



## Political Law of Corruption Eradication in Indonesia (Case Study on the Corruption of Sugar Import Corruption of the Minister of Trade in 2015)

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### ABSTRACT

This study is to examine in depth the polemic of law enforcement of corruption crimes (a case study of sugar imports by the Minister of Trade Thomas Lembong) and comprehensively discuss the legal and political framework for the eradication of corruption in Indonesia. The type of research is normative juridical with a descriptive-analytical approach, discussing existing legal symptoms and problems and testing them based on laws regulations, and legal norms. The results of this study show that the analysis of the handling of the case of alleged corruption in Thomas Lembong's sugar imports has many problems, including the requirement for political interests, not following the procedure and the time for determining the suspect is very long, the amount of state losses is uncertain, there is not enough evidence and only focuses on one individual. Corruption as an extraordinary crime requires extraordinary handling, including penal policies regulated in several regulations such as the law on the eradication of corruption crimes, the law on the corruption eradication commission, the Criminal Code, to the Presidential Regulation on the national strategy for corruption prevention, as well as non-penal policies including: public awareness education, administrative reform and strengthening of supervisory institutions.

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## INTRODUCTION

Corruption, Collusion, and Nepotism (KKN), is a problems that has been an obstacle to the progress of the Indonesian nation until now. Corruption not only causes financial losses for the state, but also has more complex impacts such as disrupting economic stability, damaging integrity, causing structural poverty, and damaging morals and the legal order. Therefore, the handling of corruption crimes must be carried out externally with strong political and legal support [1].

Indonesia is one of the countries with a fairly high level of KKN, Transparency International data in 2023 places Indonesia 115 out of 180 countries in the Corruption Perception Index (GPA) with a score of 34 out of 180. Although this figure has decreased compared to 2020 (38), the trend of domestic corruption continues to increase with various modus operandi. From the executive, legislative, and judicial, both at the central and regional levels, have been involved and carried out KKN [2].

The results of the Indonesia Corruption Watch (ICW) research stated that there were 791 corruption cases in 2023 with a total of 1,695 suspects. This number increased compared to 2022, which was 579 cases with a total of 1,396 suspects. For the division of regions, there are 8 provinces with the highest number of corruption cases, including East Java Province with 64 cases, North Sumatra with 54, Central Java with 47, South Sulawesi with 46, NTT with 37, Aceh with 36, West Java 36 and South Sumatra 31 (data. good stats).

The rise of corruption cases requires extraordinary handling efforts. Unfortunately, law enforcement of corruption crimes is still inseparable from political interests and the intervention of certain interests. There is often an abuse of power to silence political opponents through corruption cases. In addition, law enforcement officials (Police, prosecutors, and KPK), also often carry out selective felling in carrying out law

enforcement [3].

For example, in handling the case of alleged corruption in sugar imports by the former Minister of Trade in 2015, Thomas Trikasih Lembong. The case handled by the Prosecutor's Office seems to be forced because it is not transparent and full of certain interests. In addition, the Prosecutor's Office has also not been able to explain the exact value of losses experienced by the state and the two preliminary pieces of evidence have not been fulfilled in determining the suspect. The prosecutor's office argued that the import policy was illegal and was implemented when Indonesia had a sugar surplus. In fact, in addition to Thomas Lembong, the four Trade Ministers after that also opened the tap for sugar imports in a larger quota, but so far there has been no legal process.

Selective felling and discrimination in law enforcement of corruption crimes will cause a loss of public trust in law enforcement institutions and undermine the democratic order and progress of the Indonesian nation [4]. The law, which should be the commander-in-chief, is abused for certain interests. Therefore, strong criminal law politics is indispensable in developing a conceptual framework for the legal system, especially the eradication of corruption that is integrity, fair, and free from interference of interests.

## METHODOLOGY

The research conducted is normative juridical research or research analyzing written law, jurisprudence, and norms that live in society. The descriptive-analytical approach aims to take systematic, factual, and accurate data on an issue based on applicable laws and legal norms. The data collection technique is carried out through literature research, namely obtaining data by examining library materials or secondary data which includes primary legal materials, secondary legal materials that can be in the form of laws and regulations, books and works, or other scientific journals or university legal materials in the form of dictionaries, magazines, newspapers, and article [5].

## RESULTS AND DISCUSSION

### **Polemical on Law Enforcement of Corruption Crimes (Case Study of Thomas Lembong Sugar Import)**

The eradication of corruption is a priority program of the government, because corruption is an extraordinary crime that caused great losses to the country. Unfortunately, corruption in law enforcement still occurs through discrimination and selective felling [6]. An example of a case that is the focus of this study is law enforcement in the alleged corruption of sugar imports in 2015-2016 by Former Minister of Trade Tomas Lembong. Investigators from the Prosecutor's Office assessed that the import policy was carried out when Indonesia experienced a sugar surplus, to the point of violating the rules and causing state financial losses.

The Trade Ministers (2015-2024 period) each have a sugar import policy, even with a larger quota, but why is only Thomas Lembong being investigated, while other Trade Ministers are not? The following is the number of sugar imports carried out by the Minister of Trade (2015-2024):

1. Thomas Lembong's total imports are 5 million tons
2. Enggartiasto Lukita Total Impor 15 million tons
3. Agus Suparmanto total impose 9.5 million tons
4. Muhammad Luthfi imports a total of 13 million tons
5. Zulkifli Hasan imports a total of 18 million tons. (limitnews)

If the Prosecutor's Office is committed to eradicating corruption in sugar import cases, other Trade Ministers should also be examined to trace the state's financial losses. But so far only Thomas Lembong has been designated as a suspect. The determination of the suspect Thomas Lembong's status is suspected to be legally flawed and the requirements for political interests, including:

1. Determination of suspects for almost 10 years (2015-2024)

In the determination of suspect status in the vulnerable time of 2015-2024, many parties question the legal certainty of handling this case. Member of Commission III of the House of Representatives of the Republic of Indonesia, Rudianto Lallo, highlighted that the investigation of corruption cases that occurred 9 to 10 years ago tended not to provide legal certainty.

2. The amount of state losses is uncertain.

The Attorney General's Office claims that state losses in this case are estimated to reach Rp 400 billion. The amount is based on the value of profits obtained by 8 private companies that should be state-owned (BUMN). However, the Prosecutor's Office has not announced the details of the loss (there are no audit results yet).

3. Not enough evidence

The Prosecutor's Office investigators are considered not transparent in handling the case because they have not presented two valid pieces of evidence, criminal elements, mens rea, and errors as the basis for determining the suspect's status.

4. Requirements for political interests and focus on a single individual

The sugar import policy by other Trade Ministers was not investigated, even though the amount of sugar imports was larger than Thomas Lembong. Law enforcement is focused on only one individual,

although the sugar import policy involves many Ministers. Thomas Lembong in the last political contest was not in the same car as the ruler. This further strengthens the indication of political interests.

A lecturer at the Faculty of Law, Gadjah Mada University, Fatahillah Akbar, stated that the determination of Thomas Lembong was carried out very quickly. There should have been a notification as a witness and then a suspect was determined. By the time the investigation warrant (Sprindik) was issued, Lembong should have received a notice of the start of the investigation (SPDP). Another irregularity in the Sprindik is the alleged corruption of sugar imports that was investigated in 2015–2023. Throughout that year, the position of Minister of Trade was held by Enggartiasto Lukita for the 2016–2019 period, Agus Suparmanto for the 2019–2020 period, Muhammad Lutfi for the 2020–2022 period, and Zulkifli Hasan for the 2022–2024 period.

Discrimination and selective falling in law enforcement of corruption crimes is very unfortunate because it damages the integrity of the law and public trust [7]. According to the behavior theory of law by Donald Black [8], law is influenced by factors outside the law such as:

1. Social morphology, which is horizontal differences in society due to differences in professions, familiarity, and integration. Morphology means that the degree of emotional, institutional, relationship between law enforcement officials and a person is called in a corruption case. Concretely, it can be in the form of friendship, kinship, or work, between parties who are said to be involved in corruption cases and law enforcement officials.
2. Social Status (Stratification) is a person's social position in society, both formal and informal figures, and further looks at the position, position, and political power of each.
3. Intervention, an intervention factor is one of the sociological aspects that is influential in law enforcement of criminal acts. Intervention is the intervention of internal parties of law enforcement agencies. Institutional internal intervention is in the form of pressure from superiors to subordinates.
4. Culture and Organization, i.e. cultural values and the way social organization also plays an important role, as certain cultural norms can strengthen or weaken the application of law in certain situations.

### **Political Framework for the Eradication of Indonesian Corruption**

Satjipto Rahardjo stated that legal politics is a study directed at current law that applies substantially to legal science. Legal politics discusses how changes must be made in the law to meet the needs of society, the process of forming *iusconstituendum* and *iusconstitutum* in the face of life changes, and the resulting products of legal changes determine the framework and direction of legal development [9].

Sudarto gave several meanings related to the politics of criminal law (criminal law policy), namely in a narrow sense as the whole principle and method that is the basis for the reaction to law violations in the form of judgment. In a broad sense is the entire function of law enforcers, including the way the judiciary and the police work, or as a whole policy carried out through laws and official bodies that aim to enforce the central norms of society [10].

Indonesian legal politics has a philosophical foundation consisting of reasoning or reasoning which shows that the determination made takes into account the views on life, consciousness, and philosophical legal ideals of the Indonesian nation which are sourced from Pancasila and the 1945 Constitution. The role of the philosophical foundation is a sign about what and how the policy must be implemented. These signs are based on metaphysical, epistemological, and axiological principles as politics prevails nationally [11].

Efforts and policies to make good criminal law regulations cannot be separated from the purpose of crime prevention. So criminal law policy or politics is also part of criminal politics. As part of criminal politics, criminal law politics is synonymous with the understanding of crime prevention policies with criminal law. Judging from the politics of law, implementing the politics of criminal law has two meanings, namely [12]:

1. Efforts to realize good regulations under the circumstances and situations that exist at a certain time (including in the future);
2. The policy of the state through the body authorized to establish the desired regulations, which are expected to be used to express what is contained in society and to achieve what is aspired to.

Mahfud MD stated that the relationship between law and politics, namely law is a political product. Law is seen as an affected variable and politics is an influential variable. Thus, legal politics can be assumed as a legal policy that will be or has been implemented by the government, including how politics affects the law by looking at the configuration of power behind law enforcement [13].

Eddy O.S. Hiariej stated that there are four traits and characteristics in corruption crimes categorized as extraordinary crimes, namely:

1. Corruption is a crime that is committed in an organized manner with a systematic structure.
2. Corruption crimes involve complicated *modus operandi* and are difficult to disclose, making it difficult to prove corruption.
3. Corruption has always been related to the acquisition of power, where corrupt actors often use their positions or positions to achieve corrupt goals.

4. Corruption crimes have an even impact on various parties because they harm the state's finances which should be used to improve the welfare of the community as a whole [14].

In the handling of corruption crimes, legal politics plays an important role because it determines the direction and goals to be achieved by law enforcement itself. Legal politics in the eradication of corruption in Indonesia is a comprehensive effort that includes aspects of prevention, enforcement, and community participation. Corruption as an extraordinary crime with huge losses to the nation's life order, needs to be dealt with seriously to prevent a worse impact. Therefore, to ensure legal certainty and provide protection for the socio-economic rights of the community, as well as fair treatment in eradicating corruption, clear regulations and legal instruments are needed. The instrument of eradicating corruption in Indonesia is regulated in several regulations, including:

1. Law Number 31 of 1999 as amended into Law Number 20 of 2001 concerning the Eradication of Corruption

Regulating substantive matters in the eradication of corruption, including the classification of acts categorized as KKN (corruption, such as bribery, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement, and gratuities). The reverse proof system is different from the negative proof system regulated in the Criminal Code. Reverse proof as a system of proof imposes the burden of proof on the defendant. In this system, the defendant is considered guilty, unless he can prove his innocence. The regulation of criminal penalties for corruption perpetrators is a minimum of 4 years and a maximum of 20 years, as well as fines ranging from Rp. 200 million to 1 billion, to the revocation of specific rights [15].

2. Law Number: 30 of 2002 as amended into Law Number: 19 of 2019 concerning the Corruption Eradication Commission

It is the basis for the establishment of the Corruption Eradication Commission (KPK) as an independent institution tasked with preventing KKN. In addition, the KPK is also tasked with coordinating, supervising, monitoring, investigating, prosecuting, and examining court sessions. The next task of the KPK is to carry out the determination of judges and court decisions that have obtained permanent legal force. In addition, this law also regulates that the KPK Supervisory Board is tasked with doing several things, including granting or not granting permits for wiretapping, searching, and confiscation [16].

3. Law Number: 1 of 2023 concerning the Criminal Code

Articles 603-606 of the Criminal Code state that any person who benefits himself, others, or corporations by abusing the authority, opportunity, or means available to him because of his position or position, which is detrimental to the state's finances or the country's economy, is threatened with imprisonment for a maximum of 4 years and a maximum fine of category IV (Rp 200,000,000.00) for civil servants or state administrators who receive gifts or promises.

Life imprisonment or imprisonment for a minimum of 2 years and a maximum of 20 years for any person who unlawfully commits an act of enriching himself, another person, or a corporation that harms the state's finances or the country's economy. The regulation of corruption crimes in the Criminal Code is a legal basis that supports various initiatives and policies to eradicate corruption more effectively because corruption is an extraordinary crime, and its handlers must also use a strict and effective legal approach [17].

4. Law Number 46 of 2009 concerning the Corruption Crimes Court

Regulating the establishment of special courts in the general judicial environment, to examine, adjudicate and decide corruption crimes. Through this regulation, it is hoped that it can increase the effectiveness of handling corruption cases in Indonesia, by providing a clear legal framework for the judicial process. By handling corruption cases in a transparent and accountable manner, the Corruption Court contributes to building public trust in the legal system in Indonesia. This trust is very important to create an environment conducive to investment and economic development [18].

5. Presidential Regulation Number 54 of 2018 concerning the National Strategy for Corruption Prevention

Stranas PK was formed in response to the need to improve the government system and prevent corruption as a serious problem in the nation. The PK National Team consists of a combination of five ministries and institutions, namely the Ministry of Home Affairs, the Ministry of State Apparatus Empowerment and Bureaucratic Reform, Bappenas, the Presidential Staff Office, and the Corruption Eradication Commission (KPK). This team is tasked with coordinating, monitoring, and evaluating the implementation of the strategy. Stranas PK has three main focuses in efforts to prevent corruption:

a. Licensing and Commerce System, encouraging transparency and efficiency in the licensing process and commerce system to reduce the chance of corruption.

b. State Finance, developing a more transparent procurement system, such as the implementation of e-catalogs, and increasing state revenue through improved financial management.

c. Law Enforcement and Bureaucratic Reform, strengthening the integrity of law enforcement officials and bureaucratic reform to ensure that the legal process runs fairly and transparently [19].

The instrument of eradicating corruption in Law Number 31 of 1999 as amended into Law Number 20 of 2001, there are several weaknesses, including:

1. There is no specific minimum criminal enforcement guideline, for example, Article 2 (self-enrichment) is threatened cumulatively, and Article 3 (abuse of authority) is formulated with alternative cumulatives, even though theoretically the weight of the delicacy is the same. The main penalty of the corporation is only a fine (Article 20) that is not paid by the corporation. If you look at it, the closure of the corporation/revocation of business licenses within a certain time should be carried out as a substitute for the crime of deprivation of independence;

2. There are no special provisions regarding the implementation of fines that are not paid by corporations. Article 30 of the Criminal Code (if the fine is not paid is replaced by a substitute imprisonment for 6 months) cannot be applied to corporations.

3. The formulation of the death penalty that only applies to one article, namely Article 2 paragraphs 1 and 2, which is meant by "certain circumstances" as a burden for the perpetrators of corruption crimes if the criminal act is committed when the state is in a dangerous state, when a national natural disaster occurs, as a repetition of corruption crimes or when the state is in a state of economic and monetary crisis. This situation makes it difficult for perpetrators of corruption crimes to be sentenced to death [20].

In the context of preventing and eradicating corruption crimes, legal policies (effective penal and non-penal) are needed, so that law enforcement instruments can run optimally, including penal policies in the form of normative law enforcement on the eradication of corruption crimes as regulated in Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, Law Number: 19 of 2019 concerning the Corruption Eradication Commission, Criminal Code, as well as other related regulations. Meanwhile, non-penal policies focus more on efforts to prevent and overcome the occurrence of corruption crimes, including:

1. Education and public awareness: Efforts to increase public awareness of the dangers of corruption through anti-corruption education programs. Aims to change the way people think and build an anti-corruption culture;

2. Administrative reform: Make improvements in the government administration system to reduce the chance of corruption. This includes transparency in budget management, strict internal supervision, and the implementation of a good accountability system;

3. Strengthening supervisory institutions: Increasing the role of supervisory institutions such as the Financial and Development Supervisory Agency (BPKP) and inspectorates in each government agency to conduct audits and supervision of the use of the budget [21].

The main point of regulating corruption crimes in Indonesia lies in the political direction of the law to eradicate corruption, legal certainty, and internal commitment from all parties. Increased awareness of the impact of corruption on development and economic stability prompted the government to take decisive steps to improve the effectiveness of law enforcement. This can include improving the definition of corruption, expanding the scope of corruption crimes, and increasing sanctions for corrupt actors. The goal is to create a tougher legal environment against corruption crimes and strengthen efforts to eradicate corruption as a whole [22].

## CONCLUSION

The analysis of the handling of the case of alleged corruption in Thomas Lembong's sugar imports has some problems, including the requirement for political interests, not following the procedure and the very long time to determine the suspect, the uncertain amount of state losses, insufficient evidence and only focusing on one individual. The occurrence of discrimination and falling in the enforcement of corruption crimes undermines the integrity of the law and public trust, law enforcement must be independent, professional, and free from intervention in carrying out their duties.

Legal policy on the eradication of corruption in Indonesia consists of a penal policy regulated in several regulations such as Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, Law Number: 19 of 2019 concerning the Corruption Eradication Commission, Law Number: 1 of 2023 concerning the Criminal Code, Law Number 46 of 2009 concerning Corruption Courts, and Presidential Regulation Number 54 of 2018 concerning the National Strategy for Prevention Corruption, as well as non-penal policies include: public awareness education, administrative reform and strengthening supervisory institutions.

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