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Political Corruption In Law Number 02 Of 2020 In Handling The Covid-19 Pandemic In The Economic Sector In Indonesia

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Abstract *- This legal research examines the political corruption in Law Number 02 of 2020 in Handling the COVID-19 Pandemic in the Economic Sector in Indonesia. This legal research is normative (doctrinal) legal research which conducted by reviewing the literature. The research approach carried out uses a statue approach and a conceptual approach. The legal research uses both primary and secondary legal materials. Based on the results of this legal research, Law Number 02 of 2020, especially in Article 27, contained political corruption that focuses on the influence of the public officials in carrying out their duties and functions. The issuance of the regulation is not in accordance with the principle of equality before the law, as stated in the Constitution of the Republic of Indonesia.*

Keywords: *Political Corruption, Influence of Public Officials, COVID-19 Pandemic.*

INTRODUCTION

Since December 2019, emerged a new disease caused by the Severe-Acute-Respiratory-Syndrome-2 (SARS-Cov-2) virus (Aditya Susilo, 2020). The SARS-Cov-2 virus causes a case of unexplained pneumonia that cannot be detected. The new disease increased rapidly from December 31, 2019 to January 3, 2020). In a short span of time, the disease caused by the SARS-Cov-2 virus has spread in various countries (Ren L.L, Wang Y.M, Wu Z.Q, Xiang Z.C, Guo L, Xu T, 2020). The World Health Organization has reacted to the occurrence of mass health problems that have caused unrest for all citizens of the world. World Health Organization, on February 11, 2020, announced the name of the new disease as Coronavirus Disease-2019 (COVID-19).

The first case of COVID-19 disease confirmed occurred in Indonesia on March 02, 2020 (WHO Situation Report, 2020). Since March 31, 2020, data shows that there are 1,528 confirmed cases of COVID-19 with 136 deaths. The mortality rate for COVID-19 in Indonesia stands at 8.9%, which is the highest mortality rate in Southeast Asia (Ministry of Health of Republic of Indonesia Report, 2020). The transmission of the COVID-19 thru the human-to-human through droplets that come out when coughing or sneezing. The uncontrolled transmission of the virus caused a significant number of casualties. Various efforts were made to prevent the spread of the SARS-Cov-2 virus, which has resulted in many deaths from all countries in the world.

Indonesia got various impacts caused by the COVID-19 disease. One of the most pronounced impacts came from the economic sector. There was economic turmoil as a result of the COVID-19 pandemic. Director-General Suryo Utomo revealed that Indonesia is in a state of "perfect storm because of COVID-19", which means that Indonesia is facing a major storm caused by the COVID-19 pandemic. There are three major impacts on the economic sector. The first impact faced by Indonesia is a fall in the pace of the economy caused by falling household consumption or purchasing power which has supported 60% of the Indonesian economy. The second impact, namely the pandemic, causes prolonged uncertainty so that investment weakens and has implications for the cessation of business activities. The third impact is not only experienced by Indonesia but also all countries in the world. This is due to weakening economic growth so that the implications that arise in the form of falling commodity prices and Indonesian exports to various countries also weaken.

The COVID-19 pandemic has implications for the social, economic, and welfare aspects of the community resulting in a stagnancy in national economic growth, a decrease in state revenue, and an increase in state spending and financing and disrupting the financial system stability. The Indonesian government focuses on issuing policies on spending on health, spending on social safety nets, economic recovery, and strengthening the authority of various institutions in the financial sector in accordance with a strong and adequate legal foundation. The Indonesian government issued Government Regulation in Lieu of Law Number 01 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic in the context of dealing with the COVID-19 pandemic conditions.

Government Regulation in Lieu of Law Number

01 of 2020 was issued as a legal pillar for the threats caused by COVID-19 in the economic and financial sectors. A Government Regulation in Lieu of a Law was issued to create a basis so that threats from the economic and financial sectors are not materialized or can be mitigated (their impact minimized). The issuance of the Government Regulation in Lieu of a Law is considered to be able to accommodate the extraordinary actions needed, such as widening the deficit and other matters in order to maintain the stability of the economic and financial sectors. Apart from that, the Government Regulation in Lieu of a Law also regulates economic recovery programs so that there are combined efforts made by the government. Efforts made by the government are in the form of providing protection or protection as well as preparing efforts to recover the economic and financial sectors.

The issuance of a Government Regulation in Lieu of Law Number 01 of 2020 as stipulated as Law Number 02 of 2020 caused a polemic. This is because Article 27 paragraph (2) of the Government Regulation in Lieu of Law Number 01 of 2020 reads, "*... cannot be prosecuted both civil and criminal if the task is based on good faith and in accordance with the provisions of laws and regulations*." The phrase in Article 27 paragraph (2) is a form of thought resistance from what has been formulated in Law Number 31 of 1999 as amended into Law Number 20 of 2001 concerning Eradication of Corruption Crimes. The implication of Article 27 paragraph (2) is considered to provide legal immunity to the government (Miftahul Arifin and Ahda Bayhaqi, 2020). Another legal loophole that arises from this article is the contradiction of the principle of equality before the law adopted by the Indonesian nation as the rule of law.

In the context of providing a normative definition of political corruption, it is still an interesting thing to study and research further. The term political corruption still raises the question of whether it is a criminal act of corruption that stands alone or is still part of the criminal act of corruption in general. In 1978, John G. Peters and Susan Welch published a legal article, subsequently published by Cambridge University Press on 1 August 2014, entitled "A Political Corruption in America: a Search for Definitions and a Theory or if political corruption is in the mainstream of American Politics why is it not in the mainstream of American Politics Research." Based on the article, political corruption is an act of deviating from the formal duties carried out by public officials (both electively and appointive), where the violation is committed for personal wealth (personal, family, group, status gain) and uses the influence inherent in the position (John G. Peters, Susan Welch, 2014).

The term political corruption is often used by Dr. Artidjo Alkotsar, SH, LLM. Artidjo Alkotsar, as Supreme Court Justice for the period 2000-2018 and Chairman of the Criminal Chamber of the Supreme Court of the Republic of Indonesia for the period 2007-2018, said that cases of corruption had been categorized as extraordinary crimes since the enactment of Law Number 30 of 2002 concerning Commissions of Corruption Eradication. In the context of the criminal act of corruption as an extraordinary crime, in the realm of the court, it is the responsibility of the state because it is included in the domain of the enemy of the state and its citizens. The expansion of the meaning of the criminal act of corruption includes trading influence or trading influence and enriching oneself illegally. The act of trading (buying and selling) influence always involves political and economic power. From an ontological perspective, the act fulfills the elements of a criminal act which society does not want. From an axiological perspective, these actions are not in accordance with the values of morality, propriety, and violate existing norms and apply in the corridors of the nation and state. The act of trading influence or influence trading is a manifestation of asocial greed and transmits multi-securities corruptive behavior

The term political corruption is still a term that is not widely known in Indonesia. In the classical concept, the term political corruption is defined as the relationship between the sources of power and the moral rights of the ruler (Fransiska Adelina, 2019). Artidjo Alkotsar tried to shed some light on the term political corruption by formulating "political corruption" through various legal considerations in the cases he decided. In particular, in the corruption cases that were submitted to the Cassation legal remedy at the Supreme Court (Bambang Widjojanto, 2017). Political corruption has something to do with the abuse of authority/power (Maria Silbya E. Wangga, R. Bondan Agung Kardono, Aditya Wirawan, 2019). Political corruption is closely related to the abuse of authority/power committed by state administrators, and from the start, the series of acts committed were demonstrated by using the inherent influence of state administrators and public officials. Political corruption occurs when political decision-makers use political power as a tool to maintain power, status, and even wealth. Political corruption is defined as the manipulation of political institutions and procedural rules so as to affect government institutions and the political system and lead to institutional decay (Inge Amundsen, 1997).

The issuance of Law Number 02 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 01 of 2020 is considered to contain elements of political corruption. State administrators and public officials get immunity (provide legal immunity) in carrying out their duties if it is based on elements of good faith and in accordance with statutory provisions. Based on that case, the author presented legal research which focused on the level to examines the elements of political corruption in Indonesia.

METHODOLOGY

The kind of this research is normative legal research or doctrinal research, which is centered on the object of legal science in the form of coherence between

legal norms and legal principles (Peter Mahmud Marzuki, 2014). The normative legal research is compiled through an analysis of statutory provisions and cases with the application of power of thought (Khushal Vibhute and Filipos Aynalem, 2008). The legal materials used are primary and secondary legal materials. The author used the statute approach and the conceptual approach (Enid Campbell et al. l, 1996). The use of the statutory approach in a study will include two forms, consists of methods of law formation and methods of interpretation of the application of laws contained in statutory regulations. A conceptual approach is an approach that involves the mental integration of two or more units isolated according to characteristics and which are united by distinctive definitions.

RESEARCH RESULT

A. Literature Review and Basis of Theory

a) Overview of Corruption Crime

Based on *Black Law Dictionary* defines that corruption as an act that is carried out with the intention of obtaining several benefits that are contrary to official duties and other truths. An act of something official or someone's belief violates the law and is full of error using a number of advantages for himself or others that are contrary to duties and other truths (Surachmin, Suhandi Cahaya, 2011). International Monetary Fund (IMF) in 1998 published an article that raised legal issues related to corruption with the title, "Corruption Around the World: Causes, Consequences, Scope, and Cures." The IMF, as quoted from the article, states that corruption is "*the abuse of public power for private benefit. Corruption is generally connected with the activities of state and especially with the monopoly and discretionary power of the state.* " (Vito Tanzi, 1998). Corruption is the practice of misusing public power for personal gain. In general, corruption is related to state activities and especially in the context of the monopoly of power and discretion of public officials and state administration.

On an international scale, simultaneously providing a similar definition regarding the crime of corruption. Concrete and simple corruption is always defined as "*the abuse of entrusted power for private gain*" (Jonathan Rose, 2017). Based on the quotation, it can be seen that corruption is a series of acts in the form of abuse of power entrusted to personal gain. In a book entitled The Investigation of White Collar Crime A Manual for Law Enforcement Agencies, Ederlherz uses the term white-collar crime to refer to acts of corruption, with the following explanation: "*White-collar crime an illegal act or service of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, to obtain business or personal or personal advantage.*" (Helbert Edelherz, 1977). The definition of corruption with the reference word white-collar crime focuses on all illegal acts that are physically committed by means of machinations or bad tactics to gain personal gain.

Indonesia has the legal instrument, namely Law Number 31 of 1999 regarding the Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption, which regulates juridically-formally the definition of corruption, but there is no clear definition from corruption. There are Articles 2 and 3 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes, namely:

1. *Every person who violates the law, commits an act of enriching himself or another person in a corporation which can harm the State's finances or the economy of the State, will be punished with life imprisonment or imprisonment of at least 4 years and a maximum of 20 years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).*
2. *In this case, the criminal act of corruption, as referred to in paragraph (1), is committed in certain circumstances, the death penalty can be imposed.*

Whereas in Article 3 of Law Number 31 the Year 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes, namely:

> *Anyone who for the purpose of benefiting himself or another person or a corporation abuses his / her authority, opportunity, or means because of his position or position which may cause loss to the State finances or is imprisoned for life or imprisonment for a minimum of 1 (one) year and a maximum 20 (twenty) years and or a fine of at least Rp. 50,000,000, - (fifty million rupiah) and a maximum of Rp. 1,000,000,000, - (one billion rupiah).*

Normatively, an act of corruption can be understood as illegally committing an act to enrich oneself or a corporation that can harm state finances. The form of an illegal act is described in the Article as abusing the authority, opportunity, or means available to it because the position or position can harm state finances.

b) Overview of Authority

In the literature on legal science, political science, and the science of definition, the terms power, authority, and authority are often found. However, often the notions of power and authority are interpreted in the same sense. Even authority is often equated with the term authority. Power can simply be understood that there is a relationship

consisting of two roles, namely the ruling party and the ruled (the rule and the ruled) (Miriam Budiardjo, 1998). In law, authority is different from power. Power (macht) only describes the right to do or not act, while authority describes both rights and obligations (revhten en plichten). Power is owned by the executive, legislative, and judiciary, which is referred to as formal power. Power is an essential element of a country in the process of governance in addition to elements of law, authority (authority), justice, honesty, wisdom, and virtue (Rusadi Kantapriwa, 1998).

Authority comes from the basic word authority, which has the meaning of authority, the right, and the power to do something. Authority and authority are terms that are often used in the realm of public law. There is a significant difference between authority (authority, *gezag*) and authority (competence, *bovoegheid*). Authority is what is given by law, whereas authority is only a certain part of the authority. Within the authority, there are powers (*rechtshe voegdheden*). Authority is the scope of public legal action. The scope of governmental authority not only includes the authority to make government decisions *(bestuur*) but includes the authority to carry out its duties and provide the main authority stipulated by law.

Black's Law Dictionary conveys that the authority has the definition as "*legal power; a right to command or to act; the right and power of public officers to require obedience to their orders lawfully issued in the scope of their public duties. Authority to execute a deed must be given by deed.* "(Black Law Dictionary, 2020). Based on that quotation, it can be seen that authority is a legal force in the form of the right to rule or act, the right and power of public officials to demand compliance with orders that have been lawfully issued within the scope of their duties. Authority as a concept of public law consists of at least three components, namely:

1) The influence component is the use of authority intended to control the behavior of legal subjects.
2) The basic component of the law is that authority always appears accompanied by a legal basis.
3) The conformity component means that there are standards of authority, namely general standards (all types of authority) and special standards (for certain types of authority) (Nur Basuki Winarno, 2008).

In line with the main pillar of the rule of law regarding the principle of legality (*legalities beginselen; wetmatigheid van bestuur*) on the basis of this principle that government authority or authority comes from statutory regulations. Within the scope of administrative law, there are ways to obtain authority, including:

1) Attribution authority is the distribution of power derived from statutory regulations. In the exercise of authority, the attribution is carried out by the official and/or agency stated in the basic regulations. Attribution authority regarding responsibility and accountability lies with the official or agency as stated in the basic rules.
2) The authority of the delegation comes from the delegation of an organ of government to another organ based on statutory regulations. In the case of the delegation's authority, the responsibility and accountability shall be transferred to those given the authority and transfer to the delegation.
3) The authority of the mandate is the authority that comes from the process or procedure of transferring from a higher official or agency to a lower official or agency. Mandate powers reside in the routine relationship between superiors and subordinates unless expressly prohibited.

c) Theory of Political Corruption

In order to provide a definition or conceptual description of political corruption, it is necessary to provide a simple concept that political corruption focuses on actions committed by public officials and/or state officials. In 1978 there was a legal article by John G. Peters and Susan Welch published a legal article, which was published by Cambridge University Press on August 1, 2014, entitled "A Political Corruption in America: a Search for Definitions and a Theory or if political corruption. is in the mainstream of American Politics why is it not in the mainstream of American Politics Research." Based on this article, there is a conceptual framework in defining political corruption that is based on acts that violate the public interest, public opinion, and applicable legal regulations.

The conceptual scheme of political corruption, which is based on public interest, public opinion, and applicable legal regulations, is then linked to the definition of corruption in the form of illegal acts that violate public interests. In general, an independent corruption act would have violated the rule of law and harmed various parties. This is exacerbated by the context of the occurrence of political corruption by public officials for personal gain. Political corruption that places public officials as perpetrators in addition to violating applicable legal rules, harming public interests, violating civil order, of course, also destroys the political system that has been built (John G. Peters and Susan Welch, 1978). In the conceptual corridor of political corruption, four key elements are found, namely public officials, influence, assistance, and rewards (results).

The definition of political corruption arises based on the idea of broad public interest or common interest. In 1963, Arnold Rogow and Harold Lasswell stated that "*political corruption is a series of acts of corruption that violate responsibility in a system of public order and civil order committed by authorized officials. In fact, the series of acts of corruption proved inappropriate and destructive even though there were arguments put forward that the series of acts were carried out in order*

to achieve the public interest."(Harold Lasswel, 1963). Public officials in carrying out their duties are influenced by nature and the roles attached to them. The nature and roles of these public officials then have a dominant influence in dealing with situations of conflict of interest. These characteristics and roles then become the dominant influence on the occurrence of political corruption.

In 2004, The Brookings Institution and Transparency International organized a symposium to discuss political corruption in the United States and various countries around the world. The symposium stated that state administrators and public officials in carrying out their political activities committed various irregularities. This deviation in the process of political activity is closely related to the influence (public servant's influence) held by state administrators and public officials, which has an impact on the life and interests of the public (The Brookings Institution and Transparency International, 2008). There has been found a reform of the law and the rule of law carried out by many countries in the world that aim to achieve justice for society. However, these reforms are considered to have legal loopholes because they are still prone to be exploited for the same reasons, namely personal gain.

The theory of political corruption is the basis for legal research compiled by the author to examine the political elements in policies published by the government, namely Law Number 02 of 2020. The Indonesian government, through the legislative body in issuing a policy, has a political element. Prof. Dr. Eddy OS Hiariej said that cumulatively there are three parameters to justify whether a policy has entered the realm of criminal law, including (Online Newspaper: Kompas, 2020).

1) Policy becomes an entry point for committing a crime. The contextual of this parameter is related to the teaching of causality in criminal law that between the policy and the crime is a series of the occurrence of a criminal act.
2) There is a quality in policymaking. The theoretical element of aji is qualified in the policy-making process related to the inner attitude of a person who has the authority to carry out certain actions with certain goals. The process of proving the aji mumpung element can be carried out by means of a deliberate value carried out objectively based on existing facts.
3) The policy breaks the rules. Regulations have broad and abstract definitions. However, what becomes a strong point in this parameter is the regulations made by public officials or state institutions that violate existing laws and regulations.

d) Theory of Legal Positivism

In the context of law formation, the meaning of the law is often perceived as a written form of law, namely statutory regulations. Law is a statutory regulation established by an agency that has the authority, with the existence of sanctions to regulate the social life of the community. In a juridical sense, the law is determined by the government of a country by issuing a law (Theo Huijbers, 1991). However, in the actual context, the law is a rule that originates from the state and is confirmed by the state.

John Austin put forward a theory which is later known as legal positivism or legal positivism, where the theory arises from the fact that there is a power that gives orders, and in general, there are people who obey the order. Austin stated that law has several elements, including a sovereign, an order, there is an obligation to obey (duty), and there are sanctions for those who do not obey (sanction) (Frederick Schauer and Virginia J. Wise, 1997). Legal positivism is also known as a legal theory that provides a view on the separation between law and morals. The implication of this is that a norm can be considered as law if the formal criteria in the formation of the law have been met (Achmad Ali, 2009). Austin, who is known as the founding father of legal positivism, views law as "imperium oriented," which views law as most of the rules imposed from certain sources who are authorized to make them (Brian H. Bix, 1999). Therefore, Austin focuses on the process that forms a formal rule of law through its validity.

Hans Kelsen explained positivism with eine Reine rechtehre and lengdell mekachistis jurisprudence which are defined as a set of theories and teachings in modern law and legal practice based on the foundation of a developing positivism philosophy. Positivism flow both in legal science and in legal practice as a theory and teaching that reduces human existence in their life processes which are controlled by the certainty of cause and effect law (Anom Surya Putra, 2003). From this concept, humans do not have free will. Positivism seems free, but in real life, it is bound (because it is regulated by norms contained in law), or humans are controlled by complete and free laws.

Positivism in the sense of law acts as the highest status (supreme of law), which consists of a long series of statements about various actions that are identified as legal facts with consequences called legal consequences (B. Arief Sidharta, 2006). The positivist paradigm of law appears in the form of positive norms as stated in the law "*law as it is written in the book*"(Haryono, 2019). Legal positivism functions as a government's social control or as social control over society. Positive norms are organized systematically and hierarchically into a juris corpus with high coherence, developed through theories and doctrines.

Legal positivism is rooted in theoretical

understanding as a paradigm that reinforces the power of positive law. Legal positivism theory views law in the form of laws. Judging from its substantial content, the law is an order from the ruler, so there is a ruling authority that forms laws. In legal positivism theory, justice is not an element in law because justice is seen as a regulative element, not a constitutive element (Sudiyana and Suswoto, 2018). In the context of the issuance of Law Number 02 of 2020, legal positivism theory will not be a problem if it meets the criteria issued by the authorities/authorities, formal procedures are fulfilled, and does not conflict with higher regulations. However, in the positivistic corridor, it is still necessary to pay attention to the hierarchical level of norms. Lower norms, in this case, Law Number 02 the Year 2020, must be based on the norms above it (Hans Kelsen, 1961). The phrase reads in Article 27 paragraph (2) of Law Number 02 the Year 2020 contrary to the 1945 Constitution of the Unitary State of the Republic of Indonesia, more precisely in Article 28D paragraph (1). Norms in the context of legal positivism theory recognize the principle of lex superior derogate lege inferior or higher regulations overriding the regulations that are under it (Gu Jian-Ya, 2008).

DISCUSSION

The COVID-19 disease has become a pandemic that threatens the world. Various negative impacts have been caused by countries affected by COVID-19, not only in the health sector but also in political, economic, social, and various other fields. Indonesia is one of the countries affected by COVID-19. In order to adapt and make efforts to prevent the transmission of the COVID-19 disease, many countries in the world have implemented policies in the form of social distancing, physical distancing, and even lockdown. Policies implemented by the government in the form of social distancing, physical distancing, and lockdown to break the chain of virus spread have had an impact on the economic sector. The IMF Research Director said that the lockdown policy that was put in place caused a slowdown or even a fall in the rate of economic growth.

Indonesia does not escape the various impacts caused by the COVID-19 disease. The economy is an example of a field that has been badly affected by the COVID-19 pandemic. There was economic turmoil caused by the COVID-19 pandemic. The Director-General of Taxes of the Ministry of Finance, Suryo Utomo, revealed that Indonesia is in a state of "perfect storm because of COVID-19", where this expression means that Indonesia is facing a major storm caused by the COVID-19 pandemic, of which there are three major impacts. in the economic sector (Republika, 2020). As quoted from the online news page Republika (2020), the first impact faced by Indonesia is a fall in the economic rate caused by falling household consumption or purchasing power which has supported 60% of the Indonesian economy. The second impact, namely the pandemic, has caused prolonged uncertainty so that investment will also weaken and have implications for the cessation of business activities. The third impact is not only experienced by Indonesia but also all countries in the world. This is due to the weakening of economic growth so that the implications that arise in the form of falling commodity prices and Indonesian exports to various countries also weaken.

Various countries in the world are making adaptation efforts to deal with a pandemic situation. One form of adaptation is taken in formulating policies in the economic sector. A policy is a series of actions/activities proposed by a person, group, or government in a certain environment where there are obstacles and opportunities to the implementation of the policy proposal in order to achieve certain goals (Agustino, 2008). The substance of the issuance of policies is that there are behaviors that have goals and objectives. Policies must clearly indicate what must be done to solve a problem.

In the corridor, the scope of public policy studies covers various fields such as economy, social, politics, law, and various other fields. Hierarchically, public policy can be local, regional, or national. If further explained, public policies can be contained in the form of government regulations, presidential regulations, regulation regulations, regional/provincial government regulations, governor decrees, city/regency regional regulations, and regent/mayor decrees. In terminology, public policy is an "authoritative allocation of values for the whole society," or it can be understood as the process of allocating values to the whole society (Winarno, 2007). Thomas R Dye explained that "public policy is whatever the government chooses to do or not to do," or what can be interpreted that public policy is everything the government chooses to do or not do something. The public policy stands as an effort to achieve goals, values in systematic and directed practices aimed at the benefit of society.

The Indonesian government is one of the countries that has participated in issuing public policies in the economic sector in the face of the COVID-19 pandemic conditions. The conditions of the COVID-19 pandemic must be dealt with through a responsive and flexible economic strategy carried out collectively (McKibbin and Fernando, 2020). The decline or even the economic slowdown caused by the pandemic conditions raises concerns for economic growth in Indonesia. The Indonesian government issues a policy in the economic sector as a solution to the economic problems it is currently facing.

Law Number 2 of 2020 concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or in the Context of

Facing Threats Endanger the National Economy and/or Financial System Stability was born as a practical policy for handling the impact of the COVID-19 pandemic, especially in the economic sector. However, the issuance of this policy caused polemics in the community. As reported by the online news page Merdeka (2020), Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020, especially in Article 27, is considered to provide legal immunity to the government. The controversy culminates in the textual interpretation of Article 27, namely:

(1) Costs that have been incurred by the Government and/or KSSK member institutions in the context of implementing state revenue policies, including policies in the field of taxation, state expenditure policies including policies in the regional finance sector, financing policies, financial system stability policies, and national economic recovery programs, are part of the economic costs to save the economy from the crisis and not a loss to the state.

(2) Members of the Financial Sector Policy Committee, the Secretary of the Financial Sector Policy Committee, members of the Financial Sector Policy Committee secretariat, and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, and the Deposit Insurance Corporation, and other officials related to the implementation of this Government Regulation in Lieu of a Law, cannot be prosecuted either civil or criminal if in carrying out duties based on good faith and in accordance with the provisions of the legislation.

(3) All actions, including decisions made based on this Government Regulation in Lieu of Law, are not the object of a lawsuit that can be submitted to the state administrative court.

The textual sound in Article 27 is considered to open up gaps in corruption (Kompas, 2020).

The phrase in Article 27 of Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 gives birth to a critical mindset, if there are actions, actions that have legal consequences from the government and are given immunity is this in accordance with the principles of the rule of law. Equality before the law becomes an axis that is not equivalent to a statement of immunity from the law. Immunity shows that the government textually filed a petition to excuse all its mistakes in carrying out policies, deeds, and actions. All people are not equal in ability, expertise, and class, but the rule of law upholds equality before the law. "... that does not mean that all men are or can be equal in possessions, inability, or in merit;

It is feared that the phrase in Article 27 of Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 is feared to develop into multiple contextual and practical interpretations, namely:

a. Declare that all costs incurred by the government are part of the economic costs for saving the country and are not a loss to the state.
b. All parties appointed in the implementation of Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or in the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability cannot be prosecuted civil or criminal if it is based on good faith and laws and regulations in carrying out its duties.

The two sounds of Article 27 paragraph (1) and Article 27 paragraph (2) contain political corruption.

In providing a definition or conceptual description of political corruption, it is necessary to provide a simple concept that political corruption focuses on actions committed by public officials and/or state officials. In 1978 there was a legal article by John G. Peters and Susan Welch, which was subsequently published by Cambridge University Press on August 1, 2014, entitled "A Political Corruption in America: a Search for Definitions and a Theory or if political corruption is in the mainstream of American Politics why is it not in the mainstream of American Politics Research. " Based on this article, there is a conceptual framework in defining political corruption that is based on actions that violate the public interest, public opinion, and applicable legal rules (Peters and Welch, 2014).

Political corruption arises based on the idea of broad public interest or common interest. The book by Rogow and Lasswell (1963) states that "political corruption is a series of acts of corruption that violate responsibility in a system of public order and civil order committed by authorized officials. In fact, the series of acts of corruption proved inappropriate and destructive even though there were arguments put forward that the series of acts were carried out in order to achieve the public interest. " Public officials in carrying out their duties are influenced by nature and roles attached to them. The nature and role of these public officials, in turn, have a dominant influence in dealing with situations of conflict of interest. These characteristics and roles then become the dominant influence on the occurrence of political corruption. In the conceptual corridor of political corruption, three key elements are found, namely public officials, influence, and results.

Political corruption is a part of white-collar crime. White-collar crime is a crime committed by people in a work environment wearing white collared clothes as a description that they have a position, respect, and high social status. As quoted from Sutherland's theory in Muhammad Mustofa's (2010) book, "white-collar crime

is the part of upper world counterparts of the professional thieves." which can be interpreted that white-collar crime is part of professional theft from the top class. Sutherland provides a basic definition that white-collar crime refers to the type of behavior of a crime, namely people who come from a high economic class who violate laws designed to regulate their work (Mustofa, 2010).

Hazel Croall defines white-collar crime as " the abuse of legitimate occupational rule which is regulated by the law ... the term white-collar crime with fraud, embezzlement and other offenses associated with high-status employees." (Lopa, 2002). Corruption is an action that emphasizes the abuse of office. Hazel's definition of corruption fulfills the elements of political corruption, namely the influence of public officials who make a policy that contains abuse of office. The Brookings Institution and Transparency International (2004) discusses political corruption in the United States and various countries around the world. The symposium stated that state administrators and public officials in carrying out their political activities committed various irregularities. This deviation in the process of political activity is closely related to the influence (public servant's influence) held by state administrators and public officials, which has an impact on the life and interests of the public. This exposure fulfills a key element of political corruption, namely results. In this case, the emphasis is on the impact on the public interest as a result of the influence of state administrators or public officials.

Based on the presentation of the conceptual picture of political corruption, which focuses on the points of influence of the organizers or public officials. So in Article 27 paragraph (1) and paragraph (2) Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability illustrates certain criteria of political corruption. If explained further, namely: In the sound of Article 27 paragraph (1), "*... policies in the field of taxation, policies on state spending include policies in the regional finance sector, financing policies, policies on financial system stability*."

The policy is a form of action/activity proposed by the government in a certain environment where there are obstacles and opportunities to the implementation of the policy proposal in order to achieve certain goals. Law Number 2 of 2020 concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or in the Context of Facing Threats Endanger the National Economy and/or Financial System Stability is a form of policy issued by the Indonesian government. This policy is a form of adaptation in the conditions of the COVID-19 pandemic in the economic sector. However, The issuance of this law has caused a polemic which refers to the sentence "a form of saving the economy from the crisis and not a loss to the state". The contents of this article have the potential to become a form of abuse of power by state officials for their own interests, which can harm the state.

As stated in Article 27 paragraph (2), "*Members of the Financial Sector Policy Committee, Secretary of the Financial Sector Policy Committee, members of the Financial Sector Policy Committee secretariat, and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, and the Deposit Insurance Corporation, and other officials related to the implementation of the Substitute Government Regulation This law, cannot be prosecuted either civil or criminal if in carrying out tasks based on good faith and in accordance with the provisions of laws and regulations.*" The article in the law provides immunity to state officials because they cannot be prosecuted, both criminal and civil.

Eddy OS Hiariej, as reported on the online page Kompas (2020), said that cumulatively there are three parameters to justify whether a policy has entered the realm of criminal law, including:

a. Policy becomes an entry point for committing a crime. The contextual of this parameter is related to the teaching of causality in criminal law that between the policy and the crime is a series of the occurrence of a criminal act.
b. There is a quality in policymaking. The theoretical element of aji is qualified in the policy-making process related to the inner attitude of a person who has the authority to carry out certain actions with certain goals. The process of proving the moral hazard element can be carried out through the existence of a deliberate value carried out objectively based on existing facts.
c. The policy violates the rules. Rules have broad and abstract definitions. However, the strong point in this parameter is the regulations made by public officials or state institutions that violate existing laws and regulations.

In this case, Article 27 paragraph (1) and paragraph (2) of Law Number 02 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 01 of 2020 concerning State Financial Policies and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability Becoming a Law fulfills the indicator parameters of a policy that has entered the criminal realm.

CONCLUSIONS

Article 27 paragraph (1) and paragraph (2) of Law Number 02 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 01 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (COVID-19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability contain political corruption that focuses on the influence of the organizers or public officials. In the issuance of laws and regulations, the organizer or public official misuses the authority attached to it by granting immunity to the organizer or public official in carrying out their duties and functions. Other than that, in the issuance of these laws and regulations, it is not in accordance with the principle of equality before the law adhered to by Indonesia as a state law as stated in the Constitution of the Unitary State of the Republic of Indonesia.

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