

Urgency and Role Attorney in Apply Restorative Justice to Settlement Case Act Criminal Corruption in Indonesia



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ABSTRACT: Attorney as apparatus enforcer given law _ authority by Constitution For eradicate follow criminal corruption emit policy in circular form by prosecutor Young Great Action Criminal Special with Number : B- 1113/F/Fd.1/05/2010 about Priority And Achievement in Handling Case follow Criminal Corruption Which instruct For make an effort return loss country use approach restorative justice For follow criminal corruption with loss country scale small . Problems Which lifted in study This is How What is the urgency and role of the prosecutor's office in applying restorative justice to the settlement of corruption cases in Indonesia. Study uses method normative juridical with analysis qualitative. The restorative justice approach used by the Attorney General is by prioritize settlement case scale big fish Andmake an effort return loss country.

KEYWORD: Attorney, Corruption, Restorative justice

INTRODUCTION

Corruption is included in the qualifications of criminal acts, p This can be seen from the form of criminal threats for the perpetrators of the crime corruption in Law Number 20 of 2001 concerning Change On Constitution Number 31 Year 1999 About Corruption Crime Eradication (Law No. 20 of 2001) namely with imprisonment. Didik Endro Purwoleksono explained in a manner short that something follow criminal is something crime (misdrijven) if type the crime is prison whereas follow type of criminal offence the penalty is a fine.

In Black's law Dictionary understanding from corruption or Corruption interpreted as following:

"The act of doing something with an intention to give some advantage inconsistent with official duties and the rights of others; For Instance a office to procure some benefits either personally or for some one else,contrary to the rights of others."

(The act of doing something with Meaning For give benefits inconsistent with official duties and the rights of others; As example in office or in institution aim For get profit Good in a manner personal or For person other, Whichconflict with the rights of others). In Indonesia, corruption has hit country This since long And almost touch all line life society, it seems, corruption has reached what is called by Robert Klitgaard as "culture corruption (Klitgaard, 2005) .

ICW Lalola Law and Judicial Monitoring Division Coordinator Easter in Launch Report Trends in Corruption Enforcement 2021. from Of these 553 cases, the potential value of the bribe that occurred was IDR 212.5 billion and the potential for illegal levies from prosecution in 2021 is there as much as IDR 5.97 billion and potential cases subject to washing there is Rp. 20.97 billion. For the general findings of the 553 cases,there were 484 new cases or 90.8 percent of the total cases handled by enforcers law (Kompas, 2022).

Effort eradication corruption No only For give punishment for they Which proven guilty with punishment Which heavily, will but Also so that whole loss country Which caused by perpetrators of corruption can return in time which isn't that long. In Law Number 20 of 2001 when reviewed deeper into the goals to be achieved by legislators is how law enforcement officers work optimally return loss to country. Apparatus enforcer law expected can identify case criminal act corruption which are considered detrimental to state finances so that they can be resolved through forms settlement of cases outside the court (out of court settlement), with count comparison mark fund operational handling case with mark loss finance country. Completion case in outside court (out of court settlement) Alone is draft from restorative justice.

Justice that has been taking place in the criminal justice system in Indonesia is justice retributive . Whereas Which expected is restorative justice, namely this justice is a process where all parties involved in a particular crime together together solve the problem of how to deal with its consequences in the future in the future, criminal acts according to the perspective of restorative justice are a violation of human and human relations. Application the principle of restorative justice it depends on what legal system adopted by a country. If the legal system does not want it, so No Can forced application restorative justice the. So it can be concluded that the principle of Restorative Justice is choice in design system a law country. Although something the state does not

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adhere to it, but does not rule out the possibility of the principle of restorative justice is applied in order to provide justice, certainty and legal benefits (Malik, 2021).

Expert criminology nationality English Tony F. Marshall in he wrote put forward that definition from restorative justice are (Marlina, 2010):

“Restorative Justice is a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future” (restorative justice is a process where all party Which interested in violation certain meet together For finish in a manner together How resolve the consequences of the violation for the sake of interest period front).

The Prosecutor's Office as a law enforcement officer who is given authority by Constitution For eradicate follow criminal corruption issued a policy in the form of a Circular Letter by the Attorney General Young follow Criminal Special with Number: B-1113/F/Fd.1/05/2010 about Priority And Achievement in Handling Case follow Corruption Crime which contains an appeal regarding the priority of handling cases that fall into the big fish category, there are also commands for trying to recover state losses using the approach restorative justice for corruption crimes with state losses small scale.

Existence Article 4 anti-crime law corruption Which imbued by paradigm retributive justice This naturally shows that the eradication of criminal acts of corruption in Indonesia does not lead to the main focus, namely saving state finances. Especially in a number of case has describe that types of fines contained in the formulation of the articles contained in Constitution eradication corruption, Already No worth it the amount of losses suffered by the state due to criminal acts corruption itself. On the other hand, the arrangement of several articles in the Law The law prioritizes punishment in the form of imprisonment and imprisonment fine, Already No relevant with development law international At the moment.

Whereas law international has open opportunity for every country party For do settlement case corruption through restorative justice in returning assets as an effort to return loss of state finances due to criminal acts of corruption. Through United Signed Nations Convention Against Corruption (UNCAC). by 133 countries, the UN urged its member states to act immediately Possible respond presence convention This specifically in context return state assets (Budi, 2016) .

If we look back, the recovery of state losses is contradictory with Chapter 4 Constitution No. 31 Year 1999 about follow Corruption, which basically explains that returns loss country No delete punishment. Letter circular Which issued by attorney the of course reap Lots critics And not seldom do suppose that Prosecutor like belittle crime corruption with release para corrupt.

However, as one of the law enforcement officials who are given authority in handling corruption crimes, in making decisions regarding this circular letter, the Attorney General's Office is certainly not arbitrary in determining policies by taking into account existing conditions and also certain conditions, one of which is the application of the restorative justice approach. can be applied to corruption crimes with small state losses (Salsabila, 2022). What is the Urgency and Role of the Prosecutor's Office in implementing restorative justice in the settlement of cases of corruption in Indonesia.

RESEARCH METHODOLOGY

This paper uses the method of writing normative law because it examines laws and regulations, literature, and journals and papers related to the material being studied, which consists of the type of data obtained in this study is secondary data, namely data obtained from library research and documentation, which is the result of research and processing by other people, which is already available in the form of literature or documentation.

DISCUSSION

Urgency Application restorative justice by attorney RI in Handling follow Corruption Crime

Appearance court follow criminal corruption in Indonesia or Which furthermore abbreviated with court corruption started when there is a judicial review of Article 53 of Law Number 30 Years 2002 about Commission Eradication Corruption on year 2006. Based on the decision of the Constitutional Court, finally in 2009, the DPR together with the Government issued Law Number 46 Year 2009 About Court follow Criminal Corruption. Court Corruption as courts special other own own position as stated in Article 3 of the Law Number 46 of 2009 domiciled in each capital city/regency Which follow area law court country Which concerned. However in Chapter 35 And Also explanation UU Court Corruption explained that for the first time the Corruption Court was formed in every District Court capital of the province.

In report Court great year 2010, explained that at the beginning of the inauguration of this law did not immediately give birth court corruption Which amount as much 33 (three twenty three) likewhat is mandated in Article 35 Paragraph (1) of the Corruption Court Law, but Because lack of budget Which There is in Court great finally in December 2010, Indonesia only has 4 (four) fruit corruption courts located in Bandung, Semarang, Surabaya and Which First time stand namely Jakarta.

System Justice criminal is A system Which function operate process something Justice criminal, Which every its components has functions such as the Police as investigators, the Prosecutor's Office as prosecutor general, court as party on duty judge And Penitentiary which has a function to socialize para condemned, Which Work in a manner together And integrated in

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business For reach objective enforcement law ie cope crime (Faal, 1991).

Related to the criminal justice system, the Attorney General's Office as one institution enforcer law Which authorized do prosecution Also function as filter And controller case (dominous lytic) Because only the prosecutor's office can decide a case submitted to the Court or not based on valid evidence. So that the existence of the Prosecutor's Office plays an important role in system Justice in Indonesia. As owner title dominant lytic (procureur die de prcesvoering vaststelt), the Attorney General is also the only the only agency that has the authority to enforce decisions court criminal or called as executive .

Role attorney in Apply restorative justice toCompletion Case follow Criminal Corruption in Indonesia

Based on the results of interviews with members of the Corruption Eradication Task Force on Directorate Investigation prosecutor great Young follow Criminal Special Attorney General of the Republic of Indonesia, stated that the Attorney in apply approach restorative justice in handling case small-scale corruption in Indonesia can only be implemented in the investigation stage. Investigation is the initial stage after there is a report or complaint which contains a series of investigative actionsto search for and find an event or event that is suspected is A follow criminal To use determine can or nope done investigation as in set in Criminal Procedure Code (Hamzah, 2019).

In respond report or complaint from public related with exists indication follow criminal corruption on maintenance local government, the Attorney General entered into a cooperation agreement with Government Internal Oversight Apparatus (APIP) and the Police. AgreementThis cooperation is motivated by increasing public awareness For do complaint on mal-administration government And follow criminal corruption to APIP And APH so that need done increasing coordination, cooperation and division of roles between APIP and APH in following up on community reports/complaints Which containing violation administrative And criminal. Implementation WorkThe agreement between APIP and APH is also a mandate from the law as there is in Chapter 385 UU Government Area, UUAdministration Government and Inpres Number 1 year 2016.

Based on Chapter 7 Agreement Work Same Ministry in State, Prosecutor's Office and Police concerning the Coordination of Supervisory Apparatuses Internal Government (APIP) with Law Enforcement Officials (APH) in Handling of Public Reports or Complaints with Indications of Action Corruption Crime in the Implementation of Regional Government After it exists reports or complaints from the public related to indications of acts criminal corruption in maintenance government area, Attorney, Police as well as APIP in the agreement explain regarding investigative or investigative examination procedures related to the report or complaint public ie If there is report or complaint from community, APIP, Attorney and Police follow up on reports orcomplaint public in accordance with authority Which given. Furthermore APIP to report or complaint public the do investigative about determination is report the is administrative error or criminal.

If APIP moment carry out investigator find exists suspected of criminal acts of corruption, then APIP will submit a report or complaint That to attorney or Police For done investigation. attorney or Police Also do handling to reports or complaints from the public and if errors are foundadministration in it then submit the matter to APIP. About error administration own a number of criteria ie a. No there is loss finance country/region in inside; b. If there is loss finance country/region And has processed through claims for compensation or demands for treasury no later than 60 (six twenty) day since report results inspection APIP or CPC received by officials or have been followed up and declared completed by APIP or BPK; c. This action is part of discretion throughout fulfilled objective And condition use discretion; or d. Action the is maintenance government Which appropriate with principle general government Which Good. And matter last about coordination the is coordination APIP, attorney And Police not applicable when caught.

The cooperation agreement is also a continuation of the memorandum agreement from Attorney, Police and so on APIP which has been in sign handle previously on date 30 November 2017 with Number: 700/8929/SJ for the Memorandum of Understanding of the Ministry of Home Affairs, Number KEP-694/A/JA/11/2017 For attorney great Republic Indonesia And Number B/108/XI/2017 Police Country Republic Indonesia.

Related with follow carry on from note understanding the, attorney furthermore emit Letter Circular with Number: B-260/F/Fd.1/02/2018 date 12 February 2018 Which containing about Enhancement Performance And Quality in Handling Case. Letter This circular contains sufficient preliminary evidence and patterns the relationship between APIP and APH in the implementation of eradication actions corruption crime. The circular also alluded to: indirectly related to the restorative justice approach, namely there is priority handling case Which scale big or big fish And focus on returns. The return of this case is meanton the recovery of state losses which is one of the goals oferadication follow criminal corruption ie restore or restore state finances that were previously in the hands of parties that were not should have rights on treasure the.

Furthermore, in the Circular Letter there are also considerations to return loss finance country on level investigation on the basis of the expediency of the handling process and its smoothness development national.

After in publish it Letter Circular Jampidsus Number: B- 260/F/Fd.1/02/2018, the Prosecutor's Office then issued Circular Number: B- 765/F/Fd.1/04/2018 dated 20 April 2018 about Instruction Technical Handling Case follow Criminal Corruption Stage Investigation Which the main thing is explain about stage investigation which is conducted by attorney No only become beginning search proof start or found incidents of criminal acts of corruption in the form of acts of resistance law, but investigation can also find or determine amount of state losses. The Circular Letter has the following aims: after determining the

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amount of state financial losses carried out by themselves by the Prosecutor's Office or by cooperating with the Supervisory Apparatus Internals Government (APIP), BPK, BBPKP, or Accountant Public has issued, then this becomes the basis if there is an attitude cooperative from parties Which involved in his efforts do returns for state losses, then more consideration can be made carry on related process continuation the law (Habib, 2020).

If it offends a little bit related to the existence of Article 4 of the Law Invite No. 31 Year 1999 about follow Criminal Corruption Which explain about return loss country No abolish penalization. As explained above that the application of restorative justice by the Attorney in small-scale corruption only applied in level investigation. In understanding investigation Alone there is emphasis Which need in take note on action "search and find" something "event" that is considered or suspected as a crime (Harahap, 2017). In this case it can be said that process investigation Still form process search is the event is a crime or not by committing collection of initial evidence so that it can proceed to the investigation stage. That is, if there is a return on state losses for criminal acts corruption with loss country small in stage investigation, No violates the provisions contained in Article 4 of Law No. 31 Year 1999 about follow Criminal Corruption, Because in stage investigation even though there have been reports or complaints related to criminal act, but when it has not yet reached the stage of investigation, Not yet can said exists follow criminal Because as explained in the meaning of Article 1 point 2 of the Criminal Procedure Code, that Investigation is a series of investigative actions to search and collect evidence with that evidence makes it clear about the crime committed happened and to find the suspect. So under the terms the article the author argues that an action is referred to as follow criminal if has enter to in stage investigation Because in stage this is a action will explained more clear Again.

CONCLUSION

The restorative justice approach used by the Attorney General is by prioritize settlement case scale big fish And make an effort return loss country. effectiveness principle restorative justice carried out by the prosecutor's office against the perpetrators criminal corruption with use draft restorative justice can seen from two aspect, that is aspect objective punishment And aspect benefits. Aspect punishment naturally deviate from objective punishment because of course the perpetrators of corruption will not have a sense deterrent, whereas if viewed from the aspect of expediency, of course you can understood Because it turns out For process perpetrator corruption goods and services procurement sector.

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