

The Dynamics of Corruption Eradication Crimes in South Sulawesi (Study at Makassar District Court)

Muhammad Akbal*
 Departemen of Pancasila and Civic
 Education
 Faculty of Social Science
Universitas Negeri Makassar
 Makassar, Indonesia
 m.akbal@unm.ac.id

Firman Umar
 Departemen of Pancasila and Civic
 Education
 Faculty of Social Science
 State University of Makassar
 Makassar, Indonesia
 firman.umar@unm.ac.id

Abstract— This research aims to reveal the dynamics of corruption eradication crimes in South Sulawesi at Makassar District Court from 2017 until 2019. This research was an empirical research law. Techniques of collecting data used were (1) interviews, where the researchers conducted deep interviews with the judges of corruption criminal crime at Makassar District Court and (2) documentation, the researchers collected relevant documents with the focus on the research problem. In analyzing the data, the researchers adopted Miles and Huberman analysis models which are consist of three plots of activities simultaneously, namely data reduction, data presentation and drawing conclusions or verification. The results of this study showed that the first, the number of corruption crime cases that exist in Makassar District Court was decreased, but it is not significant. The second, the corruptors did the effort of appeal and cassation, until the review of the judge's decision dropped on them. The third, there is a trend of Judge' verdict of Makassar District Court in deciding the punishment of criminal act of corruption whether it is categorized as Minor and moderate categories. The implication of the study is for the judges of corruption crime in enforcing the law to eradicate corruption crimes, they must adhere to the law enforcement principles which is progressive and responsive, namely achieving legal justice, legal usefulness, and legal certainty.

Keywords: *District court, a criminal act of corruption eradication.*

I. INTRODUCTION

This article focuses on the dynamics of corruption eradication crimes in South Sulawesi through repressive effort (law enforcement) by criminal corruption in Makassar District Court, which is reviewed from two points of view namely law (normative) and sociology (reality) to obtain more comprehensive information.

The criminal corruption court is a special court which is located in a public judicial environment, domiciled in every capital regency/city whose legal areas include the jurisdiction of the relevant district courts. The duties and authorities of the criminal corruption court are governed by Article 6 of the Law of the Republic of Indonesia Number 46 of 2009 [1], namely examining, judging, and deciding corruption crimes, money laundering crimes that is original criminal (predicate crime) are criminal acts of corruption; and/or a criminal act that is expressly stipulated in other laws called as a criminal act of corruption.

As for, corruption is a criminal act which is classified as "the most serious crime". It can be said that because: first,

the existence of an intentional, organized, systematic and widespread element to cause very serious consequences, it does not only detrimental to the state's finances but also it violates the social and economic rights of the society widely [2]. Second, the perpetrators of the criminal act of corruption can be sentenced to criminal life and death penalty as a charge for perpetrators of corruption crimes when the criminal act is committed to funds intended for danger condition, national natural disasters, repetition because of social unrest which is widespread, repetition because of economic and monetary crisis, and repetition of criminal (Article 2 Paragraph 2 of the Law of the Republic of Indonesia Number 20 of 2001 juncto/in connection with Law Number 31 of 1999 concerning Corruption Eradication) [3].

Third, the consequences caused by corruption crimes during this time is a very detrimental financial (economic) state and inhibit the growth and continuity of national development so that it must eradicate to realize the society of Indonesia that is fair and prosperous based on Pancasila and the Basic Law of 1945 (the decision of the Constitutional Court No. 5/PUU-X/2012) [4].

To make the corruption crimes eradication run effectively, three efforts can be done: first, improving the system such as encouraging the transparency of state organizers through wealth reports, modernization of technology-based services, and an integrated surveillance system with the intention that the state organizers can not conduct corruption.

Second, the education and anti-corruption campaign through the study of anti-corruption education to build public awareness about the impact of corruption, so the people do not do corruption. The third, repressive is the attempt to prosecute the corruptors in the court to give the corruptor a deterrent effect [5].

In condemnation theory, the purposes of the condemnation are: first, giving a deterrent effect and denial. Imprisonment means to keep the convicted from the possibility of repeating the same crime, while denial means that the punishment which has a function to remind and creepy for potential criminals in society. Second, the punishment is the process of rehabilitation for convicted, a social and moral treatment for the convicted to can re-integrate in society fairly. Third, the punishment as moral education, namely a convicted is helped to realize and confess the mistakes that are blamed on him [6] [7].

As for the novelty in this article is so far the researchers have not found an article that discusses on how the dynamics of corruption crimes eradication committed by Makassar District Court for the last three years (in 2017 until 2019).

The problems in this article are: (1) The existence of the criminal corruption court is a real effort and commitment from the government to realize the law's supremacy, including giving a deterrent effect to the corruptors and so that the corruptors do not corruption again. (2) However, corruption cases never run out and law enforcement has not optimally provided a deterrent effect to the corruptors.

The research conducted by Bima on "re-evaluation of judges' verdict in Makassar in the case of a criminal act of corruption from 2015 until 2017 revealed that: first, the judges' verdict strongly affects the rise of criminal acts of corruption, corruption crime cases that exist in Makassar District Court was increased in 2015 where it was 98, in 2016 was 125 cases, and in 2017 was 134 cases [8]. Second, the prosecutors' demand and judges' verdict are very low so that it does not give a deterrent effect to the corruptors. The number of cases that had been decided in 2017 was 157 cases with the average prosecutor's demands, namely 2 years 8 months while the average judges' verdict is 1 year 8 months. This illustrates that the judge has not fully applied the punishment to the corruptors in giving them a deterrent effect.

Besides, according to data from the Badan Pusat Statistik showed that the index of Indonesian anti-corruption behavior in 2018 amounted to 3,66. This number is lower than in 2017 achievement which is 3,71. The index value is measured from a scale 0 to 5, if the number is closer to 5, it shows that society behaves more anti-corruption. In contrast, if the value is approaching the 0 (zero), it shows that people behave more permissive towards corruption [9].

This article aims to analyze the dynamics of corruption eradication in South Sulawesi which is conducted by Makassar District Court for the last three (3) years from 2017 until 2019.

II. METHOD

Manner: This research was empirical legal research that is intended to examine corruption crimes eradication by Makassar District Court by looking at the legal provisions (law in the book) and what is happening in the reality in society (law in action).

The legal approach was used to study the legislation of the Republic of Indonesia Law Number 20 of 2001 juncto/in connection with Law Number 31 of 1999 on corruption eradication; The Law of the Republic of Indonesia Number 46 of 2009 on corruption Court of Crime and Law of the Republic of Indonesia Number 7 of 2006 on ratification of United Nation Convention Against Corruption (UNCAC)[10]. Meanwhile, an empirical approach was used to study the dynamics of corruption crimes eradication at Makassar Court District from 2017 until 2019.

The source data used in this research was taken from primary and secondary data. The primary data was obtained directly from the interviewee/first informant related to the

focus of the research problem through an interview with the judges of corruption criminal crime at Makassar District Court. Meanwhile, secondary data was obtained through the exploring and collecting from various sources to complete the primary data, such as searching the data related to the number of cases handled by the Makassar Court District through the official website (<http://sipp.pn-makassar.go.id/>), and other documents like books, research results or journals that relevant to this study.

Research instruments: Interview guidelines, which is consist of some questions that have been formulated by the researchers to be given to interviewee/informant so that the researchers got the right answer that related to the problem of this research. During the interview process, the researchers observed, noted, and recorded all the answers given by the informant.

Techniques of analyzing data used in solving the problem: adopting the Miles and Huberman (1994) analysis Model consisting of three plots of activities simultaneously, namely data reduction, data presentation, and drawing conclusions or verifications. These three plots are a process that is related and connected with each other at the previous time, during (process) and after collecting data in parallel form to build a general insight. Data reduction is an early stage of analysis as the process of selection and concentration through simplification, abstracting, and transformation of raw data that appear from the written records of the researchers when conducting this study in the field [11].

In an effort to improve the researchers' ability to assess the accuracy of the research and convince the reader, there are 3 (three) strategies used to validate the data, namely: the first, data triangulation is done to validate the correctness of data that has been obtained through the primary data (interview results), then the researcher compared it with the secondary data. The second, the researchers' done member checking to check the truth and validity of the data in research findings by informing it with sources data so that the information that has been obtained can be used in research writing based on the informant's views in the field. The third, the researchers used the reference material through printed media (books, reports of research results or journals) and notes of the research results that have been obtained when conducting this study.

III. RESULT AND DISCUSSION

The results found that: first, the number of corruption crimes that exist in Makassar District Court had decreased, but it is not significant. It can be seen in the figure below:

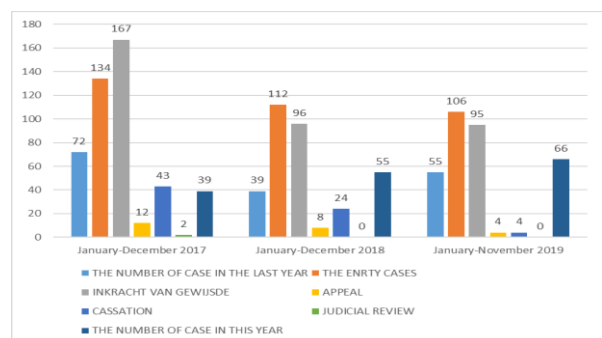


Figure 1. The Dynamics of Corruption Crimes Eradication at Criminal Corruption Court In Makassar from 2017-2019.

Years	Appeals	Cassations	Judicial Review
2017	12	43	2
2018	8	24	0
2019	4	4	0
Total	24	71	2

In the perspective of law, the effort appeal, cassation, and review of judges' verdict about corruption are reasonable, because it has been governed by the Law of the Republic of Indonesia No. 46 of 2009 about the corruption criminal Court on Article 30 on the investigation of the appeal level by High Court, about an appeal by the high court, Article 31 on the level of cassation examination level by the Supreme Court and Article 32 on the review of criminal acts by the Supreme Court.

However, in sociological perspectives, the phenomenon of law enforcement of criminal acts of corruption can raise problems. Why? The research conducted by Syamsuddin [12] revealed that if the corruption crime is handled by the District Court, then: first, the input of cases comes from the investigation, and prosecution process through police institution and persecutor that have bureaucratic, centralistic, and hierarchical characters, and the command system applies. As for, the character of the institution that is bureaucratic, centralistic, hierarchical accountability, and applies a command system can create the hidden bias behind the democracy, namely: (i) termination of the investigation of alleged criminal acts of corruption which is sufficient evidence; (ii) limitation of prospective suspects and the scope of case handling; (iii) case of handling policy as a source of commodities to obtain economic benefits; (iv) submission of low rent in exchange for money; (v) fulfilment of operational costs for handling cases by extortion. Therefore, Kristiana said that, it takes three legal approaches namely institutional, cultural and legal substance [13].

Second, the tools of evidence gathered by the police and prosecutors are sometimes weak, incomplete and sometimes deliberately weakened for certain interests. Third, the judges have a lot of failures in proving the elements of corruption crimes that indictment, sometimes it deliberately failed for the benefit of certain parties.

Fourth, there is no element of ad-hoc judges and all judges career. Fifth, the indictment of the public prosecutor is sometimes weak and less supported by the complete and convincing tools of evidence, even sometimes the indictment is deliberately weakened for certain purposes. Sixth, it less supported by a relatively clean work environment from judicial corruption influence. Seventh, it not supported by adequate funding in law enforcement.

Whereas, if the corruption criminal case is handled by the corruption criminal court, then: first, the input of the case comes from the investigation, and prosecution is done by the Corruption Eradication Commission, and certainly, they will

not dare to propose a case to the court if the evidence is insufficient or incomplete.

Second, the evidence collected by Corruption Eradication Commission certainly complete and convincing the public prosecutor and panel of judges (always able to prove the elements of the criminal act of corruption indicted) so that it is difficult for the perpetrators of corruption to be free of charges. Third, there is an element of an ad-hoc judge (3 persons) who can dynamize the court process. Fourth, the prosecutors' demand is difficult to deny because it is supported by complete evidence and it convince. Fifth, the support of the social environment/work is relatively clean from the influence of judicial corruption. Fifth, adequate funding support in law enforcement (unlimited).

Perhaps even, if a convicted corruption done appeal and cassation effort, then it could be that the panel of judge can add their punishment for example, Panel of judges of corruption criminal crime at Jakarta dropped the verdict to Djoko Susilo regarding the corruption of e-mulator driver's license, with imprisonment for 10 years, pay Rp 1.000.000.000 fine (one billion rupiah) subside/as substitute 1 year in jail and pay a replacement money for Rp 32.000.000.000 billion (thirty two billion rupiah).

Although he has been convicted, Djoko Susilo with his lawyer propose appeal. However, High Court in Jakarta add his punishment, namely 10 year imprisonment become 18 years, pay 1.000.000.000 fine (one billion rupiahs), pay a replacement money for for Rp 32.000.000.000 (thirty two billion rupiah), imprisonment for 5 years. Besides, High Court in Jakarta also revoke Djoko's right to vote and to be voted in public office (Corruption Eradication Commission [14]. This example can be used as an alternative to punish the corruptors in giving a deterrent effect.

Third, it is also found that there is trend of Judge' verdict of Makassar District Court towards criminal act of corruption which is categorize as ringan dan sedang. It can be seen in the following table below:

Table 1.2 Trend of Judges' Verdict Court in Makassar District Court

Years	Judges' Verdict Category			
	Free	Minor	Moderate	Mayor
2017	6 cases	120 cases	5 cases	0
2018	1 cases	78 cases	2 cases	0
2019	0	31 cases	0	0
Total	7 cases	229 cases	7 cases	0

the rules of implementing a court decision closely relate to the dynamics in court. In terms of dynamics in the live courts, namely in order, definite, fair, fast, smooth and positive, then judge's ruling product can be said positive anyway. In contrast, the dynamics in the courts take place in an unpredictable condition, and it dominated by the issue of bribery, then the product attributed by the judge decision, of course, it is questionable.

The deterrent effect is always seen from giving equal punishment for the corruptors. However, the law of the

Republic of Indonesia Number 20 of 2001 juncto/in connection with The Law of the Republic of Indonesia No. 31 of 1999 on corruption crime still provides space for law enforcement to drop minor verdict to the corruptors. Article 2 governs that the criminal threat is at least imprisonment for 4 (four) years and for the longest is 20 (twenty) years, at least pay Rp 200.000.000 fine (two hundred million rupiahs) and the most are Rp. 1.000.000.000 fine (one billion rupiahs); Article 3 set that the criminal threat is at least imprisonment for 1 (one) year and the longest is 20 (twenty) years and at least pay Rp 50.000.000 fine (fifty million rupiahs) and the most are Rp. 1.000.000.000 fine (one billion rupiahs). Therefore, from a legal perspective, the Minor verdict by the judges is true and legally valid.

According to Indonesian Corruption Watch, the punishment is divided into three categories, namely (1 year-4 years) Minor, (> 4 years-10 years) moderate, and mayor (> 10 years). Minor category is based on the consideration that the minimal imprisonment in Article 2 of the Corruption Act is 4 (four) years. Then imprisonment for 1 (one) until 4 (four) years are Minor category. While the moderate category is imprisonment for 5 (five) years until 10 (ten) years. Next, mayor verdict category is imprisonment more than 10 (ten) years (Watch, 2016)[15]. Besides, these three categories, there is also a free verdict, if the court argues that from, if the defendant is not guilty, and the evidence is not valid and convince, the defendant is free. (Article 191 paragraph (1) of the criminal code (KUHAP). Based on that Article explanation, it means "the actions that accused on him are not proven legally and convincingly" is not sufficiently proved according to judge assessment based on proved by using evidence according to provisions of criminal law.

Besides the implementation of prison and criminal fines, the judges can also apply additional criminal to the corruptors, namely, pay for compensating for state losses. Article 4 governs that the refund of financial losses of the state or state economy does not erase the perpetrators of the criminal act as referred to in Article 2 and 3. Further, it arranged in Article 18 paragraphs

(1), (2) and (3) that additional criminals are: deprivation of tangible or intangible moving stuff or unmoving stuff used for or obtained from criminal corruption, including the corruptors' company in which the corruption act is conducted, as well as from the stuff replace with the stuff; the same amount of substituted money payment is equal to the property obtained from the corruption; closure of all or half of the company for the longest period for 1 (one) year; revocation of all or half of certain rights or deletions of all or half of any particular profit, which has or may be granted by the government to the convicted.

As for, if the convicted person does not pay the replacement money later than 1 (one) month after the court's decision has obtained permanent legal force, then the property can be confiscated by the prosecutor and auctioned off to cover the replacement money. In the case that the convicted person does not have sufficient assets to pay the replacement money, then he can be jailed for a long time based on the provisions of the Corruption Act and the length of the sentence has been determined in the court's decision.

There are several Makassar district court decisions that not only give imprisonment and fines but also it accompanied by additional penalties in the form of state compensation money: First, Case number: 115 / Pid. Sus-TPK / 2017 / PN Mks, Judge's Verdict: imprisonment for 1 (one) year, 8 (eight) months and pay Rp. 50,000,000 fine (fifty million rupiahs) subsidier / as substitute one year jail, criminal replacement money for Rp. 1,649,791,448, (one billion six hundred forty-nine million seven hundred ninety-one thousand four hundred forty-eight rupiah) with the provisions that if the convicted within 1 (one) month after the court's decision has obtained permanent power, then his/her property can be confiscated by the prosecutor and it auctioned off to cover the replacement money, and in the case of if a convicted person who does not have sufficient assets to pay for the substitute money, then he will be sentenced to prison for 3 (three) months;

Second, Case Number: 17/Pid. Sus-TPK/2018/PN Mks. Criminal imprisonment for 5 (five) years, pay for Rp. 100.000.000 fine (one hundred million rupiahs), subsidier / as substitute 4 (four) months in jail, imprisonment for change money is Rp. 927,878,256.65 (Nine hundred and twenty-seven million eight hundred seventy-eight thousand two hundred fifty-six Rupiah sixty-five cents) with condition that if the defendant does not pay replacement money any later than 1 (one) month after a court decision has obtained permanent legal force, then his property is confiscated and auctioned off, if the defendant does not have sufficient assets to pay the replacement money as mentioned above, then he will be jailed for 8 (eight) months.

Third, Case number: 15/Pid. Sus-TPK/2019/PN. Mks, imprisonment for 3 (three) years 8 (eight) months, pay Rp. 100.000.000 fine (one billion rupiahs),), subsidier / as substitute for 3 (three) months in jail, pay the replacement money for Rp. 744,148,000 (seven hundred forty-four million one hundred forty-eight thousand rupiahs), if the convict does not have sufficient assets to pay the replacement money, then he will be jailed for 1 (one) year, 4 (four) months.

Based on the result study which conducted by Syamsuddin on 'the meaning of judges about corruption and its implications for judge' decision in the perspective of legal hermeneutics' revealed that the judge's interpretation of corruption will affect on the quality of the product of the decision made [16]. If the judge uses narrow meanings, then there is a tendency to produce free verdict (not guilty). If the judge decides a criminal sentence, the sanction is very Minor, in contrast, if the judge uses a broad meaning, then there is a tendency to produce guilty verdict (conviction), the sentence varies from minor, moderate, and mayor which depends on the judge's consideration of matters that are burdensome and relieve. Narrow and broad meaning is based on the type of corruption in the form of acts against the law and abuse of authority. Narrow meanings about an act against the law are based on the criteria of violating written legislation only, while broad meanings are based on violations of legislation and violation of appropriate values and principles of justice in society, and for abuse of authority, it can be said narrow if it violates the laws only,

while it is said to have broad meaning if it violates the laws and violates the general principles of good governance.

IV. CONCLUSION

The dynamics of eradication criminal acts of corruption in Makassar District court can be seen in three things, namely, first, the number of corruption criminal cases that exist in Makassar Court District has decreased, but it is not significant. Second, the corruptors make appeals and cassation effort, until the judicial review on judges' verdict that is given to them. Third, there is a trend of judges' verdict of the Makassar Court District in deciding cases of corruption which are categorized as Minor and moderate.

The implications of this study are for judges of corruption in upholding the law to eradicate corruption, they must adhere the principles of law enforcement which is progressive and responsive, namely achieving legal justice, legal usefulness, and legal certainty.

The findings of this study only focuses on how the dynamics of eradication criminal acts of corruption in the Makassar court district with the perspective of legal sociology. Therefore, these findings can be further developed in terms of using the perspective of legal psychology and legal politics to reveal to what extent judges' verdict on corruption can be said had meet the elements of legal justice, legal usefulness and legal certainty.

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