ is very interesting to study further because it affects law enforcement in corruption cases. In accordance with the principle that the primary goal of punishment is to make a person good again and accepted by society, the reason that he has never been punished to reduce the sentence is acceptable. However, this must obviously be followed by an attitude of accountability for state losses that must be charged to him in order for there to be a linear correlation between actions and punishments.

If it is analyzed using a study of the criminal law system, there is substantially no correlation between the acts of corruption committed and the conditions indicating that they have never been punished, because the context of the legal issues in question is clearly different. In a case of corruption, it is impossible in a case of corruption to be repeated to the same person or as the recidivist understanding in a criminal case. This, of course, must be understood with a different logic because the subject matter of the law is very different.

The absence of a corruption judgement does not indicate that you have never committed corruption because it is possible to commit corruption while remaining undetected by law enforcement, making it resistant to legal sanctions. This is based on the scope of responsibilities assigned to a state official who may act with corruption. The fact that this corruption is not like an ordinary criminal case that a person would commit, as was already mentioned, will act as a mitigating reason for all convicted corruptors. Of course, it must be studied in depth to reach legal wisdom.

2. Be Honest and Be Kind

Another reason that can also relieve the defendant in corruption cases, which is often mentioned by the panel of judges, is to be kind and honest. This reason is quite relevant if it is related to the procedural process in a judicial trial, because that is where the veracity of all legal arguments will be determined. The judge will be greatly helped if the defendants are willing to be kind and honest in the trial process.

The judge will find it difficult to determine the veracity of the arguments presented if the defendant does not behave with honesty and kindness. If the information provided does not match what actually happened, there may even be a mistake in the legal decision that is made. The judge, as the arbiter who adjudicates, will respond and construct the law, of course, based on information from the parties relating to the case, so that an honest attitude can be judged to provide assurance from a mistake, whether intentional or unintentional. In addition, a good attitude that makes the trial process easier is no less important for judges as a reason that can relieve the defendant. The trial process takes a long time, so the defendant must cooperate and maintain a positive attitude during the entire legal process.

The panel of judge's decision for corruption defendants Juliari Peter Batubara (former social worker) and Azis Syamsudin (former member of the People's Representative Council)

stated that one of the elements that mitigated the defendant was his good and honest attitude. Even in the trial process for the defendant Azis Syamsudin, the judge reminded him from the beginning that the defendant should tell the truth, so that he could lighten the sentence. The defendant, Juliari Peter Batubara's positive attitude, on the other hand, is considered to have contributed to mitigating his sentence.

Examples of this attitude include attending every trial in an orderly manner and refraining from actions that would interfere with the trial. Even so, the defendant's good attitude was shown in his willingness to testify in a corruption case committed by another defendant. A good and honest attitude not only affects how well the trial goes, but it also indicates how closely a justice aligns with the judge's decision. This means that a good decision is one that is devoid of doubts and is the result of the correct elements being in accordance with the reality of the facts. The defendant's actions, which the judge will evaluate, are directly tied to the defendant's attitude. If the attitude presented is good, then, of course, it will also have a good impact on the decision that will be received.

However, if analyzed more deeply, this kind and honest attitude is a situation that should be handled by the defendant. So it is not appropriate if it is used as an excuse that can lighten a sentence. It is clear from the provisions that regulate the defendant's attitude throughout the trial process in the court that, of course there will be mandatory rules related to the attitude of the defendant, such as cooperating and taking part in all aspects of the trial, so as not to interfere in trial activities in the judiciary. Because in the judiciary, of course, there are several trial agendas that must also be carried out. If they are not done properly, they can interrupt other courts. This includes coming on time to the session in an orderly manner, which is closely related to the schedule of the trial agenda, which has been arranged in such a way for the successful process of the trial system in the judiciary. Any disturbance due to a bad attitude can interfere with other cases that must also be resolved. Because it allows the possibility that the defendant hinders the trial for certain reasons.

Honesty is an open way to seek out and identify the conclusion of a legal case. Actually, a case can be properly and accurately analyzed. The clarity of a case at an early stage is due to the presentation of an interpreter's statement from the defendant. Like in the treatment process, the patient must be open and honest with the doctor about the disease he is suffering from so that the doctor can analyze it properly to find the actual disease. It is conceivable that if there is

no honest attitude, the efforts to solve the problems can not be achieved properly. As a mitigating reason, being honest is relatively reasonable and has a strategic correlation in solving a case.

Honesty has actually been shown in the oath process under the holy book carried out by an employee appointed to a defendant before the presentation begins. Because honesty contains a moral component, it is related to good intentions that result from an internal understanding of positive considerations. Thus, judges always emphasize to the defendants to tell the truth related to the case that happened to them. Because the judiciary can be used to manipulate a case to suit certain interests.

3. There are Family Responsibilities

Judges in giving decisions also often use the existence of family responsibilities that must be borne by the defendant as an excuse to reduce the sentence. This assessment tends to be based on the humanitarian side concerning the human rights of others, which must also be considered. In addition to public human rights that must be fulfilled, private family rights must also be considered.

Do not let the sentence imposed on someone cause problems for the family, because the defendant is in his position as the head of the family and must be responsible for the lives of all other family members. Obviously, in the smallest living system, the family scope has various needs that must be met. So if the main actors who used to fulfill it are no longer able to do so, then there will definitely be other more complex problems. Because the law is enforced not only to give punishment to the perpetrators of crime but also to provide justice and change for a better life.

Family responsibilities as a reason for mitigating punishment in corruption cases were applied to Romahurmuzyi (a former member of the People's Legislative Assembly and also chairman of the United Development Party) with decision number: 9/PID.SUS-TPK/2020/PT.DKI. The panel of judges of the high court reduced the sentence to 1 year in prison and a fine of 100 million subsidiaries 3 months in prison, with one of the mitigating reasons being the family responsibility of the defendant.

Although this reason is not the only reason that relieves the defendant, in reality, it can help the defendant get leniency. Another example also occurred in the corruption case that

ensnared Azis Syamsudin (a former member of the People's Representative Council). Azis Syamsudin also received leniency on the grounds that he had family responsibilities. Apart from that, it may also be for the other defendants that this family responsibility is the basis for lightening the sentence. This means that all corruption cases will receive the same relief on the basis of family responsibilities. Because all corruptors are state officials, which is the foundation of life for their families.

From a humanitarian point of view, the reason for family responsibility can be accepted as a mitigating reason, but if it is associated with the negative impact of actions that are massive and detrimental to the state, then this must be studied more deeply and wisely. The first thing that might be done is to look at whether or not there are provisions in positive law regarding reasons for family dependents as a basis for mitigating the defendant. Besides, it can also be seen in the legal principles used in the legal system. Do not allow good goals to become merely a tool for easing the punishment by retaining the philosophical essence in it.

Because all means will surely be used by the defendant to get reasons that lighten the sentence. Even pretending to be sick so as not to be arrested is also often used by defendants in corruption cases. Therefore, in determining whether there is an influence of family responsibility on punishment, it is necessary to clarify this directly to other family members. This is something that rarely happens and should be a reason for the media to explore the clarity of corruption cases that occur. To gain a complete understanding of the corruption issue, it is necessary to employ the use of family information.

4. Returning Corruption Proceeds

Corruption is an action that harms the state because it uses public funds for personal benefit. So, with that term, the return of money from corruption to the state is used as a legal reason that can relieve the defendant. The return of money from corruption to the state seems to have made up for the state's losses, but it should be remembered that criminal acts will still be processed in accordance with applicable law. So that the end result of this effort is a light punishment for reasons in the form of refunding money from corruption.

If the state loses because the money has been taken by corruptors, then the attitude of returning the money taken shows an attitude of improvement towards mistakes that have been made and state losses do not occur again. If examined from the substance of corruption, it is an illegal taking of state money, so if there is an attitude to return the money, then corruption has

been corrected, because state losses have been covered with the returned money. In addition, the defendant's consideration of the attitude in presenting the case is a positive attitude that merits appreciation in the form of a light sentence.

Refunds of corruption money as a mitigating reason are mostly done by corruptors, such as Idrus Markham (a former member of the People's Representative Council and also a former social minister) in the cassation decision Number: 3681 PK/Pid.Susu/2019, who was sentenced to 2 years in prison and a fine of 50 million. Idrus Markham received leniency for paying the 50 million fine. So, by the judge, the attitude of returning the money is an attitude that can be judged as a good attitude and deserves a good appreciation. The same thing was experienced by Romahurmuziy (a former member of the People's Legislative Assembly and also the chairman of the United Development Party), who received leniency because the defendant judge was deemed to have returned the money from corruption to the state.

Romahurmuziy even said that he did not enjoy the money from corruption because it had been returned to the state and the rest was used by his brother. The attitude of the defendants, in which they returned the money on the basis that it had been obtained through corruption, had actually been able to influence the sentence. If the judge puts this attitude into an element that can be a reason to lighten the sentence, of course the judge has a basis for consideration.

To find out more clearly regarding the refund of money from corruption, it can be used as an excuse to reduce the normative sentence for corruption defendants. It can be seen in the existing regulations. In this context, it must be understood that refunding money is part of the criminal law punishment attached to imprisonment or as additional punishment which if carried out by the defendant will have a positive value and affect the leniency of the sentence he will receive. Because these two things are very different and cannot be equated, even though they occur in one system of events carried out by the defendant.

On the one hand, the attitude of returning money from corruption is an obligation that must be carried out in the legal process, so that if it is not done, it is a form of violation of the law and can be subject to punishment. Refunding money from corruption is an attitude that can be done in order to get a positive assessment that has an impact on leniency, but if it is not done, it will not be subject to punishment. In short, it is a legal choice that can be done or not done. In determining the meaning of returning state money from corruption, it requires a study that is

not only normative but also has a philosophical element because it contains the potential for multiple interpretations that can be misused.

5. Wrong Application of Law

Defining the judge's decision in the legal process is a very important stage and has the biggest impact, because a judge's decision will conclude the entire legal process. Therefore, the mistake rate, in such a situation, must be suppressed or eliminated. Moreover, Indonesia follows a civil law system that understands the law as a written statutory regulation, so the non-compliance of the case with the rules is understood as a mistake that results in the law. In the case of corruption, there are many variants of article rules that define corruption with different punishment characteristics. Although in substance it regulates corruption, there are not small differences. This often creates problems related to the wrong application of a corruption case. The similarity between the alleged act of corruption and the use of certain articles is often inaccurate and causes poor law enforcement. The principle of legal certainty takes precedence over the substance and usefulness of the law. This implies that formal procedures become more important and decisive than the meaning of justice itself.

There are several examples of corruption cases that were decided by judges with light sentences or even acquittals due to legal mistakes in the use of articles against defendants. Like Irman Gusman (former chairman of the regional representative council), who in cassation Number: 97 PK/Pid.Sus/2019 was sentenced to 3 years in prison and a fine of 50 million subsidiaries 1 month in prison.

The reason that relieved Irman Gusman was that in the previous judge's decision it was considered that there was a mistake in the application of the article on corruption against him, so it was revised by the upper-level court at the Supreme Court, which resulted in a decision that reduced or commuted the defendant's sentence. According to the panel of judges, the imposition of article 12 letter b of the criminal act of corruption on Irman Gusman was not in accordance with the legal case he was experiencing, so it would be more appropriate to apply article 11 of the corruption law. With various considerations of evidence available at trial, the judge can determine a decision that is different from the previous judge's decision. This can happen and become a part of the evaluation of improvements to the judge's decision, which is considered inappropriate for the defendant.

The main problem that occurs in Articles 11 and 12 letter b of the corruption law Number 31 of 1999, which is updated by Number 20 of 2001, is that the understanding of gratification, which can only be proven true, occurs if the defendant has received a gift for the act that was indeed true under his responsibilities as an official. So, the application of the law of gratification in the law on corruption is related to the authority of a person's position. There is an understanding that not all gifts can be included in gratuities.

Therefore, in the case of the corruption defendant, Irman Gusman, according to the judges' assessment, it is incorrect if it is classified as a criminal act of gratification, because Irman Gusman does not have the authority to determine the distribution of sugar in Sumatra. Indeed, it has been factually acknowledged and proven that Irman Gusman received money related to the sugar distribution project in Sumatra, but the defendant was unable to determine the policy. Irman Gusman, as a regional representative council official, maybe has political influence in helping the sugar distribution project so that it is used to facilitate the project.

In the study of legal analysis, it is necessary to pay close attention to the rules that will be applied to the defendant. Because the essence of the judge's decision is the provision of legal decisions in accordance with the applicable laws and regulations as the legal basis. In the legal system in Indonesia, this greatly affects law enforcement. As in it, there is the principle of legal legality that must be respected by always basing the case on the rules contained in the law.

The ability to adapt legal issues to the rule of law is very important and determines the success of law enforcement. The team of investigators and public prosecutors must be able to seek and find appropriate legal rules for the corruption cases being handled. In this process, it is necessary to be very careful in choosing the articles in the legislation that will be imposed on the defendant. The ability to capture the intent of an issue in a legal case is very important for it to be later constructed into the applicable positive legal rules. So that the life of the state is free from corruption committed by state officials and the people's right to welfare is not disturbed (Zulaiha, 2016).

6. No Authority

Corruption is a special type of crime that cannot be committed by the majority of people. This means that corruption can only be carried out by officials who have the authority given to them by the state because of their position in carrying out state duties. However, it must be

understood that there are certain requirements or responsibilities in the position, that make it becomes an inseparable part when it is associated with the corruption committed by a state official.

A state official may be involved in a corruption case, but the punishment imposed on him will be different because it is related to his role and authority in the case. In determining the law, a person's responsibility is closely related to his authority. A person can only be held accountable for the authority that has been carried out, such as whether there is abuse that results in state losses due to corruption. So, a person's position in a corruption case affects the legal accountability that must be carried out.

Most of the corruption cases that occur in Indonesia are mostly related to the issues of authority that surround it so that most of the corruption cases that occur are mainly state officials (Valerian, 2020). If it is studied with linkage analysis, it can actually be predicted with the emergence of various corruption cases that have occurred. Although it is not included in the category of absolute abuse of authority, there are indications that people are abusing their positions of power to make themselves rich and harm the state's finances. As a simple example, someone's important position in the government environment can be used to influence the success of certain projects or businesses, which are then rewarded for their involvement. Positions are often used in lobbying and connections in expediting or accelerating the achievement of one's business. With the influence of the position, the business carried out is not normal like a normal process in general. This can take the form of obtaining a business project permission quickly with the help of officials.

The problem of authority being used as an excuse to ease the sentence was experienced by Irman Gusman (former chairman of the regional representative council). According to the panel of judges at the supreme court level, Irman Gusman's sentence was reduced because Irman Gusman did not have authority in the corruption case in the distribution of sugar in Sumatra. Irman Gusman only received gifts or rewards for helping to achieve the sugar distribution project in Sumatra.

In addition, Idrus Markham (a former member of the People's Legislative Assembly and former Minister of Social Affairs) also received a commutation from the panel of judges at the Supreme Court level because he was deemed to have no authority in the corruption case involving him. Idrus Markham is considered to only receive compensation to help achieve the

power plant project. Meanwhile, the power plant project has nothing to do with his position, so the panel of judges said that Idrus Markham was not a determinant in a power plant project that was detrimental to the state. Similar to those above-mentioned examples, the corruption case involving Romahurmuziy (a former member of the People's Legislative Assembly and former chairman of the United Development Party) was given a light sentence by the panel of judges on the basis that Romahurmuziy did not have the authority to determine positions in the religious department, so that the defendant in this case is not position makers and cannot determine positions in the religious department.

8
The reason for the panel of judges in giving light sentences at a glance is **in accordance with the provisions of the** existing law, but if examined more deeply with a perspective that focuses on an understanding of corruption, then the problem of the absence of authority in corruption cases is both detrimental to the state and includes wide-ranging crimes. So it actually gets a severe legal punishment because, as a state official who is authorized by the state, has violated the law. A state official who should be a good example for other citizen, actually commits a crime himself (Ilham, 2020).

There is no need to deny that an official must know his position. So, if the position held has been used or utilized for activities outside the scope of its field that are detrimental to state finances, then it should be suspected as part of corruption that should be avoided. It is impossible for an official not to know that he has been involved in corruption. In these circumstances, the act of the official is a deliberate act with the intention for gaining profit. Therefore, it is necessary to evaluate the provision of leniency in corruption cases on the basis that the defendant lack of authority.

7. Because of Others

The government's poor and ineffective system is contributing factor to the corruption that has occurred thus far. There are plenty of opportunities for corruption. Although the rules of positive law have been so tightly regulated, cooperation and agreements with other parties can be an easy way and are often carried out by corruptors. In a corruption case, there must be at least two parties as the main actors: the giver and the recipient. But in addition to that, it can involve several other parties who contribute to the development of corruption. Because corruption has been massive in Indonesia, which occurs in various fields of life, the involvement of interested parties is very possible.

Therefore, that corruption usually involves state officials is no surprise. The involvement of state officials in corruption cases can be interpreted differently according to their legal position and responsibilities, which, of course, are greatly influenced by the presence or absence of other people's roles in the corruption case. A state official who is involved in corruption can ask for leniency if the involvement of other people is considered the main driving factor or trigger that causes corruption.

A dilemma in corruption cases often occurs in the sphere of state officials. They convey to the public that they are anti-corruption, but it is they who commit corruption. There is an argument in the defense of the accused of corruption, that corruption is carried out because of the influence of others. This means that corruption is carried out not because of the intention of the person to commit corruption but because of the influence of invitations and certain circumstances that are spearheaded by other people. In a context like this, corruptors seem to be in a passive position, not doing anything in corruption cases, only being involved as parties that influence the occurrence of corruption.

The defense can be proven by looking at the actual legal events and the positions of other people in the corruption case. The panel of judges certainly has a comprehensive legal construction related to the storyline of corruption cases that can occur. The information obtained from various sources can actually be understood to comprehend the role and position of the accused and other people involved in corruption cases. If the role of another person is very large or dominant in a corruption case, the defendant can submit a request to the judge so that his sentence can be reduced.

The reason for the judge's decision that eased the defendant in the corruption case was that the corruption case occurred because of someone else, such as in the case of Romahurmuzyi (a former member of the People's Representative Council and also a party leader). Romahurmuzyi, who was involved in the bribery case at the ministry of religion, stated that he had never taken the initiative to commit acts that violated the law. However, he is only involved to help achieve certain goals by receiving rewards for these efforts. Because of his position as a state official who has influence, so that it is used by others to occupy certain positions in the ministry of religion. In addition, there was a case involving Patrialis Akbar (a former judge of the Constitutional Court) who was also decided lower by the panel of judges at the Supreme Court level on the grounds that the defendant's acts of corruption could not be separated from

the role of other people who were also responsible. So, the level of guilt borne by the defendant can affect the lightness of the sentence. Patrialis Akbar, with a letter of cassation number: 156 PK/Pid.Sus/2019, ² was sentenced to 7 years in prison and a fine of 300 million subsidiaries ³ months in prison. In this case, Patrialis Akbar said that the occurrence of this corruption case was not solely because of him but because of the influence of other parties who must be held accountable according to their roles and positions.

8. Sense of Justice

A judiciary is a place ¹³ for justice seekers, and the panel of judges is the determinant of justice. All legal problems, according to the rule of law, must be resolved by legal means, such as through the trial process in the courts. The judge, as God's representative in the world, will decide fairly on all cases brought to him. The judge in this context is someone who has the extensive legal knowledge and is wise enough to make all forms of legal decisions that are considered fair. Not only do righteous people hope for justice, but guilty people also hope for justice. It is not easy to understand justice, but for judges, it is a way of implementing the law. Therefore, judges with legal abilities will implement justice in the form of their decisions. The independence of judges in giving decisions has been guaranteed and protected by laws and regulations, so whatever is determined by the judge is a legal provision that has legal force.

The judge's sense of justice can be used as an excuse for giving light legal decisions to the defendant. In several legal cases, this has happened, such as the corruption case that ensnared Patrialis Akbar (a former judge of the constitutional court). Patrialis Akbar felt that he had received an unfair decision at a lower level court, so he filed an appeal at the Supreme Court and managed to get a lighter judge's decision.

One of the reasons the judge was able to ease Patrialis Akbar's decision was because the defendant did not receive a fair verdict from the lower courts, because the defendant's rights were not fulfilled. In this case, the judiciary, especially the Supreme Court, does not only function as a law enforcement agency but is also an institution capable of providing fulfillment of a sense of justice for the entire community. Patrialis Akbar needs to get justice for the case that has happened to him with this argument. A request for analysis from the judge at the top level can be requested to obtain justice if there is an application of the law that is not in accordance with the rules that should be.

According to ⁵ the panel of judges at the cassation level of the Supreme Court, the decision against the defendant Patrialis Akbar was not supported by concrete legal considerations and was sufficient as the underlying reason for determining how long the sentence would be given to the defendant. In the legal facts that existed at the trial, it was revealed that there was a situation that was relevant to the legislation on ¹² criminal acts of corruption and should have been considered as a reason that could lighten the sentence of the defendant, but this was ignored and not taken into consideration by the judge in the high court who had tried the previous defendant.

So, the defendant claims that this prompted him to send it to the upper level at the Supreme Court in order to achieve legal justice, which was understood to be the defendant's right and which he should have obtained. In fact, there is an inaccuracy or mistake in the application of the law in the high-level court's decision, which has been corrected and justified ⁶ by the panel of judges in the supreme court on the basis of a sense of legal justice.

9. Work For The People

Judges have the rights and legal authority as described in the legislation when making decisions in a legal case, allowing them to use this authority as fully as they can to obtain the fairest judgment for all parties. Even against what he believes to be true, the judge has the authority to give a decision, even though it is not uncommon and outside the limits of the stated rule of law. The judge has the right to consider reducing the defendant's sentence on the grounds that he had performed well during his work as a state official if he believes that the decision made was the best decision.

The judge's consideration is, of course, based on such a strict standard of measurement that he can provide an assessment that he has performed well while serving as a state official. The assessment that has performed well for a state official must have many differences because everyone has different perceptions and ideas. However, the judge's criteria of consideration of the defendant's performance during his employment provide the reason for reducing the defendant's sentence in light.

In the corruption case, involving Edy Prabowo (former ¹¹ minister of marine affairs and fisheries), the panel of judges at the cassation level at the Supreme Court gave a light sentence on the grounds that the defendant had worked well while serving ¹¹ as minister of marine affairs and fisheries. The judge's ruling was stated in cassation number: 942 PK/Pid.Sus/2022 which

² sentenced the defendant to 5 years in prison and a fine of 400 million subsidiaries 6 months in prison.

The mitigating reason was supported by an explanation that the defendant had worked as hard as he could while serving as ¹¹ the minister or marine affairs and fisheries to improve the marine and fishery sector. This is supported by an explanation that the defendant is considered to have given the fishermen a better life hope by revoking ⁵ the regulation of the minister of maritime affairs and fisheries number: 56/PERMEN-KP/2016 which is considered less in favor of ³³ the interests of fishermen, and replacing it with regulation ³² Number: 12/PERMEN -KP/2020. The new regulation aims to provide a better quality of life by utilizing lobster seeds for the welfare of the community and empowering fishermen.

The defendant's efforts to develop policies that would be beneficial to fishermen are what can be seen as the work's positive aspect, which can be judged as good during his tenure as minister of marine and fisheries affairs. So, good performance of work, which did not previously exist, has an impact on the welfare of fishermen. The new regulation requires that exporters of lobster seeds must only get their lobster seeds from small fishermen. The judge said the involvement of small fishermen as a requirement for exporting lobster has empowered fishermen and thereby improved their economies. Policies of state officials like this should be appreciated with good awards, such as giving a verdict that relieves the defendant. The defendant's partiality while serving as minister to the fishing community has been realized by issuing policies that have an impact on increasing the welfare of small fishermen. The policy is certainly in accordance with the state program to improve people's lives. The orientation of the defendant's policy is considered to have been in line with the government's goal, which is primarily for the community's social welfare.

10. Scorn From Society

Judges, in giving reasons for mitigating sentences to defendants, can take various points of view. Although it must be guided by the laws, regulations, and existing evidence, the freedom of judges cannot be limited in an effort to achieve legal justice. Whatever the judge decides, the community will accept it as long as it has a beneficial effect and does not create a new issue for any of the parties. On the other hand, the community may become disappointed or reject the judgment if the court makes a wrong judgment.

Therefore, judges can explore society's existing laws as material for consideration while still following social and religious values. Due to the wide legal dimensions, the existing perspective on judge's decisions is often understood differently. For example, the court may decide that the defendant should receive a sentence that includes the bad attitude or social reaction of the community. According to the theory of sociology of law, society is one of the empirical legal determinants that exist in everyday life, so this is theoretically justifiable. Therefore, that the community's assessment can be equated to or included in the sentence of the defendant.

In legal cases, judges have lightened sentences for defendants by citing slurs or blasphemous comments made by the public. This happened to Juliari Peter Batubara (former minister of social affairs) in the decision number: 29/Pid.Sus-TPK/2021/PN.JKT.PST, which sentenced him to 12 years in prison and a fine of 500 million subsidiaries 6 months of confinement. The community thought that the judge's decision was considered very low since social assistance funds used to handle the COVID-19 crisis were corrupt. The corruption happened in a situation of people who are in economic difficulties and need assistance due to the COVID-19 pandemic. The maximum punishment in this case is life imprisonment or even the death penalty (Tantowi, 2020).

However, the judge had a different opinion, that the insults from the community directed at the defendant were part of the law, which made the defendant's condition tainted and did not like the community. The judge's decision to relieve the defendant in this case under the excuse of public disapproval has generated controversy among the community. However, it can be concluded that the general public does not support or disagree with the judge's decision, even though the judge's decision was felt to have hurt the feelings of the people who hoped for justice from the state.

The judges in the Juliari Peter Batubara corruption case considered that the defendant had suffered enough due to being reviled, humiliated, cursed at, and blamed by the wider community since the beginning of the legal case. Even though it is illegal for the public to know what happened to someone before a final legal decision is made, this is exactly what happened to this man.

Complaints of the defendant's suffering because of the scorn of the community are interpreted as severe punishment for his life and his family, because his reputation has been

damaged in the eyes of the general public, including families who are also negatively affected by the repercussions of the community. In positive legal considerations, there is indeed no connection or possibility of a correlation between legal punishment and the community's social punishment.

However, the judge, in this case, tried to accommodate it by taking into account other considerations that are not easily set aside in giving a decision. This resulted in a decision that was considered to lighten the defendant because he had received scorn from the community. Because ¹⁵ the judge has the authority to decide any case that is brought before him, the reasoning behind the decision cannot be criticized. However, there are also social facts in society that must also be considered by the judge while giving a decision.

Insults are a common part of social interaction in society and can usually occur if you see something that is considered not good. So it is part of the consequences that can not be separated from the earlier actions. It means what will be received as part of the reward for what he has done. The law cannot be separated from people's lives, so that if there is a violation of the law, the community will also automatically react according to the outcome of the case's legal analysis. Everyone is considered to have understood the law and was able to determine an attitude towards what was done and the legal consequences that would be accepted. Therefore, using public scorn as a reason to lighten punishment is illogical and unfounded, especially for a state official who should be an example for the community but instead commits corruption. Everyone understands ⁶ that the act of corruption is a bad act that ²⁴ not only violates the laws and regulations but is also an evil act that is condemned and disliked by the public.

11. Excluding Corruption Acts

The law has a definite nature because everything that is regulated has been mentioned in the written legislation. Everything related to the practice of law must be guided by these rules. ⁸ The principle of legal certainty is attached to the principle of legality. This means that achieving legal certainty demands written rules that are governing. As a result, the rule of law incorrectly applied to the defendant will have the effect of releasing the defendant from all lawsuits.

The legal process must show justice for human rights to all parties since there must be legal accountability for everything that is untrue or not accurate in the law. Because the law was

created to give defendant not only to give the burden of responsibility for sanctions, but also to give rights from the legal consequences he received. The balance of the law becomes absolute in achieving true justice. Therefore, the incorrect application of the law to the defendant must be followed by the legal consequences of it. The rights of the defendant as regulated in the legislation must be granted, even though they provide the right to be free from all punishments.

In the case of corruption, there is a defense that not only relieves the defendant but also provides a basis for acquitting him on the grounds that the law was incorrectly used against him. The defendant, in this case, was acquitted of all charges in addition to having his sentence reduced. A similar situation happened in the corruption case that resulted in Syafrudin Arsyad (former head of the national banking restructuring agency) in relation to the issuance of the BLBI (Bank Indonesia liquidity assistance) letter, which cost the state up to 4.58 trillion. The defendant was acquitted ¹⁸ in the Supreme Court Cassation Number: 1555 K/PID.SUS/2019.

The judges who examined his case claimed that although the defendant was proven to have committed the allegation, his actions were not included in the criminal action. This means that the defendant's actions that harm the state by up to 4.58 trillion are assessed by the panel of judges not to be included in the category of acts of corruption but are part of civil law and state administrative law, which must be resolved according to the laws governing them. So, as a result of the incorrect application of this law, Syafrudin Arsyad was released from punishment.

There are votes that agree and disagree with the judge's decision to acquit corruptors such as Syafrudin Arsyad according to the reasons for the misapplication of the law. It was divided into several reasons and opinions according to the legal basis that the panel of judges who examined the case believed in. Judge Syamsul assessed that the defendant's case fell under civil law, so it was not appropriate to prosecute him under criminal law. Judge Askin considered that the case falls within the scope of state administrative law, so it must be processed in the state administrative court.

Meanwhile, Judge Salman, as the chairman of the panel of judges, only determined that the case fell under the legal realm of corruption, so that it was in accordance with the previous lower-level judicial process. The difference in the judge's assessment resulted in a decision that acquitted the defendant because of the incorrect application of the law. Therefore, it is actually necessary to have a further in-depth ²¹ study related to the case comprehensively to find out whether there are elements that lead to criminal acts of corruption.

The difference in judges' decision is reasonable, but the spirit of reform to eradicate corruption and thoroughness in enforcing the law on criminal acts of corruption must be prioritized. If the Syafrudin Arsyad corruption case is declared to have clearly harmed the state, then it should be included in a corruption case, even though the actual perpetrators need to be adjusted to their roles and consequences. When the role of the defendant who was mentioned was just to issue a document which resulted in state losses, it is undoubtedly difficult to determine that the action was the fault of the state administration.

Considering that the defendant is the head of the national banking restructuring agency and should be knowledgeable in the banking industry, research on the existence of malicious elements or collaboration with other parties is necessary to determine whether the defendant's actions will cause losses to the state or not. In addition, if the assessment of the consequences of the issuance of a document made by the defendant is resolved civilly, it will result in the loss of the prison sentence that must be accounted for. In addition, since civil issues only occur in the form of negotiations or agreements and are materialistic, they can weaken the settlement of the case. Therefore, the intelligence and bravery of law enforcement officers are tested in overcoming corruption cases that have the potential to be biased.

CONCLUSION

The problem of eradicating corruption in Indonesia has been carried out well, but the results have not been maximal and significant. It is proven by the number of state officials who are caught by law enforcement officers for being involved in corruption cases. The state has renewed the elements of the legal system in an effort to suppress and even eliminate corruption. However, there is one thing that requires important attention, which is punishment from judges' decisions for officials whose corruption is still very low.

Even the legal punishments are far from being comparable to the corrupt acts he has committed. Punishment from very light legal decisions imposed by judges must be reviewed and become corrections because these very light sanctions do not create a deterrent effect. Even though it is considered a normal legal process in an office, low punishments are not a threat that corrupt officials are afraid of. Therefore, it is necessary to critically analyze the judges' reasons for deciding lightly on a state official's corruption. The urgency of the judge's decision that favors the state's efforts to eradicate corruption

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