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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

**Reconstruction of Regulations Regarding Civil Responsibility Towards  
The Heirs of Corruption Based on Justice**

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**Abstract.** Criminal acts of corruption are very detrimental to state finances or the country's economy and hinder national development, so they must be eradicated in order to create a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Criminal acts of corruption that have occurred are widespread, not only detrimental to state finances, but also a violation of the social and economic rights of society at large. Corruption has become very widespread and has penetrated systemically into all sectors at various central and regional levels in all state institutions, both executive, legislative and judicial. Therefore, the criminal act of corruption is a class of extraordinary crime, so that its eradication must be carried out with extraordinary measures (extraordinary measures), as well as using extraordinary legal instruments (extraordinary instruments). Corruption cases in Indonesia are public consumption which can be obtained through various mass media, both print and electronic. Hardly a day goes by without news about corruption cases. The Corruption Eradication Commission (KPK) revealed that criminal acts of corruption have had extraordinary consequences in various aspects of people's lives, such as high poverty rates, unemployment, increasing foreign debt, and natural damage. According to the Central Statistics Agency (BPS), Indonesia has experienced its lowest point in terms of poverty percentage since 1999, namely 9.82 percent in March 2018. With a poverty percentage of 9.82 percent, the number of poor people or those whose monthly per capita expenditure is below The poverty line reaches 25.95 million people. When compared with the previous period, namely September 2017, the poverty percentage was recorded at 10.12 percent or the equivalent of 26.58 million poor people in Indonesia.<sup>1</sup> Even though this figure shows a decrease from the previous year, the level of social welfare and the number of poor people is still quite large. As an effort to overcome criminal acts of corruption which are included in the category of extraordinary crimes, legislators formulated several important things, which are considered to be able to be used as tools to ensnare and have

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*a deterrent effect on perpetrators, namely the principle of reverse evidence and heavy sanctions, including criminal penalties.*

**Keywords:** *Civil Responsibilities; Corruption; Justice System.*



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## 1. Introduction

The formulation of articles relating to these two things is of course based on thought and is motivated by the desire to eradicate criminal acts of corruption. However, this formulation policy is not followed by the application policy. Just as the principle of reverse evidence is reluctant to be applied in trials for criminal acts of corruption, judges for criminal acts of corruption are also reluctant to apply the threat of the death penalty against perpetrators of criminal acts, even though it is clear that the state has lost billions, even trillions of rupiah and many members of society have lost the opportunity to enjoy welfare as a result of the criminal act.

The definition of corruption according to Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption is every person who unlawfully commits an act of enriching themselves or another person or a corporation which can harm state finances or the economy of the State. The perpetrator of a criminal act of corruption must be criminally responsible. while also meeting civil liability demands resulting from unlawful acts as described in Article 1365 of the Civil Code (here in after referred to as the Civil Code).

Property is one of the valuable things that humans own. Because of this wealth, humans can obtain whatever they want. One way to obtain these assets is through inheritance, namely obtaining a number of assets resulting from someone's death. Inheritance law is a set of legal rules that regulate the transfer of rights to inherited goods owned by people who have died (heirs) to living people left behind by the heirs who are called heirs. An heir is a person who receives inheritance/will from a deceased family member.<sup>1</sup>

Article 34 Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes states that if the defendant dies during the examination stage of the trial and there has been a real loss to the state, the Public Prosecutor will immediately hand over a copy of the minutes of the trial to the State Attorney for a civil lawsuit to be filed with an expert. his heir.<sup>2</sup>

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<sup>1</sup> Loc, cit

<sup>2</sup> Loc, cit

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The provisions of Articles 32, 33, 34 of Law number 31 of 1999 in conjunction with Law number 20 of 2001 concerning the Eradication of Corruption Crimes which emphasize that, if the defendant has died at the time of the examination at the court hearing, there has been financial loss.

the state, therefore the public prosecutor immediately submits a copy of the trial minutes file to the state attorney general or it can also be submitted to the agency that has suffered the loss so that a civil lawsuit can be filed against the heirs of the convict. The provisions of articles 32, 33, 34 of Law number 31 of 1999 in conjunction with Law number 20 of 2001 on the eradication of criminal acts of corruption which emphasize that, if the defendant has died during the examination at the court hearing, there has been a loss to state finances. Therefore, the public prosecutor immediately submits a copy of the trial minutes file to the state attorney general or it can also be submitted to the agency that has suffered the loss so that a civil lawsuit can be filed against the convict's heirs. In reality, most cases of corruption that are detrimental to the state and nation are not yet fully liable for civil liability to the heirs of the corruptor when a corruptor dies. The following are several cases where the perpetrator of corruption in these cases died and his heirs could not be held responsible to compensate the state for their losses:<sup>3</sup>

The issue of the death of a corruption convict does not immediately mean that legal responsibility can be transferred to his heirs easily. This could potentially result in the inability to compensate for losses caused by corruption cases to the state. This can clearly result in unfair law enforcement in corruption cases, both in the dimension of accountability for the heirs of corruptors and in efforts to recover state losses due to corruption. This has also deviated from the sense of justice as mandated by the fifth principle of Pancasila and Article 28D paragraph (1) of the 1945 Constitution.

Based on the various explanatory narratives above, it is necessary to carry out further discussions regarding "RECONSTRUCTION OF REGULATIONS RELATED TO CIVIL RESPONSIBILITY TOWARDS THE HEIRS OF CORRUPTION PERFORMERS ON A JUSTICE BASIS".

## **PROBLEM STATEMENTS**

1. What are the current civil liability regulations for the heirs of corruption perpetrators?
2. What are the obstacles in implementing civil liability regulations for the heirs of corruption perpetrators today?

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3. How is the reconstruction of civil liability regulations for the heirs of corruption perpetrators based on justice?

## 2. Research Methods

### Research Purposes

1. To analyze, describe and find problems related to the current civil liability regulations for the heirs of corruption perpetrators.
2. To analyze, describe and find obstacles in implementing civil liability regulations for the heirs of current corruption perpetrators.
3. To reconstruct regulations on civil responsibility for the heirs of corruption perpetrators based on justice.

### Research Benefits

It is hoped that this dissertation research will have several benefits, both theoretical and practical.

#### 1. Theoretical Benefits

Theoretically, it is hoped that the results of this dissertation study will be able to fully provide a renewal of the concept of thinking in finding a solution approach

the issue of injustice in the implementation of civil accountability towards the heirs of corruption perpetrators who are currently experiencing legal uncertainty.

#### 2. Practical Benefits

Practically, it is hoped that the results of this dissertation study will be capable provide updated methods in the mechanism for resolving civil liability issues for the heirs of corruption perpetrators who are currently experiencing legal uncertainty.

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### **Conceptual Reconstruction**

The definition of reconstruction in the Big Indonesian Dictionary is returning to its original state or re-arranging (depiction) it.<sup>4</sup> According to James P. Chaplin, reconstruction is the interpretation of psychoanalytic data in such a way as to explain the personal development that has occurred, along with the meaning of the material that now exists for the individual concerned.<sup>5</sup>

Meanwhile, according to Ali Mudhofir, reconstructionism is a flow in educational philosophy that has radical characteristics. For this school, educational and cultural issues are looked far into the future and, if necessary, efforts are made to form a new civilizational order.<sup>6</sup>

## **2. Regulations**

Regulation is a rule that is made Forhelps control a group, institution/organization, and society in order to achieve certain goals in living together, in society, and in socializing. The purpose of making regulations or rules is to control humans or society within certain limits, and these regulations are applied to various social institutions both for the needs of the general public and for business.<sup>7</sup>

According to M. Nur Solikhin, Executive Director of the Center for Indonesian Law and Policy Studies (PSHK), there are at least 2 (two) main problems occurring in the regulatory system in Indonesia, namely first, the continuing increase in the number of laws and regulations in Indonesia. Second, many of the existing laws and regulations are not in sync with each other. So, according to Solikhin, these two problems are a "disaster" that hinders the country's development. For this reason, radical efforts are needed, namely through systematic regulatory reform.<sup>8</sup>

<sup>4</sup> <https://kbbi.web.id/rebangun>, accessed on January 25 2020, at 08.17 WIB.

<sup>5</sup> James P. Chaplin, Complete Dictionary of Psychology, Raja Grafindo Persada, Jakarta, 1997, p.421.

<sup>6</sup> Ali Mudhofir, Dictionary of Theories and Schools in Philosophy and Theology, Gajahmada University Press, Yogyakarta, 1996, p. 213.

<sup>7</sup> M. Prawiro, "Understanding Regulations in General, Objectives, Examples of Regulations," Maxmanroe, 2023, <https://www.maxmanroe.com/vid/bisnis/pengertian-regulation.html>.

<sup>8</sup> Normand Edwin Elnizar, "The Urgency of Establishing a Special Institution to Manage Regulatory Reform: A Radical Effort But Believed to Have a Quick Effect,"



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### 3. Responsibility

Responsibility is one of several attitudes that are values in character education. Responsibility is a person's attitude and behavior to carry out their duties and obligations.<sup>9</sup> Responsibility is an attitude of being ready to choose a choice that you want to make in life, and being ready to face the consequences of the choice that has been made. Thus, everything that has been done should be considered in depth first and not rushed. Because an irresponsible person according to Fatchul Mu'in is a person who has low self-control, is hasty in choosing an option.<sup>10</sup> Responsibility is having self-control, being able to carry out tasks well individually and in groups, and having high accountability.<sup>11</sup>

The characteristics of a responsible attitude that must be possessed and instilled in everyday life are as follows:<sup>12</sup>

- a. Able to carry out tasks on time;
- b. Have self-control and discipline in situations
- c. Having accountability, ready to be asked for responsibility and ready to be held accountable;
- d. Always do your best in everyday life;
- e. Always consider the consequences of the actions taken;
- f. Always show perseverance, diligence, and keep trying to achieve achievements.

<sup>9</sup> Hukum Online.Com, 2023, <https://www.Hukumonline.com/berita/baca/lt5c07327ba1924/urgensi-pembesaran-anggaran-besar-pengelola-besar-regulation/>.

<sup>10</sup> Sri Narwanti, Character Education, Familia Pustaka Kapuas, Jogjakarta, 2014, p. 30.

<sup>11</sup> Fatchul Mu'in, Theoretical and Practical Construction of Character Education, Ar-Ruzz Media, Jogjakarta, 2014, p. 219.

<sup>12</sup> Sanggar Grasindo Team, Getting into the habit of commendable behavior, PT Gramdia Widiararana Indonesia, Jakarta, 2010, p. 5.



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#### 4. Civil Cases

The definition of a case is concluded in two situations, namely there is a dispute and there is no dispute. There is a dispute, meaning there is something that is the subject of a dispute, something is being disputed and something is being disputed. Disputes or disputes cannot be removed or resolved by the parties themselves, but require resolution through a judge as an authorized and impartial institution, for example inheritance disputes, buying and selling, etc. A civil case also has an applicant and a respondent. The applicant is someone who asks the court to determine or affirm a right for himself or regarding a certain legal situation, for him there is absolutely no opposition (no dispute with other people), and the respondent in this case he is not a party but needs to be presented before the court to have his statement heard for the purposes of the examination, because the requesting event has a direct legal relationship with the applicant. Civil courts that resolve petition cases as above are called *jurisdictio vokuntaria* or non-real courts.

Furthermore, there is a case that does not contain disputes. No dispute means there is nothing to dispute, nothing to dispute. The person concerned does not ask for justice or a decision from a judge regarding the status of a matter, so that he or she obtains legal certainty that must be respected and recognized by everyone. For example, requests to be designated as legal heirs, requests regarding adoption of children, and so on.<sup>13</sup>

#### 5. Heir

Heirs are people who are entitled to the inheritance left by the testator. In the book *Islamic Inheritance Law in Indonesia*, Sajuti Talib defines an heir as a person who has the right to receive a share of inheritance. In other literature, heirs are defined as one or several people who are recipients of inherited assets. Heirs are also defined as people who have the right to inherited assets

left behind by the person who died. According to *Compilation of Islamic Law* the heir is the person who at the time the deceased was related by blood or relationship marriage with the heir, Muslim or not prevented by law from becoming an heir.

<sup>13</sup> Abdulkadir Muhammad, *Indonesian Civil Law*, PT. Citra Aditya Bakti, Bandung, 2011, p. 18.

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Wirjono Prodjodikoro inherited according to national inheritance law in a way of resolving legal relations in society, which gives rise to more or less difficulties as a result of someone's death. Inheritance is a matter of whether and how various rights and Obligations regarding a person's wealth when he dies will pass to other people who are still alive.<sup>14</sup>

## 6. Perpetrators of Criminal Offenses

The perpetrator of the crime in this case has been named who are considered to be perpetrators of criminal acts, as in Article 55 paragraph (1) and paragraph (2) of the Criminal Code, namely:

- 1) Those who do, order and participate in carrying out actions.
- 2) Those who give or promise something by abusing their power or dignity, by using force, threats or misleading, or by providing opportunities, means of encouraging other people to carry out actions in Paragraph (2) against the proponent, only actions that are deliberately recommended are taken into account, along with their consequences.<sup>15</sup>

Formally, a criminal act is a form of behavior that violates the criminal law. Therefore, every act that is prohibited by law must be avoided, and anyone who violates it will be subject to criminal penalties. So certain prohibitions and obligations that must be obeyed by every citizen are included in laws and government regulations, both at the central and regional levels. Bearing this in mind, every member of society as a whole, together with official authorized institutions such as: the police, prosecutor's office, judiciary or court, community institutions and others, tackle every crime or crime as far as possible. Every crime committed by a person will result in a consequence, namely a violation of legal provisions and government regulations. As a result of this violation, the criminal perpetrator will be given legal sanctions or consequences in the form of criminal or criminal penalties. Article 304 of the Criminal Code:

Any person who intentionally causes or leaves someone in misery, while he is obliged to provide care or maintenance for that person because of the law that applies to him or because of an agreement, is punished by imprisonment.

<sup>14</sup> Hamzah Ahmad, Smart Indonesian Dictionary, Fajar Mulya, Surabaya, 1996, p. 411.

<sup>15</sup> Beni Ahmad Saebani, Fiqh Mawaris, CV. Pustaka Setia, Bandung, 2009, p. 17.



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Conditions that must be fulfilled by a criminal offense can punish someone while fulfilling demands justice and humanity, there must be an action that is against the law and can be blamed on the culprit.

## 7. Corruption

The term criminal act comes from the term as known in Dutch law as "strafbaar feit". Strafbaar feit consists of three words, namely straf, baar, feit, which is straf translated as criminal and legal, while baar translated as can and may. Meanwhile, the word feit translated with acts, events, violations And deed.

## 3. Results and Discussion

Meanwhile, criminal acts or actions criminal is an act for which the perpetrator can be charged criminal law. This is according to Moeljatno's opinion States that :<sup>16</sup>

"That criminal acts are acts that are prohibited by a rule of law. This prohibition is accompanied by threats (sanctions) in the form of certain penalties for anyone who violates the prohibition. It can also be said that a criminal act is an act which is prohibited by a legal rule and is punishable by criminal law, as long as it is remembered that the prohibition is directed at an act (i.e. a condition or event caused by the person's behavior), while the threat of criminal action is directed at the person who causes it. that incident."

The word corruption comes from the Latin word Corrupti or Corruptus, which literally means rottenness, depravity, dishonesty, bribery, immorality, deviation from purity, insulting or slanderous words as can be read in The Lexion Webster Dictionary. So, from a linguistic point of view, corruption means the decline of everything that is good, healthy and true into fraud and rot. Then the meaning of the word corruption which has been accepted in the Indonesian

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<sup>16</sup> Andi Hamzah, Corruption in Indonesia Problems and Solutions, PT. Gramedia Pustaka Utama, Jakarta, 1984, p. 7.



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vocabulary, was concluded by Poerwodarminto in the Indonesian dictionary that corruption refers to bad actions, such as embezzling money, accepting bribes, and so on.<sup>17</sup>

So it can be concluded that criminal acts of corruption are acts that violate the law in the form of embezzlement of money, accepting bribes and so on, which can be subject to criminal sanctions.

## 8. Justice

Humanity comes from the word human, namely a creature created by God Almighty, who has potential, thought, feeling, intention and creativity. Because of this potential, humans have, occupy a high position and dignity. Potency humanity is shared by all humans in the world, regardless of race, descent and skin color, and is universal. Just and civilized humanity for the Indonesian people is based on the teachings of the Almighty God, namely in accordance with human nature as His creation. This is in line with the first paragraph of the opening of the 1945 Constitution and Articles 27, 28, 29, 30 and 31 of the 1945 Constitution.

Meanwhile, justice is something abstract, existing in the world of Sollen, growing philosophically in the realm of human imagination, but it cannot be denied that everyone desires justice.<sup>18</sup> In legal science, justice is the idea and goal of law, but justice cannot be defined definitively and grammatically by legal science, therefore justice must be studied from a theoretical and philosophical point of view.

This distinction is intended to emphasize that in the concept of the rule of law, justice will not necessarily be realized substantively, especially because people's understanding of the law itself can be influenced by the formal legal understanding and can also be influenced by the material legal school of thought. If law is understood rigidly and narrowly in the sense of statutory regulations alone, the understanding of the rule of law that is developed will also be narrow and limited and will not necessarily guarantee substantive justice. Therefore, in addition to the term "the rule of law", Friedman also developed the term "the rule of just law" to ensure that our understanding of "the rule of law" includes a more essential understanding of justice than just the functioning of statutory regulations. in a narrow sense. Even if the term used is still "the rule

<sup>17</sup> WJS Poerwodarmito, General Indonesian Dictionary, Balai Pustaka, Jakarta, 1976, p. 454.

<sup>18</sup> Jimly Asshiddiqie, The Ideal of a Contemporary Indonesian Legal State, Paper. Presented at the Graduation Ceremony of the Bachelor of Laws, Faculty of Law, Sriwijaya University, Palembang, March 23 2004 at Simbur Cahaya No. 25 Year IX May 2004 ISSN No. 14110-0614.

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of law", this broad understanding is what is expected to be included in the term "the rule of law" which is used to refer to the conception of the rule of law in today's era.

Based on the descriptions above, there are twelve main principles of the Rule of Law (Rechtsstaat) that apply nowadays. These twelve basic principles are the main pillars that support the standing of a modern state so that it can be called a Rule of Law (Rechtsstaat) in the true sense. The principles in question are as follows:

- a. Supremacy of Law (Supremacy of Law); There is normative and empirical recognition of the principle of the supremacy of law, namely that all problems are resolved with the law as the highest guide.
- b. Equality in Law (Equality before the Law); There is equality of position for everyone in law and government, which is recognized normatively and implemented empirically.
- c. Principle of Legality (Due Process of Law); In every rule of law, the principle of legality in all its forms (due process of law) is required, namely that all government actions must be based on valid and written statutory regulations.
- d. Limitation of Power; There are limitations to the power of the State and State organs by applying the principle of vertical division of power or horizontal separation of power.
- e. Independent Executive Organs; In order to limit this power, nowadays government institutional arrangements which are 'independent' are also developing, such as central banks, military organizations, police organizations and prosecutors. Apart from that, there are also new institutions such as the Human Rights Commission, General Election Commission, Ombudsman institution, Broadcasting Commission, and so on. These institutions, bodies or organizations were previously considered to be completely under executive power, but are now developing to become independent so that it is no longer entirely the absolute right of a chief executive to determine the appointment or dismissal of their leaders. The independence of these institutions or organs is considered important to guarantee democracy, because their function is capable misused by the government to perpetuate power.
- f. Free and Impartial Judiciary; The existence of a free and impartial judiciary (independent and impartial judiciary). This free and impartial judiciary absolutely must exist in every

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rule of law. In carrying out their judicial duties, judges must not be influenced by anyone, either because of office interests (politics) or money interests (economics).

- g. State Administrative Court; Even though state administrative justice also concerns the principle of free and impartial justice, its specific mention as the main pillar of the rule of law still needs to be emphasized separately. In every rule of law, there must be an opportunity for every citizen to challenge the decisions of state administrative officials and the implementation of the decisions of state administrative judges (administrative court) by state administrative officials.
- h. Constitutional Court (Constitutional Court); In addition, there is a state administrative court which is expected to provide guarantees for the upholding of justice for each citizen, the modern rule of law also commonly adopts the idea of formation constitutional court in its constitutional system.
- i. Protection of Human Rights; There is constitutional protection for human rights with legal guarantees for demands for enforcement through a fair process. The protection of human rights is widely promoted in order to promote respect and protection of human rights as an important characteristic of a democratic rule of law.
- j. Democratic in nature (Demokratische Rechtsstaat); The principle of democracy or popular sovereignty is adhered to and implemented which guarantees community participation in the state decision-making process, so that every legal regulation that is established and enforced reflects the feeling of justice that lives in society.
- k. Functions as a means of realizing state goals (Welfare Rechtsstaat); Law is a means to achieve a shared idealized goal.
- l. Transparency and Social Control; There is transparency and open social control over every process of making and enforcing laws, so that the weaknesses and shortcomings contained in official institutional mechanisms can be complemented in a complementary way by direct community participation (direct participation) in order to guarantee justice and truth.

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#### **4. Conclusion**

Meanwhile, the ideal of the rule of law in Indonesia has become an inseparable part of the development of the idea of Indonesian statehood since independence. Even though in the articles of the 1945 Constitution before the amendment, the idea of the rule of law was not formulated explicitly, the Explanation emphasized that Indonesia adhered to the idea of "rechtsstaat", not "machtsstaat". In order to ensure legal order, law enforcement and legal objectives, the function of judicial power or judicial institutions plays an important role, especially the function of law enforcement and supervisory functions. In law enforcement or implementing the law often is a legal discovery or legal formation.

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