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# URGENCY OF GOVERNMENT REGULATION IN LIEU OF LAW AS AN EFFECTIVE SOLUTION TO ERADICATE CORRUPTION

Syafrizal

Universitas Muhammadiyah Tangerang  
Post Graduate of Law

Correspondence Email: [syafrizal@umt.ac.id](mailto:syafrizal@umt.ac.id)

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**ABSTRACT** Corruption is an extra ordinary crime that harms the state, damages the nation's economy and hinders national development. Therefore, it is necessary to take extraordinary action in its eradication without having to consider human rights and customs that exist in society. One of the most important elements in eradicating corruption lies in the system of laws and regulations of a country, because in our country it is known that no act can be punished unless the law regulates it, so the urgency of issuing a Government Regulation in lieu of Law is very necessary to perfect the law. - the invitations that have been there. This research tries to analyze the substance in law Number 31 of 199 concerning the Eradication of Corruption Crime, in conjunction with Law 20 of 2001, Law Number 30 of 2002 in conjunction with law Number 19 of 2019 concerning the Corruption Eradication Commission by analyzing The phenomenon of corruption is increasing day by day, especially in terms of the mode and method of the perpetrators of hiding the results of the corruption. This study uses qualitative normative research with a statutory approach. The results of this study raise the substance that exists in Law Number 30 of 2002 in conjunction with Law Number 19 of 2019 concerning the Corruption Eradication Commission which needs to be refined or revised by issuing a new law that does not only rely on the actions that have been carried out by law enforcement but also preventive measures in a systematic way.

**KEYWORDS:** Urgency, Government Regulation in lieu of Law, corruption

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## INTRODUCTION

Indonesia is one of the most corrupt countries in the world,(Zaini, 2020) while eradicating it is very difficult because of the substance in Law Number 30 of 2002 in conjunction with Law Number 19 of 2019 concerning the Corruption Eradication Commission and Law Number 31 of 1999 concerning Eradication of Corruption Crime, do not make the people who do corruption afraid because they have too many weaknesses so that it provides opportunities for the corruptors to commit corruption by using the principle of prudence.(Priambodo et al., 2020) The revision that has been made to law Number 19 of 2019 by the legislature is not aimed at making improvements and perfecting the old law but rather weakens the law on the Government Regulation in lieu of Law, such as a request for permission before

tapping.(Asyikin & Setiawan, 2020; Imron, 2021) We can see this where the corruptors are increasing day by day while the Government Regulation in lieu of Law Government Regulation in lieu of Law cannot do anything about it.(Sudarmanto et al., 2020)

Corruption is a crime that harms the state and damages the nation's economy, which has entrenched and became the behavior of officials or power holders in the country by cooperating with private parties that endanger society and individuals, the young generation, politics, the nation's economy and the bureaucracy.(Rahmatullah, 2021; Yusmiati, 2020) The definition of corruption is not only the act of seizing state money, but also includes its derivatives, namely the abuse of authority by state officials, bribery, collusion, and others related to officials and persons or entities related to the state or state finances.(Kurniawan, 2021; Pramajati, 2020)

In general, criminal law experts are of the opinion that the massive practice of corruption in Indonesia cannot be separated from the role of bureaucrats or state administrators, in addition to the involvement of private parties.(Mahmud, 2021; Salsabila, 2020) Corruption is increasingly massive and this is inseparable from the role of bureaucrats or state administration, but also the involvement of the private sector as a potential power of state non-bureaucracy. (Kumorotomo & Purbokusumo, 2020)The efforts made by the government in reforming efforts to prosecute and prevent corruption must be carried out jointly. (Wulandari & Dewi, 2021) In addition, it is also necessary to carry out two synergies to eradicate corruption, namely synergy and parallel between prevention and prosecution. (Sudarmanto et al., 2020)Then the second is the synergy and an integrated corruption eradication system between the National Police, the Attorney General's Office, and the Government Regulation in lieu of Law.(Simarmata et al., 2020; Yusni, 2020)

Our supreme leaders, from President Soeharto to President Soesilo Bambang Yudhoyono, with their jargon, are at the forefront of eradicating corruption, and will eradicate corruption to its roots, indiscriminately, so that the country's wealth is not drained by corruptors, will but for the welfare of the people. However, the reality is that corruption remains rampant and is a difficult act to eradicate.(Danil, 2021; Simbolon, 2020)

In its history, the legislature has issued many laws and regulations starting from the 1973 GBHN concerning the Development of Authorized and Clean Apparatus in State Management, the 1978 GBHN concerning Policies and Measures in Order to Control State Apparatus from Corruption, Abuse of Authority, Leaks and Waste of State Wealth and Finance, Illegal Levies and Other Forms of Misappropriation that Hinder the Implementation of Development, Law No.3 of 1971 on Corruption Crime, Presidential Decree No. 52 of 1971 concerning Tax Reporting of Officials and Civil Servants, Presidential Instruction Number 9 of 1977 concerning Control Operations,

Law Number 11 of 1980 concerning the Crime of Bribery.(Hussein, 2020; Sofhian, 2020)

Even the scholars have issued many fatwas and recommendations that corruption is an act that is severely cursed by God Almighty and say that the perpetrator must go to hell, including his family who will not be blessed with life.(KURNIAWAN, n.d.; Nasri, 2020) However, such lecture is only considered as a wind of the past and corruption is still rife and some actors even think that if the the people who do corruption is caught, then the incident is considered the people who do just happened to experience bad luck at that time, thus making other corruptors increasingly brave and increasingly rampant.(Afraazhari et al., 2020)

The difficulty of getting a job and having to pay bribes to pass the civil service exam are one of the reasons for civil servants to commit acts of corruption. (Abdillah, 2020) Not to mention that when they have become civil servants, they also have to bribe their superiors to get certain positions or positions which are very limited in number. The amount of costs to get a position, especially for members of the legislature, especially to get seats in parliament, starting from the dowry fee to be paid to the party that carries it, campaign costs, other logistics costs, which in total are very fantastic, so the People's Representatives Council who consist of parties, which should be at the forefront in eradicating corruption, because lawmaking is in their hands, but because to get the position must be at a very high cost, so that when they are elected to the council, they cannot it is argued again that their top priority is how to get a return on the capital they have spent. You can imagine if each member of the council when elected, what they prioritize is to get a return on the capital they have spent, then after that they try to get capital for the next election, then you can imagine, when they will think about the fate of the people and their welfare, so that corrupt behavior is considered something that is normal and they must do it.(Rinjani, 2020)

In addition, other reasons that make the corruptor increasingly rampant and more courageous are apart from the increased necessities of life and the luxurious lifestyle of state officials, plus the lack of penalties for the poeple who do corruption and the existence of reduced sentences for perpetrators every year when they have been sentenced. punishment, so that the individuals who have not committed corruption become inspired to commit corrupt acts, because they think that instead of having a hard and insufficient life, corruption is better, because in addition to the uncertain punishment, it can be light, depending on the intelligence of the lawyers who can collude with other law enforcers such as judges, prosecutors and police.(Afraazhari et al., 2020)

In this study, the need for a Government Regulation inlieu of Law in revising the law on the Corruption Eradication Commission towards improvement is a very appropriate and possible choice, because apart from not requiring discussion at the legislative level consisting of party parties, which generally have paid a large fee to

be able to sit in parliament, so that it is impossible to perfect the KPK law, the solution is to issue a Government Regulation in lieu of Law. So that later it is hoped that corruption will decrease drastically in the country. So the problem is, are acts of corruption decreasing day by day, and how do you eradicate corruption in the maximum way?

## **METHODOLOGY**

Normative legal research is a process to seek legal rules, legal principles and legal doctrines in order to answer existing legal problems. This is in accordance with the prescriptive character of law. Legal research is carried out to be able to generate debates, theories and new thoughts as a prescription in solving the problems faced, so that later the answers expected in legal research are appropriate, feasible or inappropriate. (Marzuki, 2010) This study uses a qualitative normative with a statutory approach used by researchers in the case that the research problem is the absence of norms, which means that there are no norms that can be applied in certain legal events or a completely new norm is needed to regulate the position, duties and authority of a state institution that is required in accordance with the dynamics of the constitution, a statutory approach is always carried out by examining and examining a statutory regulation, especially the substance of a statutory regulation, whether the substance of an existing statutory regulation has met the minimum standard, and whether there are gaps or weaknesses in laws and regulations so that the perpetrators escape from the bondage and its sanctions and make the perpetrators not feel afraid, but they are even more daring to commit corruption. (Gunawan, 2013)

## **RESULTS AND DISCUSSION**

Since the reform era until President Joko Widodo, our country has issued Law Number 30 of 2002 which has been amended by Law Number 19 of 2019 concerning the Corruption Eradication Commission. There are not many changes made by Law Number 19 of 2019, including, for example, the existing supervision system in the Corruption Eradication Commission, such as a request for permission to the Corruption Eradication Commission Supervisory Board prior to wiretapping, where this permit request was previously not needed, while the rest of the changes not too significant in eradicating corruption.

So far, corruption eradication has been focused on and relies on prosecution rather than prevention. You can imagine the number of state officials totaling approximately 500,000 people, ranging from non-echelon and echelon I to V officials, plus around 5,500,000 state civil servants, spread over 33 provinces, 508 districts and municipalities, not comparable to The number of law enforcers, especially the Corruption Eradication Commission, which only exists in the national capital, totaling around 1600 personnel, so logically and calculations, it is impossible

for the Corruption Eradication Commission to be able to fully eradicate corruption, it can even be said that corruption eradication only relies on repressive actions originating from Operation Catch Hands, is only an act and an act of playfulness, because of course it is very far from expectations.

The percentage increase in the number of the people who do corruption cannot be concluded with the number of people caught red-handed by the Corruption Eradication Commission, and how many cases go to court. Because by only counting the people who do corruption based on the perpetrators who were catch-hand operation and continued to court, while what we know there are many state officials throughout Indonesia from non-echelons, echelons, to state civil servants, starting from the provincial, district and city levels, to sub-districts and sub-districts or villages, which are unlikely to be reached by the Corruption Eradication Commission with very few numbers and not comparable to the number of the Corruption Eradication Commission, let alone to make efforts to arrest state officials and civil servants, it is necessary to think of other ways besides just prosecution efforts in the form of catch-hand operations.

It is too early to say that the success of the Corruption Eradication Commission is judged by means of catchhand operation of the perpetrators of corruption, because the operation of catch-hands operation only a small part of the perpetrators of corruption when viewed from the percentage of the number of state officials and civil servants throughout Indonesia. Therefore, it is better if the percentage of corruption actors fluctuates in terms of the level and pattern of life of those who live in luxury, especially the assets and wealth owned by them.

Because the level of corruption from the New Order era to the Reformation era cannot be predicted whether it is decreasing or increasing, and the measurement tool that is always used is by looking at the data on corruption actors caught catch-handed operation by the Corruption Eradication Commission, then it is concluded about the percentage of corruption actors up and down. Therefore, according to the author's opinion, the assessment can be seen from the level of the luxurious life style of state officials and state civil servants throughout Indonesia, so one way and analysis that can be relied upon is by revising and perfecting statutory regulations, especially in terms of their substance so that in the future there is no need to rely on enforcement actions in the form of catch operations which actually have a very small percentage.

The existing laws relating to corruption are deemed very inadequate, and have the potential to provide opportunities for corruptors to commit corruption as long as it is carried out with prudent principles. For example, the punishment for corruption perpetrators who are not officials, the threat of punishment is only about 4 years minimum and a maximum of life. Meanwhile, for officials who are involved or are suspected of abusing their position, the legal threat is at least 1 year and a maximum of a lifetime. This means that there is no certainty regarding the legal

threat, but it is left up to the judge who decides it and the prosecutor who demands it. If the prosecutor demands about 2 years, then the judge can rule out 2 years in prison. Not to mention if it is added to the reduction or remission that usually occurs every year, namely on independence day and feast day for religious people, so that this makes the people who do corruption feel less afraid and even more daring to commit acts of corruption as long as it is carried out with the principle of prudence. especially if in general colleagues committing acts of corruption together, so that the atmosphere in the office is only mutual understanding from fellow friends and does not elbow each other in matters of corruption.

Because there is no certainty about the threat of definite and permanent punishment for the people who do corruption, both individuals who harm the state and for officials who are related to their authority and position, but are determined by prosecutors 'demands and judges' decisions, the revision relating to the clause against the threat of punishment needs to be done, so that later for the people who do corruption there must be unity and provisions that cannot be changed either by the prosecutor as public prosecutor or by the judge as the party examining and deciding the case, where the death penalty is the most appropriate choice and alternative, without any words or appendage - minimum or maximum punishment.

The second revision relates to the assets of the people who do corruption that have escaped the state's pursuit, if any, it is not an obligation and obligation for law enforcers to examine and seize them and submit them to the state, but depends on the goodwill and willingness of law enforcers or the Commission Eradication of Corruption to investigate it, and in fact the assets of the corruptors are rarely blamed and confiscated. Therefore, sanctions or the threat of punishment stating that seizing all the assets of the corruptor is a solution so that corruptors and their families who are left behind can no longer live luxuriously - as a result of corruption.

The revision of the corruption law which is also no less important is related to the alienation of the families of the corruptors from the government, such as the exile of the families of the Indonesian Communist Party during the New Order era, where if they entered government agencies they were truly isolated and ostracized and felt their life was alienated because the actions of their parents, even though legally the family or their children have nothing to do with the actions of their parents, but this is really a whip or torture for the perpetrator and the corrupt family, so that psychologically it makes the person who is going to commit corruption right - It is right to think a thousand times, because in addition to the death penalty, his property is confiscated for the country and his family is also exiled from the government.

In addition, the corruption law must also contain a prohibition for an active state official or civil servant not to do or have a side business other than his job. Because usually a side business can be used in addition to abusing one's authority, it can also accommodate the proceeds of the assets of the perpetrator of corruption,

for example the bribe giver by transferring money to companies owned by certain officials who abuse their authority, so that in this way in addition to hiding the results of corruption or gratification make it difficult for the KPK to track and check this mode. This mode is sometimes also used by corruption actors when their assets are examined and argues that the assets obtained come from a side business, whereas the effort is only to cover up the results of the corruption that has been done so far.

Meanwhile, the Corruption Eradication Commission as the officer that will carry out the execution of the corruption law, must be given access to all agencies that are related to the possibility that the corruptors will hide the results of corruption, both in banks (because generally the perpetrators of corruption will accommodate the money from corruption in banks in the form of savings or deposits), land offices (because generally corruptors always hide the proceeds of corruption by buying property such as houses and land), one-stop administration system (*samsat*) (because in addition to buying property, the perpetrator of corruption also spends the proceeds of corruption to buy vehicles motorized vehicles, especially luxury motorized vehicles), and the stock exchange (which is often used by corruptors to hide the proceeds of corruption to buy shares and enjoy the proceeds), so that in the future the work of the Corruption Eradication Commission will not need to monitor or tap the cell phones of corruptors every day. spirit in remote areas of Indonesia, the number of which is very much consisting of 33 provinces and 508 districts and cities, because besides being difficult to do and of course it will not be possible for the Corruption Eradication Commission by tapping all state officials, both non-echelon and echelon I to echelon V, especially with the very limited number of Corruption Eradication Commission investigators and only centered in the center government, so that preventive measures in the form of Corruption Eradication Commission's access to all agencies related to the assets of the perpetrators of corruption, can be tracked and detected at any time, for example by looking at the improper increase in the amount of assets of state officials or state civil servants through acts of corruption, bribery, gratuities and so on, so that if the Corruption Eradication Commission finds state officials or civil servants who have improper assets, or an unnatural increase in the assets of state officials, the Corruption Eradication Commission can carry out an investigation or investigation, so that later if the results are found as regulated by law, the KPK can proceed towards criminal acts of corruption and impose sanctions or threats of punishment as stated in the corruption law.

In order for the Corruption Eradication Commission's actions to run smoothly and effectively without interference, the Corruption Eradication Commission must be given the authority to examine the assets of unfair state officials or civil servants by means of reverse proof, where if the official concerned cannot prove the origin of the assets it owns properly and proper and common sense, then the property must

be confiscated for the state and officials or state civil servants who own the assets must be charged under the article of corruption.

The revision of the corruption law and the Corruption Eradication Commission or other law enforcers such as prosecutors, the police certainly need to work together in eradicating corruption, and they are given mutual access to control each other's assets and assets, so that no one is free from such a monitoring system, starting from the central level to the provincial and city regency levels, so that this synergy will certainly make state officials and state civil servants no longer have bad intentions when they are going to take office, and council members will not be ambitious and will not end - spend money just to get a seat in the council, because when they take office, they will not be able to find a return for the money they have spent, so that in the future every state official, the state civil apparatus will work optimally and think about the people, because if not, then what will be others will replace it, and in the future k corruption will be significantly reduced because there are very few opportunities to commit corruption while heavy sanctions await.

For the revision of the corruption law, there is only one possible and high-chance way, namely through the Government Regulation In Lieu of Law, because apart from not having to go through the party doors in the people's representative council, which of course it will not be possible to produce and perfect the law. , because considering the large cost of parties throughout Indonesia and the cost for them to be able to sit in the DPR, so that with the pretext and reasons to return the capital they have spent and seek capital for the next election, it will not be possible for them to perfect the law especially relating to corruption and the KPK, so the Perpu is the best way and opportunity, depending on the will of the president.

## CONCLUSION

From the discussion and research results as described above, it can be concluded that there is a need for the issuance of a Government Regulation In Lieu of Law that can improve the substance of the corruption law and the Corruption Eradication Commission, which has so far been amended not for its perfection, but more towards politics and the interests of the perpetrators of corruption consisting of state officials a collection of parties and the state civil apparatus, so that corruption will be drastically reduced and the state will lead to a better and more prosperous direction, because so far we have been very concerned, where state officials and the state civil apparatus do not think about their people, but they are competing. - a competition to enrich themselves by committing acts of corruption, without any shame in showing off their assets to the public even though they know that the assets are the result of acts of corruption or misuse of their position and / or authority, and they are also without fear of the One God. Meanwhile the Corruption Eradication Commission is helpless because in addition to the many regulations that have not been regulated, plus the minimal and weak sanctions and regulations, there are also reduced sentences or remissions for corruption convicts.



To the Central Government, especially the President of the Republic of Indonesia, to immediately issue a Government Regulation in lieu of Law (*Perpu*), because our country is already in a state of emergency, is in third position after India and Cambodia, corruption almost occurs in all fronts, it can be said that there is no agency that is free from corruption. So that corruption will soon be drastically reduced, and the country will soon advance and its people will soon be able to enjoy an adequate life and no longer think about food for tomorrow and a salary that is below the UMP, because everything can only be achieved by maximizing the eradication of corruption to its roots.

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