

illness

by Ferry Irawan

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Illnesses as an Excuse for Corrupt Indonesian Officials to be Free From Legal Liabilities

Yogi Prasetyo¹, Fery Irawan¹, Sugeng Wibowo¹, Arief Budiono¹, Indiantoro¹

¹Lecturer at Faculty of Law, Universitas Muhammadiyah Ponorogo, Indonesia

Abstract

This research aims to explain the phenomena of illnesses used by corrupt Indonesian leaders to be free from legal liabilities. Illnesses in the law enforcement of corruption cases became a problem which may inhibit the legal processes. The research method used is the sociolegal method, which analyzes the society's social behavior related to the constitutional regulations. The research data is obtained from the various examples of the cases of officials with corruption cases who use the excuse of being sick in order to be free from legal liabilities. The data also includes constitutional regulations which are related to the theme's problem. The research results show the phenomenon of sicknesses used by the corrupt Indonesian officials to be free from legal liabilities. With the basis of humanity, thus the legal process is paused for some time, and they receive special treatment which gives more comfort just as that for sick people. This is also related to the constitutional regulations in Indonesia which give protection towards the health rights for the Defendant. Yet, this is usually misused by the defendants to lie or to pretend to be sick.

Keywords: *illness, excuse, officials, corrupt, law.*

Introduction

Indonesia is a country which is currently occupied in eradicating corruption cases conducted by its officials, both in the central and regional scales.¹ Numerous corruption cases had occurred and attracted public attention,² particularly the ones related to the attitude and behavior of the suspects of corruption in order to be free from legal liabilities. They use various ways to avoid being sentenced, from bribery, fleeing, to the classic excuse of being sick. However, amongst many recent corruption cases, there were tendencies in misusing illnesses to avoid being legally punished. The majority of corruption cases involve most suspects claiming to be ill during the process. It might be perceived as an easier and less-risky alternative for the case they face. By being sick, the suspects are treated in a special, different way. It may allow the suspects to be free from the legal liabilities of corruption.

The large number of suspect corrupt officials who use the excuse of being sick turn this into an ironic public phenomenon, as prior the said occurrence, they seemed to be in good health. By using illnesses as an excuse, the corrupt suspects gain special treatment which will advantage them compared to the healthy suspects to the point that they might obtain certain permit to leave prison to seek for treatment or to be treated in hospital. For corrupt suspects who claim to be sick, naturally, the treatment given is of the standards of those who actually suffer illnesses. They are treated by medical personnel instead of prison guards most of the time. They also gain another advantage in a form of a proper and comfortable room for medical patients or in one of hospital rooms—which is, obviously, located outside of the prison. By being in those places, they obtain certain facilities which allow them to enjoy said facilities and their freedom, by not experiencing the inconvenience they might have around the prison cells and its surroundings.

Illnesses then become a condition abused by the corrupt individuals to inhibit or even to escape from legal liabilities – despite whether the said illness are deemed to be the actual condition or was staged to make a healthy individual seem to be ill. In proceeding their

Corresponding author:

Yogi Prasetyo

Address: Budi Utomo Street-10, Ponorogo, East Java Province, Email: yogi_prasetyorais@yahoo.com

operation, the corrupt cases who use the excuse of being sick also involve medical personnel such as doctors, nurses, and health institutions such as hospitals. These perpetrators have usually worked together to make this condition as an appropriate reason or basis to be treated differently which may inhibit or hinder the legal processes. A doctor's note from the doctor or from the hospital may be used as a material for consideration in proceeding legal liabilities on corrupt suspects. They might gain permit to seek for treatment for their illness prior resuming the current legal processes. They often manage to make themselves seem to be sick to avoid being legally sentenced as they are sick. Therefore, this state of illness may affect the legal processes towards corruption cases in Indonesia.

Method

This study used Sociological method.³ Research data may be the phenomenon of illnesses being an excuse for corrupt officials to escape from legal liabilities and also legal data in the form of laws and regulations related to the research problems⁴ therefore, it may result in providing further comprehension of the law.

Findings and Discussion

Phenomena of Illnesses within Corruption Cases in Indonesia

Illnesses have become an ironic yet amusing phenomenon in proceeding legal actions related to corruption in Indonesia. The majority of corruption cases conducted by the Indonesian officials are mostly followed by the classic excuse of being sick. The said condition shows how one's disability might be used to disrupt the humanity of law in the context of social life in society. It is both inappropriate, unethical, and may even be considered as violating the law itself to demand ill corruption suspects to follow the legal processes. Various conditions can be described to indicate illnesses, such as: dizziness, short of breath, abdominal pain, unwell, depression, severe stress, and even mental disorders. They are the reasons used by corrupt suspects to avoid legal processes.⁵ However, the said condition is often misused by the corrupt suspects to be able to benefit themselves in doing activities outside of the prison comfortably and also be used to inhibit or hinder the legal processes. Therefore, illness is often used as an excuse by corrupt suspects to escape from legal liabilities.

By witnessing the corrupt suspects being ill, the humanitarian side may emerge which then might affect the legal processes. It may be reasonable as being ill is such an inconvenience for anyone and has to be treated immediately. The humanitarian reasons in such circumstances are most preferred, which explains the special and specific treatment for them in order to make them more comfortable for their speed recovery. This leniency given for their recovery to the point providing health facilities outside of Correctional Institution. This matter is considered as a peculiar phenomenon which then emerges public questions as to this being a fact or a mere farce.

Indonesian Officials who Use Illnesses as An Excuse to Be Free from The Legal Liabilities

Illness is considered as the most effective way used by Indonesian officials who got entangled in corruption which doesn't have legal risk amid the State's incessant fight against corruption, these can be seen from many legal processes in corruption that full of sicknesses drama. It can be seen from several cases below:

1) Setya Novanto (ex-chief of People's Representative Council for the 2014-2019 period) who got entangled in the case of E-KTP corruption, complained to have hypertension and complication illness when he was investigated by Corruption Eradication Commission (KPK) and even fabricated the car accident's case that he experienced, so he must be treated specifically and intensively with various medical equipment at the Hospital. Hence, the legal investigation process against him was interrupted.

2) Miryam S. Haryani (ex-member of People's Representative Council for the 2014-2019 period) who also got entangled in the case of E-KTP corruption, complained to be sick when she was about to be investigated by KPK. She gave fake information to the Hospital Doctor Team and was faking her illness to escape from the KPK's investigation. Hence, the legal process against her was delayed for a long time.

3) Irman Gusman (ex-chief of Regional Representative Council for the 2014-2019 period) who got entangled in the corruption and bribery case of imported sugar, complained to have a heart issue when he was about to be investigated by KPK. Hence, the legal case investigation process against him was delayed for several days.

4) Romahurmuziy (ex-member of People's Representative Council for the 2014-2019 period) who was captured red-handed by KPK in the bribery case for the Chief election of East Java Province's Department of Religion and Gresik Regency's Department of Religion. He claimed to have abdominal pain and bleeding when defecating. Therefore, the legal case investigation process against him was delayed for several days.

5) Idrus Marham (ex-member of People's Representative Council for the 2014-2019 period) who got entangled in the corruption of Riau 1 Electric Steam Power Plant (PLTU) project, claimed to be sick when he was about to be investigated by KPK. Therefore, the legal case investigation process against him was postponed.

6) Zumi Zola (ex-Governor of Riau for the 2017-2022 period) who got entangled in the corruption and bribery case of the ratification of Riau Province's Local Government Budget, claimed to have shortness of breath when KPK was investigating him. Thus, the legal case investigation process against him was stopped and postponed for several days until he regained his health.

Analysis on Positive Law in the Constitutional Regulations Which May Be Used as the Excuse of Illness in Order to Be Free from Legal Liabilities

There are several constitutional regulations in Indonesia which may be used as the basis for the corrupt officials as excuses of illnesses in order to defend themselves from the snares of law.⁶ Below are several the referred regulations:

1) The 1945 Constitution of the Indonesia's Republic CHAPTER XA Human Rights, Article 28H paragraph (1) Everyone has the right to live in physical and spiritual prosperity, to live, and to have a good and healthy living environment and the right to obtain health services. Paragraph (2) Everyone has the right to get special treatment and facilities to obtain equal opportunities and benefits in order to achieve equality and justice. Article 28J paragraph (1) Everyone must respect the human rights of others in the orderly life of the community, nation and state.⁷

2) The Constitution of Indonesian Republic Number 39 of 1999 regarding Human Rights CHAPTER I General Provisions, Article 1 Humans Rights are a set of rights inherent to the nature and the existence of humans as a creature of the God Almighty and are His

gifts that must be respected, upheld and protected by the State law, the Government, and everyone for the honor and protection of human dignity.⁸

3) The Constitution of the Indonesia's Republic Number 36 of 2009 Regarding Health CHAPTER I General Provisions, Article 1 Health is a healthy condition, both physically, mentally, spiritually, and socially that enables everyone to live productively both socially and economically. CHAPTER III Rights and Obligations, Article 4 Everyone has the right to health. Article 5 paragraph (1) Everyone has the same right in obtaining access to resources in the health sector. Paragraph (3) Everyone has the right to determine independently and responsibly the health services required for themselves.⁹

4) The Constitution of the Indonesia's Republic Number 31 of 1999 Regarding Eradication of Corruption CHAPTER IV Investigation, Prosecution and Examination at the Trial Court. Article 26 Investigation, prosecution and examination at the Trial Court for a criminal act of corruption shall be carried out based on the applicable criminal procedure code, unless stipulated otherwise in this Constitution.¹⁰

5) The Indonesian Criminal Code (KUH) CHAPTER VIII Lapse of the Right to Prosecute and of the Punishment, Article 78 Paragraph (1) The right to prosecute shall lapse by lapse of time.¹¹

6) The Indonesian Criminal Procedure Code (KUHAP) CHAPTER VI Suspects and Defendants, Article 58 Suspects or defendants who are subject to detention shall have the right to contact and receive a visit from their private doctor for the interest of their health whether it has any connection or not to the case process.¹²

7) The Constitution of the Indonesia's Republic Number 12 of 1995 Regarding Corrections CHAPTER III Corrections' Inmates, Article 14 paragraph (1) point d Inmate has the right to receive proper health services and food.¹³

8) The Government Regulation of the Indonesia's Republic Number 31 of 1999 Regarding Development and Guidance of Corrections' Inmates CHAPTER I General Provisions, Article 1 point 1 Development is an activity to improve the quality of devotion to God Almighty, intellectual, attitude and behavior, professional, physical, and spiritual health of the inmates

9) The Government Regulation of the Indonesia's Republic Number 32 of 1999 Regarding Requirements and Procedures for the Implementation of Inmates Rights CHAPTER I General Provisions, Article 1 paragraph 4 Health services are promotive, preventive, curative, and rehabilitative efforts in health for Inmates and Correctional student, the Correctional Facility. Article 17 paragraph (1) In the case that the patient as referred to in Article 16 paragraph (3) requires further treatment, the Correctional Facility's doctor provides recommendations to the Head of the Correctional Facility so that the health services are carried out at the Government public hospitals outside of the Correctional Facility.¹⁵

10) The Republic of Indonesian Government's Decree No. 58 year 1999 regarding the Conditions and Procedures for the Implementation of the Authority, Duties, and Responsibilities for the care of the Prisoners, Chapter I Basic Conditions, Article 1 states that the prisoner service process is done starting from the admission until the release of the prisoners from the National Prison.¹⁶

11) Decree of the Correctional General Director No. E.03.PP.02.10 year 2003 has determined the minimum standard of health services for the inmates in Correctional Centers, which are; a) Institutionally, the health services provided are still in the basic level, which is first-aid doctors and clinics; b) Referral health treatments for the ill inmates are given based on the condition of each Correctional Centers. c) The forms of promotive, preventive, curative, and rehabilitative services are given systematically.¹⁷

Conclusion

Illnesses become a mode of condition used by many Indonesian officials who are detained for corruption to be free from legal liabilities. With the excuse of being ill, they receive special treatments which are more comfortable, like not being placed in prison cells like healthy inmates. They may even be placed in hospitals outside of the Correctional Center area with minimum surveillance. They receive services from health workers and family members who take care of them. The important matter regarding this issue is the fact that the legal processes are paused until their condition is stated healthy again. This may inhibit or hinder the enforcement of the corruption laws. The constitutional

regulations in Indonesia has actually regulated the things which regards the health rights protection of Defendants or inmates. Yet, these regulations seem to be misused by the inmates to make illnesses as an excuse to create a condition or a situation which brings them favorable conditions.

Ethical Clearance: Yes.

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