

December 9th 2016



The 2nd Proceeding "Indonesia Clean of Corruption in 2020"



"Comparative Law System of Procurement of Goods and Services around Countries in Asia, Australia and Europe"



IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

UNISSULA PRESS

ISBN. 978-602-1145-41-8

TABLE OF CONTENTS

Front Page	i
Information of the International Seminar	ii
Committee Composition	iii
Preface.....	iv
Greeting From The Dean Faculty of Law	vi
INDONESIA’S KPK AND NSW’S ICAC: COMPARISONS AND CONTRASTS	
Prof. Simon Butt	1
CAN INDONESIA FREE ITSELF FROM CORRUPTION IN 2020?	
Prof. Dr. Hikmahanto.,S.H.,LLM	4
AN ACT TO ESTABLISH THE ANTI-CORRUPTION AGENCY, TO VEST POWERS ON OFFICERS OF THE AGENCY AND TO MAKE PROVISIONS CONNECTED THEREWITH.	
Rohimi Shapiee.....	7
STRATEGY TO CREATE INDONESIA FREE CORRUPTION IN 2020	
Dr. Jawade Hafidz, S.H., M.H	11
THE NETHERLANDS INGLOBAL CORRUPTION	
Siti Malifah Marlou Feer, M.A.	28
ROBUST YET FRAGILE: EFFORTS IN COMBATING CORRUPTION IN INDONESIA	
Laras Susanti.,S.H., LLM.....	33
LEGAL STATUS OF AKTOR’S FOR CORRUPTION (In the Perspective of Islamic Law)	
Sumarwoto Umar	37
THE ROLE OF LAW IN THE POVERTY REDUCTION STRATEGY	
Lantik Kusuma Aji	46
THE INDEPENDENCY OF THE INSTITUTION FOR THE PROTECTION AND THE ESTABLISHMENT OF HUMAN RIGHTS TOWARDS THE GLOBALIZATION ERA 2020	
Khalid	55
THE URGENCY OF ANTI CORRUPTION EDUCATION FOR COLLEGES IN INDONESIA	
Siska Diana Sari.....	62
THE PROBLEMS OF DIVORCE IN CUMULATION AT THE RELIGIOUS COURTS BASED ON THE PRINCIPLES OF SIMPLE, FAST AND LOW COST	
Elis Rahmahwati.....	78
DISPARITIES DECISION RELATED TO INTERPRETATION OF ARTICLE 2 AND 3 CORRUPTION ERADICATION ACT	
Agung Widodo.....	87
DIVERSITY ADULT AGE LIMITS POSITIVE LAW IN INDONESIA (Studies in Multidisciplinary Perspective)	
Muhammad Andri	102

THE APPLICATION OF BALANCE IDEA IN SETTLEMENT OF DOCTOR MALPRACTICE CASE THROUGH PENAL MEDIATION Yati Nurhayati.....	111
MODERNIZATION LAW AS A CRIME CORRUPTION VERY EXCEPTIONAL THROUGH ENFORCEMENT OF ETHICS Dr. Sukresno, SH, M.Hum	118
CORRUPTION POTENCIES IN LAND USE POLICY (A Case Study in Kuningan Regency) Haris Budiman	126
CORRUPTION PREVENTION AND CONTROLS INP Budiarta	133
ISLAMIC LAW VALUES TRANSFORMATION IN THE RECONSTRUCTION OF THE LEGALITY PRINCIPLE OF INDONESIAN CRIMINAL CODE Sri EndahWahyuningsih	145
JUSTICE AND CHARITY IN JAKARTA’S NORTH COAST RECLAMATION PROCESS THAT WILL LEAD TO INDONESIA CLEAN OF CORRUPTION Untoro	155
CORRUPTION CRIMINAL SANCTIONS WITH VALUES OF JUSTICE-BASED Zulfiani.....	162
THE REFLECTION OF ISLAMIC BANKING IN THEORY AND PRACTICE Anis Mashdurohatun	171
THE IMPLEMENTATION OF LOCAL WISDOM SIRI’NA PACCE AS AN EFFORT OF CORRUPTION ERADICATION IN INDONESIA Muh. Afif Mahfud.....	181
DISCOURSE POLITICAL LAW IN INDONESIA ON A COMPLETION OF PLATO PHILOSOPHY Adrianus M. Nggoro,SH.,M.Pd.....	189
STUDY OF INDONESIA’S PARTICIPATION IN ICSID Agus Saiful Abib.....	202
NOTARY ROLE IN THE IMPLEMENTATION OF EXECUTION PROCUREMENT OF GOODS AND SERVICES ARE FREE OF CORRUPTION BASED ON THE PRINCIPLE OF GOOD GOVERNANCE Aris Yulia	211
ANALYSIS WIRETAPPING AUTHORITY UPPER KPK LAW ENFORCEMENT IN THE PERSPECTIVE OF HUMAN RIGHTS Ariyanto,SH.,MH.....	221
SOCIAL WORKING PENALTY AS SOLUTION IN ERADICATING CORRUPTION IN INDONESIA Desy Maryani.....	232
LEGAL POLITICSOF EMPLOYMENT IN TERM OF PART OF TASK HANDOVER TO OTHER COMPANIES IN INDONESIA Endah Pujiastuti.....	244

RESOLUTION OF DISPUTES OF OUTSOURCING WORK FORCE IN THE COMPANY EMPLOYING OUTSOURCING SERVICE Pupu Sriwulan Sumaya	256
THE APPLICATION OF CORRUPTION LAW TO WARD CRIMINAL ACT IN THE FIELD OF FORESTRY Ifrani	267
THE EFFORTS OF ERADICATION OF CORRUPTION THROUGH INSTRUMENTS OF MONEY LAUNDERING LAW AND RETURN ACTORS' ASSETS Yasmirah Mandasari Saragih.....	276
AFFIRM ROLE OF EXISTENCE <i>RECHTSVERWERKING</i> TO ACHIEVING LEGAL CERTAINTY IN LAND REGISTRATION Rofiq laksamana, Setiono, I Gusti Ayu Ketut Rachmi Handayani, Oloan Sitorus.....	287
ANTI-CORRUPTION EDUCATION AT AN EARLY AGE AS A STRATEGIC MOVE TO PREVENT CORRUPTION IN INDONESIA Ida Musofiana.....	304
FREED INDONESIA'S CORRUPTION BETWEEN HOPE AND REALITY Dr. Tongat, SH., MHum., Said Noor Prasetyo, SH., MH.....	313
UTILIZATION OF INDONESIA MARINE RESOURCES IN AN EFFORT TO REALIZE INDONESIA TOWARDS THE SHAFT OF THE MARITIME WORLD Dr.Lathifah Hanim, SH.M.Hum., M.Kn. and Letkol (mar) MS.Noorman, S. Sos., M.Opsla.....	319
POTENTIAL CORRUPTION IN THE VALIDATION POLICIES ON ACQUISITION TAX OF LAND AND OR BUILDING Lilik Warsito.....	325
THE EFFORT OF LAW ENFORCEMENT IN COMBATING CORRUPTION IN SOUTH SUMATERA Sri Suatmiati.....	334
ETHICAL PERSPECTIVE AND THE MAPPING OF NORM IN CORRUPTION ACT Siti Zulaekha.....	344
AN EXPANSION OF CONCEPT THE STATE ECONOMIC LOSS IN CORRUPTION IN INDONESIA Supriyanto, Hartiwiningsih, Supanto.....	354
JURIDICAL STUDIES ON SUBSTANCE AND PROCEDURE OF THE DISMISSAL OF THE PRESIDENT AND/OR VICE-PRESIDENT AFTER THE REFORMATION Siti Rodhiyah Dwi Istinah.....	364
THE ROLE OF THE SHARIA SUPERVISORY BOARD IN THE FRAMEWORK ENFORCING SHARIA PRINCIPLES AT THE INSTITUTE OF ISLAMIC BANKING IN SEMARANG Aryani Witasari.....	376
SEMARANG CITY GOVERNMENT ROLE IN CONSERVATION AND ENVIRONMENTAL PROTECTION TO THE CAPITAL OF THE NATIONAL HERITAGE IN INDONESIA Achmad J Pamungkas (<i>Indonesia</i>), Carlito Da Costa (<i>Timor Leste</i>)	390

STUDYING THE WISDOM OF ZAKAT Moch. Gatot Koco (Indonesia), Basuki R Suratno (Australia)	398
HOMOLOGATION RECONSTRUCTION IN BANKRUPTCY THAT IS BASED ON DIGNIFIED JUSTICE Agus Winoto	410
RECONSTRUCTION OF EXECUTIVE AND LEGISLATIVE AUTHORITY IN MAKING GOOD GOVERNANCE (GOOD GOVERNANCE) VALUES BASED ON WELFARE Mohamad Khamim	420
THE TASK RECONSTRUCTION AND BPKP'S AUTHORITY IN THE CASE OF JUSTICE VAUE BASED CORRUPTION Sarbudin Panjaitan	429
THE RECONSTRUCTION OF MADLIYAH AND IDDAH MAINTENANCE AND MUT'AH IN DIVORCE CASE FOR JUSTICE AND WELFARE Mustar	438
JURIDICAL ANALYSIS OF THE ALLEGED CRIMINAL OFFENSE TO MANUFACTURE A NOTARY DEED Subiyanto	446
REVITALIZATION DEAL IN AKAD HYBRIDS IN SHARIA BANKING VALUE BASED ISLAMIC JUSTICE Masduqi	452
RECONSTRUCTION OF LEGAL PROTECTION DISTRICT HEAD IN THE ELECTION IMPLEMENTATION OF VALUE-BASED JUSTICE Kukuh Sudarmanto Alugoro	462
ABUSE OF AUTHORITY OFFENSE THEOLOGICAL RECONSTRUCTION LAW ERADICATION OF CORRUPTION (LAW NUMBER 31 OF 1999 JO. LAW NUMBER 20 OF 2001) BASED ON VALUE OF JUSTICE As'adi M. Al-ma'ruf	472
RECONSTRUCTION OF THE DAILY PAID WORK AGREEMENT IN THE EMPLOYMENT LAW BASED ON JUSTICE Christina N M Tobing	479
THE LAW AND THE IMPACT OF MARRIAGE SIRRI Sahal Afhami	489
CRIMES AGAINST CHILDREN AS ACTORS Muhammad Cholil	503
RECONSTRUCTION OF CRIMINAL PROCEDURAL LAW (KUHP) ABOUT THE DETENTION Muhammad Khambali	512

BASED ON JUSTICE PROBLEMS OF DISPUTE RESOLUTION REGIONAL CHIEF ELECTION (GOVERNOR, REGENTS AND MAYOR)	
Esti Ningrum	520
RECONSTRUCTION REGIONAL MINIMUM WAGE (UMR) IN RENEWAL OF EMPLOYMENT LEGAL REMEDIES BASED INDONESIA THE VALUE JUSTICE PANCASILA	
Urip Giyono	531
IMPLEMENTATION OF LAW AS TO MAINTAIN SECURITY IN THE CONTEXT OF PROFESSIONAL POLICE POLMAS (CASE STUDY IN LAMPUNG POLICE)	
Muhammad Yaman	539
RECONSTRUCTION OF CRIMINAL SANCTIONS PENAL CODE ACTORS ON ABORTION CRIME BASED ON THE VALUE OF JUSTICE	
Hanuring Ayu Ardhani Putri	549
REGISTRATION FIDUCIARY GUARANTEE REALIZE LEGAL PROTECTION OF CREDITORS AND DEBTOR	
Ansharullah Ida	556
RECONSTRUCTION OF LEGAL DISPUTES MEDIATION IN HEALTH CARE FOR PATIENTS HOSPITAL BASED ON THE VALUE OF JUSTICE	
Teguh Anindito	569
RECONSTRUCTION OF CRIMINAL SANCTIONS AGAINST CRIME OF ACTORS AND MURDER MURDER IN PLAN BASED ON VALUE OF JUSTICE CRIMINAL CODE	
Maria Marghareta Titiek Pudji Angesti Rahayu Teguh Anindito	579
IMPLEMENTATION OF PENAL MEDIATION IN CRIMINAL LAW	
Aji Sudarmaji	587
FAIR SETTLEMENT RECONSTRUCTION OF PROBLEMATIC CREDIT DISPUTE AT BANK RAKYAT INDONESIA (STUDY CASE AT MEDAN-SINGAMANGARAJA BRI BRANCH OFFICE)	
Bachtiar Simatupang	594
RECONSTRUCTION OF THE WASTE MANAGEMENT LAW BASED ON WELFARE VALUE	
M. Hasyim Muallim	616
RECONSTRUCTION LAW OF PUNISHMENT AGAINST CHILDREN NARCOTICS ABUSE-BASED PROGRESSIVE LAW	
Salomo Ginting	625
LEGAL PROTECTION PROBLEM OF WIFE AND CHILDREN OF POLYGAMY SIRRI IN INDONESIA	
Muhlas	639

IDEAL RECONSTRUCTION OF REHABILITATION PUNISHMENT FOR NARCOTICS ADDICTS AND ABUSER'S VICTIMS JUSTIFIED BASED ON THE LAW OF THE REPUBLIC OF INDONESIA NO. 35 YEAR 2009 (CASE STUDY IN SUMATERA UTARA PROVINCE) Ahmad Zaini	648
IMPLEMENTATION OF ACCELERATION SYSTEMATIC LAND REGISTRATION FULL IN HUMBANG HASUNDUTAN DISTRICT Ruslan	658
RECONSTRUCTION OF STATUS AND AUTHORITY OF THE SHARIA COURT IN THE NATIONAL JUDICIAL SYSTEM BASED ON JUSTICE Jufri Ghalib	667
RECONSTRUCTION OF LIABILITY NOTARY PUBLIC OFFICERS TO ACT AS A VALUE-BASED JUSTICE Elpina	679
RECONSTRUCTION OF CONSUMER PROTECTION LAW IN MAKING THE BALANCE BUSINESS BASED BUSINESS AND CONSUMER VALUE OF JUSTICE Ramon Nofrial	693
RECONSTRUCTION OF LAND USED RIGHT EIGENDOM VALUES BASED ON JUSTICE AND LEGAL CERTAINTY Hakim Tua Harahap	706
RECONSTRUCTION OF DIVERSION CONCEPT IN CHILD PROTECTION OF CONFLICT WITH THE LAWS BASED ON THE VALUE OF JUSTICE Ulina Marbun	726
RECONSTRUCTION OF PARATE EXECUTION MORTGAGE RIGHTS TO LAND BASED ON THE VALUE OF JUSTICE Zaenal Arifin	740
THE RECONSTRUCTION OF DIVORCE DUE TO MARITAL STATUS UNDER THE UNAUTHORIZED GUARDIAN AS VALUE OF JUSTICE Abdul Kholiq	751
THE RECONSTRUCTION OF LEGAL AID LAW FOR CHILDREN WHO GET CONFLICT WITH LAW IN PROCESS OF JUSTIFICATION FOR CHILDREN BASED ON THE VALUE OF PANCASILA Adi Mansar	767
MEDIATION RECONSTRUCTION AS ONE OF THE ALTERNATIVE SETTLEMENT OF DECLINE IN THE COURTS BASED ON THE VALUE OF JUSTICE (Study at the Simalungun District Court) Mariah S.M. Purba	778
POLYGAMIC POLICY IN INDONESIA (Analysis of Polygamic Arrangements and Practices 1959-2015) Warman	790

LAW ENFORCEMENT AGAINST CORRUPTION IN PERSPECTIVE OF HUMAN RIGHTS IN INDONESIA Sekhroni	798
THE PRINCIPLE OF NATURAL JUSTICE AND HUMAN'S RIGHT PROTECTION FOR CITIZENS IN ERADICATION OF CORRUPTION IN INDONESIA Indriyana Dwi Mustikarini	809
PREVENTING LAND MAFIA USING POSITIVE LAND REGISTRY SYSTEM Bambang Sulistyowati	816
UNRULY PASSENGER IN AVIATION: THE REGULATIONS AND CASES IN INDONESIA Adya Paramita Prabandari	826
EDUCATION ANTI-CORRUPTION IN INDONESIA: PROBLEMS, CHALLENGES AND SOLUTIONS Alwan Hadiyanto	839
SPIRITUAL URGENCY OF RELIGIOUS AND EXPENSES OF EVIDENCE IN COMBATING CORRUPTION IN INDONESIA Sulistyowati	852
SUE FOR THE STATE ADMINISTRATION OF JUSTICE IN INDONESIA Sarjiyati	863
CONSISTENCY MODEL OF COURT DESIGNATION TO FOSTER PARENT RIGHTS AUTHORITY DUE TO DIVORCE ON CHILDREN Erna Trimartini	873
AN INVESTIGATION AUTHORITY OF CRIMINAL ACT ON CORRUPTION IN CRIMINAL JUSTICE SYSTEM IN INDONESIA Sukmareni	885
PRO CONS THE EXISTENCE OF DEATH PENALTY IN CORRUPTION ACT OF 1999 IN INDONESIA Anis Rifai	903
PENAL MEDIATION IN SOLVING MEDICAL MALPRACTICE CASES AS AN ALTERNATIVE OF PENAL SANCTIONS BASED ON LOCAL WISDOM Sri Setiawati	913
SPECIAL PROTECTION OF CHILDREN IN CRIMINAL JUSTICE SYSTEM Achmad Sulchan	922
MORAL REFORM BUREAUCRACY AS PREVENTION OF ILLEGAL PAYMENTS TO INDONESIA CLEAN OF CORRUPTION Herwin Sulistyowati	932
STANCE AND AUTHORITY OF PEOPLE'S CONSULTATIVE ASSEMBLY DURING REFORMATION ERA 1945 Ahmad Mujib Rohmat	944

TAXES AND ALMS SEEN FROM ISLAMIC LAW	
Mohammad Solekhan	954
DIVERSION IN COURT (Case Studies in Karanganyar District Court)	
Anita Zulfiani	964
International Seminar	
Photos.....	971

AN EXPANSION OF CONCEPT THE STATE ECONOMIC LOSS IN CORRUPTION IN INDONESIA

Supriyanto¹, Hartiwiningsih², Supanto³

Student of the Doctoral Law Program, Sebelas Maret University, Surakarta

Email : maspri829@gmail.com

ABSTRACT

This research aimed to analyze the meaning of state finance loss in corruption and provide prescriptions the expansion of concept the state economic loss in Corruption Eradication Acts in Indonesia.

This research was a normative-legal approach with the approaches of *statute*, *case*, *comparative* and *conceptual*. Legal materials were analyzed by syllogism of induction, deduction and interpretation.

The research indicates that, *first*, the meaning of state economic in corruption is a life of economic that structured as a joint venture based on kinship principles, in this case is a cooperative, or other entity that has the principles and spirit of mutual cooperation, kinship and joint ventures, so if there are irregularities in cooperatives or other business entities principled and cooperative spirit that resulted in losses, it can be applied to corruption. But this has never happened in the practice of corruption law enforcement.

Secondly, the need for expansion the concept of state economy in corruption crime, thus acts in state economy loss, among others: the implementation of construction without in-depth study (*feasibility study*) so it does not have the value of benefits, contractor is unable to finish the government's work in accordance with employment contracts so that work is not finish and not function, basic materials stockpiling and public's needs (stockpiling of food, fuel, fertilizer, etc.), import policies that harm the public's production and acts that damage the ecological of environment (forestry, mining and fisheries conducted unlawfully).

Keywords: expansion, the concept of state economy, corruption.

INTRODUCTION

In the explanation of Act No. 31 of 1999 as amended by Act No. 20 of 2001 on Corruption Eradication, which is defined as the state economy are:

"A life of economic is structured as a joint venture based on the principle of kinship or community businesses independently based on government policy, both at the central and local levels in accordance with the provisions of the legislation in force aimed at providing benefits, wealth and prosperity to all the peoples' lives."

The concept of state economy in Corruption Eradication Acts (UUPTPK) is unclear, vague and multi-interpretation so it is difficult to apply in practice the corruption law enforcement. Former Attorney General Baharuddin Lopa ever said that if viewed from the

¹ Student of Doctoral Program of Law Science, Faculty of Law, UNS; Prosecutor of High Attorney of South Sulawesi. Email: maspri829@gmail.com

² Professor of Criminal Law at Doctoral Program of Law Science, Faculty of Law, UNS. Email: hartiwi50@yahoo.com

³ Professor of Criminal Law at Doctoral Program of Law Science, Faculty of Law, UNS. Email: supanto.8787@gmail.com

science of law, what is meant by “the state economy”, as mentioned in the general explanation of Act No. 31 of 1999 is very vague, thus it is very difficult to define what is meant by “*the state economic loss*” in the practice of law enforcement. It is therefore not surprising if it is not so much or rare court ruling that within the legal considerations contains clearly proving the element of “the state economic loss”.⁴

It is similar as presented by former Deputy Attorney General for Special Crimes Marwan Effendy, that the Act No. 31 of 1999 does not explicitly emphasize the meaning of the state economy. In practice, it seems never an accused of corruption are proven actions can satisfy the element formulation of state economy loss.⁵

The concept of state economy is not clear; it will have an impact on the implementation of corruption Acts that damage state economic. To encourages the successful of corruption eradication in Indonesia, hence the need for the expansion of concept the state economy.

THE FORMULATION OF PROBLEM

As described above it can be posited the formulation of problem as follows:

1. How does the meaning of state economy loss in corruption crime in Indonesia?
2. How the expansion of concept the state economic loss in Corruption Eradication Acts in Indonesia?

METHOD OF RESEARCH

The type of research was a normative-legal research, as a process of finding the rule of law, principles of law and legal doctrines in order to address the legal issues at hand. Legal research was conducted to produce arguments, theories or new concepts as prescriptions in solving problems⁶. This research is to find and provide prescriptions on expanding the concept of state economy loss in UUPTPK in Indonesia. This study uses the approaches of statute, case and conceptual.

Legal materials were analyzed by syllogism of induction, deduction and interpretation, in detail, comprehensive, objective and in-depth.

⁴ Baharuddin Lopa dan Moh. Yamin, *Undang-undang Pemberantasan Tindak Pidana Korupsi*, Kipas Putih Aksara, Jakarta, 1977, Page. 19

⁵ Marwan Effendy, *Kejahatan Perbankan Dari Perspektif Hukum Pidana*, Sumber Ilmu Jaya, Jakarta, 2005, Page. 111

⁶ Peter Mahmud Marzuki, *Penelitian Hukum*, Prenada Media Group, Jakarta, 2010, Page. 35.

DISCUSSIONS

Meaning of State Economy in Corruption

As general explanation of Act No. 31 of 1999 on Corruption Eradication, that is:

“The meaning of state economy is the life of economic which is structured as a joint venture based on the principle of kinship or community businesses independently based on government policy, both at the central and local levels in accordance with the provisions of the legislation in force that aims to benefit, prosperity and prosperity to all the peoples’ lives.”

The definition is not clear, vague, multi-interpretations and not implementable in the legislation of corruption eradication, so it is hardly ever applied by law enforcers because there are no clear parameters against these meaning.

Indonesia’s economic system is not capitalism nor socialism, but a mixed economic system accordingly in the 1945 Constitution, namely Pancasila economic system or people economic system that focuses on cooperative with kinship principles. Pancasila economic system is an economic system that is spirited by Pancasila ideology, as an economic system with joint effort based on kinship and national mutual cooperation.⁷ The principle of kinship in the Indonesian economy is set by constitutional in article 33 paragraph (1) of the 1945 Constitution, that the economy is structured as a joint venture based on kinship principles. The meaning of economy is structured as a joint venture based on kinship principles is cooperative.

But it does not mean that only cooperative as an exact business entity to achieve common prosperity, for cooperatives, state-owned and private enterprises are the three of entities are inseparable from one another. The mandate of Article 33, paragraph (1) of the 1945 Constitution is that the principle of kinship should spirit all business entities both SOE and private enterprise, not just the cooperative enterprises. Therefore, if there are state-owned or private enterprises that its purpose and principle based on the mutual cooperation and kinship and as joint ventures, then it is a “cooperative”.

While, the meaning of people effort independently which is based on government policy, both at the central and local levels in accordance with the provisions of the legislation in force that aims to benefit, prosperity and welfare to the whole life of the people is not clear, abstract and multi interpretation. If observed the meaning of this sentence is similar as the spirit of cooperative.

⁷ Mubyarto, *Ekonomi Pancasila : Gagasan dan Kemungkinan*, LP3ES, Jakarta, 1987, Page. 31

If rests on a meaning of state economy, as Pancasila economic system based on article 33 paragraph (1) of the 1945 Constitution, then if there is a cooperative entity or other business entity that holds the principle and spirit of cooperative occurs irregularities against the financial management of the cooperative resulting in losses cooperative then can be applied the UUPTPK, because it state economy loss. It does not loss the state finances because cooperative's money is not state money, but money belonging to members of the cooperative, so it cannot be categorized as state finance. But such actions can be considered detrimental to the state economy.

In practice, the understanding of the meaning of state economy has not been observed optimally by law enforcers (investigators, public prosecutor, judge), so that hardly never applied in corruption law enforcement. Therefore, in addition to providing a clear definition of state economy, as mentioned, it is necessary to expand the concept of state economy in corruption.

An Expansion of Concept the State Economy Loss in Corruption Eradication Acts in Indonesia

The principle of state's economy life is vast and complex, because the economy plays an important role in the life of the state. Therefore things that interfere, impede or even detrimental to the life of economic of the state must be addressed with a legal instrument that is clear and unequivocal. Many actions are very disturbing, inhibiting or detrimental to the life of economic of the state, but cannot be reached by UUPTPK, because the meaning of state economy in UUPTPK is unclear, vague and the multi-interpretation.

Several legal issues that occur, many actions are deemed damaging and detrimental the life of economic of the state but cannot be sentenced in UUPTPK, as follows:

- a. Implementation of construction without in-depth study (*feasibility study*) so it does not have value of benefits.

Many infrastructure development activities to serve the public's interests (markets, hospitals, schools, etc.) that have been finished, but "be left" and not used,⁸ because it does not meet the standards to be used as public facilities, for example: location away from settlements, disaster-prone areas (floods, landslides, etc.).

⁸ The construction of market Desa Medaeng Sidoarjo in 2010 with budget about Rp. 9 billion, - but until now the market is "delayed" not used. Similarly, the construction of Boyong Market in Jeneponto district in 2013 with budget about Rp. 7.5 billion, - until now is not used because the traders do not want to move from old market to new market because not strategic, far from settlement so that the consumer who want to shop not want to go the market (Daily Media of Fajar on Tuesday April 28, 2015 by the title "Habis Rp. 7.5 M, Pasar Tidak Digunakan").

This sort should not occur if the authorities before determining policies needed pre-study (*feasibility study*) is a comprehensive and in-depth by considering various aspects and involves a team of experts in accordance with the designation of such development/construction. It is often not done because there are “certain”⁹ factors that affect the decision.

Indeed, there was no financial loss to the state, because the budget costs incurred by the government to build public facilities have been used properly and in real terms the physical building exist and are in accordance with the employment contract (the physical value in accordance with the value of budget has been disbursed). But it certainly has damage the state economy, because the budget already incurred by the state cannot function to serve the public interest and do not provide the benefit, prosperity to all people’s life.

- b. Contractor is unable to complete the government’s work in accordance to the employment contract

It often happens in the practice of work contract that cannot be resolved by the contractor in accordance with employment contracts that have been agreed for various reasons, for example: (i) the scarcity of raw materials, (ii) the lack of equipment (heavy equipment) and labor, (iii) field conditions that are difficult to reach,(iv) and others.¹⁰ Therefore, the work should be completed in the budget year, but the contractor could not complete it so that conducted a termination of contract between the work owners with service providers (contractors).

Although the work progress physically in accordance with the amount of budget has been disbursed by the contractor, for example, a contract value is Rp. 10.000.000.000,- and after the finishing of work period, the progress of physical weight for new job of 50% of money disbursed also by 50% amounting to Rp. 5.000.000.000,- so the money is disbursed in proportion to the value of physical work. But the work should have been finished at the time and the results of such development can be exploited for the benefit of general public, but in its reality the construction is not yet complete and therefore cannot be used by the public, so that the

⁹ It’s common that the policy or authority of policy holders are often influenced by practice of bribery, collusion, nepotism, so the decision or policy taken is not objective.

¹⁰ Based on Report of Indonesian Anti-Corruption Society (Kompak Indonesia) dated 6 April 2015 that the construction of the district hospital in Barru Rp. 5.8 M did not finish and conduct the termination of contract. The construction of Tello’s bridge is not finished in fiscal year 2015 and then conduct the termination of contract (Fajar, 15 February 2016)

remaining of money unrealized re-entry into the state treasury. Certainly, to continue the work through process and procedures again as the time-consuming and cost.

In the state finances, there is no state money is lost (loss) for the state money disbursed is Rp. 5.000.000.000, already comparable to weigh the value of work of Rp. 5.000.000.000,-. But there is a loss of the state economy, because that should be the construction has been completed and can be used by people in need, but in reality the construction is not finished, so the public cannot use the results of such development that has disrupted public economic activities, as should the money countries emerging for the development can already be enjoyed (utilized) by the public, but in fact it cannot be utilized by the public. Things like this are often used as modus by the contractors to avoid the risk of loss on the work, so they prefers to do the termination of contract.

- c. Stockpiling of basic commodities and needs of community (the stockpiling of rice, fertilizer, fuel, and so forth)

To avoid shortages of basic commodities the government should provide tight regulation and supervision in the field of economy, which avoids stockpiling by middlemen or traders speculators. The measures of stockpiling for basic commodities will lead to scarcity and eventually disturb public economic activities, because the price of basic commodities are soaring difficult to reach by the condition of society, so that the activities of daily life hampered and it will harm the people economy (state).

Throughout the stockpiling of basic commodities not yet specific regulations (*lex specialis derogat legi generalis*) which provide criminal sanctions, then such actions should be charged under the Corruption Eradication Acts, because it has damage the state economy.

- d. Import policies that damage the production of people

The results of national production (agriculture, livestock, fisheries, etc.) in addition be used to meet domestic needs (the public), then as much as possible export to overseas to add to the excitement of the national economy. Do not let the Indonesia as agricultural country that produces rice, corn, soybeans and other agricultural products actually do import agricultural products and livestock, when in fact the production of agricultural products and livestock that meet or even exceed domestic requirements. Do not for agricultural products and livestock from abroad are cheaper then the government should import these goods, so that agricultural products and

livestock in the country do not have a place in the domestic market. With such conditions, the economies of most people (farmers and ranchers) will be disrupted and occur fluctuation that impacted on the disruption of national economy.

One example is the case of beef imports which round up the President of Partai Keadilan Sejahtera (PKS), Lutfi Hasan Ishak. In such cases there is an effort of filing additional quota beef imports on the initiative of Elda Devianne Adiningrat and Maria Elizabeth Liman (PT. Indoguna Main). In this case, the author is not entered in the case of gratification which the accused Lutfi Hasan Ishaq, but will get in on the plan alleged actions could potentially damage the state economy.

In such cases, the Ministry of Economy, Ministry of Commerce and Ministry of Agriculture has agreed to the policy of limiting imports of beef with the aim to announce the meat self-sufficiency by increasing domestic meat production and reduce dependence on imported meat. However, in this case there are parties who want to disrupt the economic policy by asking additional quota beef import up to 10.000 tons for the needs of 2013, whereas the domestic production and imports policies set by the government (Ministry of Agriculture) meets the needs of beef in the country, so that the addition is not necessary. Besides filing quota increase proposed by PT. Indoguna Utama is not in accordance with the Regulation of the Decree of Minister of Agriculture No: 50/Permentan/OT.140/9/2011 on the Recommendation of Agreement of Carcass Import, meat, and/or processed products into the territory of the Republic of Indonesia.

However, these efforts do not stop just like that, on the instructions of Ahmad Fathona that PT. Indoguna Utama prepare data (allegedly manipulation) to convince the Minister of Agriculture that the data of Central Bureau of Statistics is not true and self-sufficiency threaten food security in the country. Fortunately this scenario is quickly revealed and thwarted by the Commission to perform an operation to capture Ahmad Fathona hereinafter Lutfi Hasan Ishaq also set as a suspect.¹¹

If only PT. Indoguna Utama is successfully influencing economic policies of Minister of Agriculture and beef import quota to 10.000 tones, of course, the Indonesian economy will be disrupted and potentially detrimental to the economy of the country (until here, the state finances has not loss).

¹¹ Decision of High Court of DKI Jakarta No: 14/PID/TPK/2014/PT.DKI dated 15 April 2014 Page. 4

That said, effort to limiting import is to saving the country foreign exchange reserves. When in fact the additional beef import quota is not necessary. If imposed impact is the reduction in foreign exchange reserves, which in turn will inhibit national development.

In addition, beef imports in excess will affect the stability of the market; often selling value of meat imports is cheaper than domestic meat. If this happens, then the businessmen and domestic ranchers will bankrupt and the governments' efforts to self-supporting are only on paper. Thus, it is categorized as potential losses.

e. Acts that damage environment (forestry, fishing and mining)

Many companies conduct natural resources exploitation that damage the environment, for example, utilization of forest products, mining and fisheries. Often the activities that conducted by the company is damage the environment to the state loss.

One example is the case of corruption in assessment and approval of the annual action *Izin Usaha Pemanfaatan Hasil Hutan Kayu dan Hutan Tanaman* (IUPHHKHT) in 12 Industrial Plant companies in Riau involving a Regent of Pelelawan Teuku Azmun, and partners. In its handling, the Corruption Eradication Commission simply counting losses to the state amounting to Rp. 519 billion, while in the calculation of Prof. Bambang Saharjo, Dean of the Faculty of Forestry IPB in such cases there are economic and ecological losses reached Rp. 667 trillion.¹²

f. Delay discussion and determination of budget (APBN and APBD) due to conflict of interest.

It is no secret to anyone that the budget discussion both APBN and APBD often followed with personal and group interests, especially the discussion on legislative. Many shift back and forth so that the discussion and determination of budget delayed because the "interests" have not been accommodated in the form of various programs, especially aspirations program.

On the argument that aspirations program have not been accommodated, the member of legislative did not want to continue the discussion of RAPBD and after its aspirations program are accommodated just want to continue the discussion of RAPBD,¹³ so the discussion of RAPBD is delayed and certainly the legalization of

¹² State losses due to forest corruption in Riau reached 687 triliun, Tribunnews, Friday 23 August 2013

¹³ Based on data from the Special Crime of High Court of South Sulawesi there are 5 (five) cases of corruption committed by members of legislatives in Jeneponto district because the relevant request in FY 2013 by the reason that aspiration program and if not accommodated the legislative does not want to continue the discussion of RAPBD, so that the discussion of RAPBD is delayed and impacted to the

APBD is also delayed and eventually regional development program delayed and impacted to the life of economic.

Supposedly the perpetrators are not only subject to Article 12 letter i of UUPTPK that is “civil servants or State administrators either directly or indirectly knowingly participated in contracting, procurement or leasing, which at the time of the act, in whole or in part is assigned to administer or watching them. However, can be applied article 2, paragraph (1) of UUPTPK, because the actions in the state economy loss.

Some examples of phenomenon as above it have been violated Indonesia economic democracy that togetherness principled, efficiency-justice, sustainability and environmental insight, independence, and maintaining a balance between progress and national economic unity.

From these facts, to encourage the success of the eradication of corruption, it is necessary to expand the concept of state economy loss, where several acts as described above, namely the implementation of development without in-depth study (feasibility study) it does not have the value of benefits (delayed), contractor cannot finish the government’s work in accordance with the contract of employment, stockpiling of basic commodities and the needs of the community (stockpiling of food, fuel, fertilizer, etc.), import policies that damage the production of community, acts that damage the environment (forestry, mining and fisheries that conducted unlawfully) and delay discussion and determination of budget (APBN and APBD) due to conflict of interest can be categorized as acts that in the state economy loss as opposed to economic democracy.

CONCLUSIONS

1. The meaning of economy in UUPTPK is an economy that is structured as a joint venture based on kinship principles and in this case is cooperative or SOEs, POEs that spirited “cooperative”, in which the goal and its principle based on mutual cooperation and kinship as well as the form of joint ventures. So if there is a cooperatives entity or other entity that holds the principle and spirit of cooperative occurs irregularities against the financial management of cooperative and resulting in loss of the cooperative then it can be applied the UUPTPK, because it losing the state economy.

legalization/determination of APBD in FY 2013 and disrupt the activities of regional development in Jeneponto district. In practice, the projects of aspiration program to be performed by members of the parliament or their family or those close to them, so that the concerned subject to Article 12 letter *i* of Act No. 31 of 1999 as amended by Act No. 20 of 2001 (conflict of interest) that now such case is currently being heard in the Corruption Court in Makassar.

2. Expansion of the concept of state economy loss in UUPTPK in Indonesia refers to the system of economic democracy, includes: the implementation of development or construction without in-depth study (feasibility study) so it does not have the value of benefits (delayed), contractor is unable to finish the work in accordance with the government's contract, stockpiling of basic commodities and needs of the community (stockpiling of food, fuel, fertilizer, etc.), import policies that damage the production of community, acts that damage the environment (forestry, mining and fisheries were conducted unlawfully) and delay discussion and determination of budget (APBN and APBD) due to conflict of interest.

Recommendation

Needed to do policy legislation by making amendment of UUPTPK, especially the concept of the state economy loss, which included the state economy loss: implementation of construction/development without in-depth study (feasibility study) so it does not have the value of benefits (delayed), contractor is unable to finish the government's work in accordance with employment contracts, stockpiling of basic commodities and the needs of the community (stockpiling of food, fuel, fertilizer, etc.), import policies that damage the production of community, acts that damage the environment (forestry, mining and fisheries were conducted unlawfully) and delay discussion and determination of budget (APBN and APBD) due to conflict of interest.

REFERENCES

- Baharuddin Lopa dan Moh. Yamin. 1977. *Undang-undang Pemberantasan Tindak Pidana Korupsi*. Jakarta : Kipas Putih Aksara
- Marwan Effendy. 2005. *Kejahatan Perbankan Dari Perspektif Hukum Pidana*. Jakarta : Sumber Ilmu Jaya
- Mubyarto. 1987. *Ekonomi Pancasila : Gagasan dan Kemungkinan*, Jakarta : LP3ES
- Peter Mahmud Marzuki. 2010. *Penelitian Hukum*. Jakarta : Prenada Media Group
- Undang-undang Dasar 1945
- Undang-Undang No. 20 Tahun 2001 tentang Perubahan Atas Undang-undang No. 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi;
- Putusan Pengadilan Tinggi DKI Jakarta Nomor : 14/PID/TPK/2014/PT.DKI tanggal 15 April 2014
- Harian Fajar, 15 Februari 2016
- Tribunnews, Jum'at tanggal 23 Agustus 2013