

CHAPTER I

INTRODUCTION

A. Background

The corruption case is one of the cases that received the most attention from international news media especially Indonesian during the last decade. The corruption cases themselves involve many parties with various professional backgrounds. Corruption has essentially become a phenomenon in social life in every country, especially Indonesia. The current demands for the eradication of criminal acts of corruption voiced by the Indonesian people are caused by violations of the economic rights and social rights of the Indonesian people as a result of corruption.

Indonesia Corruption Watch reported that there was a trend of increasing corruption cases during the Covid-19 Pandemic. The trend of increasing corruption cases has been accompanied by an increase in the value of state losses due to corruption. Indonesia Corruption Watch reported that in semester 1 of 2020, the value of state losses from corruption cases amounted to IDR 18,173 trillion, then in semester 1 of 2021 the value of losses increased to IDR 26,83 trillion. In other words, there was an increase in the value of state losses due to corruption by 47.6 percent. The value of state losses has always increased over the last four years, whereas the number of prosecutions for corruption cases has fluctuated.¹

¹ Indonesia Corruption Watch, 2022, *Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2021*, Divisi Hukum dan Monitoring Peradilan ICW, <https://shorturl.at/ADJO7>, (Accessed on November 25, 2022).

Referring to the data released by Indonesia Corruption Watch, Indonesia has experienced enormous financial losses due to corruption. This material loss can clearly hinder the allocation of State Development Budget (*Anggaran Pendapatan dan Belanja Negara*, APBN) funds which will have a direct impact on national development and community services. This will certainly have a negative impact on Indonesia's economic growth. Given that Indonesia is also struggling to restore the stability of the country's economy which has declined due to the Covid-19 pandemic in the past few years. This situation could get worse with the threat of a global economic crisis in 2023.

The global recession that is anticipated to come in 2023 has stunned the world today. The prediction for the occurrence of a global recession is attached in the “World Economic Outlook, October 2022: Countering the Cost-of-Living Crisis” which was released by the International Monetary Fund (IMF). In this report, the IMF predicts that the world economy will experience a growth slowdown resulting in a global economic crisis in 2023. The IMF stated that the current slowdown in world economic growth was caused by the Covid-19 pandemic and was exacerbated by the case of the Russian invasion of Ukraine.²

Global economic growth is predicted to decline from 3.2 percent in 2022 to 2.7 percent in 2023. Since 2001, this is the lowest percentage profile of economic growth. About one-third of the world's economies have faced

² International Monetary Fund, 2022, *World Economic Outlook, October 2022: Countering the Cost-of-Living Crisis*, World Economic Outlook, <https://www.imf.org/en/Publications/WEO/Issues/2022/10/11/world-economic-outlook-october-2022>, (Accessed on November 25, 2022).

negative economic growth for two consecutive quarters. Global inflation is expected to increase from 8.8 percent in 2022 but decline to 6.5 percent in 2023 and to 4.1 percent in 2024. Inflation rates will be higher in developed countries, with greater variability in poorer countries.³

On the last update of the world economic outlook, the IMF stated that global economic conditions had begun to recover. However, factors that hamper the global economic growth in 2022 still exist. The inflation value is still high and continues to erode household purchasing power. The central bank's tightening of policy in response to inflation has increased interest rates, constraining economic activity.⁴ The increasing interest rates will impact the public finances, especially in countries grappling with high debt costs, such as Indonesia, thereby limiting space for priority investments. As a result, production losses are still significant compared to pre-pandemic estimates, especially in the world's poorest countries.

Referring to the International Monetary Fund research above, as a developing country, Indonesia is one of the major variables that will be affected by the global recession in 2023. Therefore, Indonesia must prepare itself as early as possible to deal with this situation. Various political and economic policies are required to maintain state economic stability in Indonesia.

³ *Ibid*

⁴ International Monetary Fund, 2023, *World Economic Outlook, July 2023: Near-Term Resilience, Persistent Challenges*, World Economic Outlook, <https://www.imf.org/en/Publications/WEO/Issues/2023/07/10/world-economic-outlook-update-july-2023>, (Accessed on September 8, 2023).

Besides establishing the political and economic policies, in accordance to ensure the maintenance of economic stability within the state, Indonesia must devote serious attention to addressing factors that potentially have a negative impact on the state economic stability. Corruption constitutes factors that can negatively impact the economic stability of Indonesia. Nevertheless, the eradication of corruption cases in Indonesia remains significantly inadequate. This statement was supported by the assessment index published by Indonesia Corruption Watch on prosecuting corruption cases in Indonesia. Reporting from Indonesia Corruption Watch, from a target of 2.772 corruption cases in 2022, the entire Indonesian law enforcement apparatus was observed to only be able to realize as many as 1,396 cases or around 50 percent.⁵

Many experts compare corruption to a disease that can originate from several factors. Some factors of corruption can be in the form of morals, education, and the presence of pressing demands. While the other factors in the occurrence of corruption is the opportunity that comes from the weakness of a system, this can occur as a result of the political, economic and socio-cultural system.⁶

The widespread corruption in Indonesia indicates that there are very worrying manifestations of corrupt practices in the field of government management. The presence of corruption has been proven to have a negative

⁵ Indonesia Corruption Watch, 2023, *Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022*, Divisi Hukum dan Monitoring Peradilan ICW, <https://antikorupsi.org/sites/default/files/dokumen/Tren%20Penindakan%20Tahun%202022.pdf>, (Accessed on March 25, 2023).

⁶ K. A. Elliott, 1997, *Corruption and the global economy*, Washington DC, Peterson Institute.

impact on economic growth, mainly due to the multiplier effect resulting from decreased levels of investment. This phenomenon occurs as a result of investors' reluctance to carry out business activities in a country with high levels of corruption.⁷ Corruption is considered an extraordinary crime in Indonesia because it can harm the socio-economic welfare of society and the nation on a large scale. Therefore, extraordinary measures are needed to handle the corruption.

Referring to the problem context, it is required some efforts to avoid corruption while also covering governmental losses caused by corruption. To impoverish corruptors is the best technique for providing a deterrent effect as well as covering state costs due to corruption. The motivation/desire of corrupt criminals to perpetrate corruption is to amass as much wealth as possible.⁸ If the corrupt offenders are impoverished, they will lose motivation to attain this great fortune.

However, proving Corruption is a difficult task. The difficulty in proving corruption cases is inseparable from the fact that Corruption is classified as a white-collar crime.⁹ Corruption, as a white-collar crime, is a crime committed by those in positions of authority (state officials), so it is not easy to eradicate. Because of the enormous number of unsolved corruption cases, many

⁷ Klit Jalal and Machrafi Mustapha, "Corruption Impacts on Growth and Development of the Moroccan society", *IOSR Journal of Economics and Finance*, Vol. 7, No. 1 (January, 2016), p. 20-31.

⁸ S. Hadi, A. Nurmandi, T. Rahardjo, and Ulung Pribadi, "Corruption of the Local Leaders in Indonesia: An Expository Study", *Jurnal Media Hukum*, Vol. 27, No. 2 (December, 2020), p. 252-266.

⁹ S. Heissner, 2015, *Managing Business Integrity: Prevent, Detect, and Investigate White-collar Crime and Corruption*, Springer.

Indonesian state officials have been detected as having more assets than their legal income. One example is the case experienced by an employee of the Directorate General of Taxes (*Direktorat Jendral Pajak, DJP*) Rafael Alun Trisambodo. Rafael is considered to have improper assets that exceed his legal income.¹⁰

One of the steps that Indonesia can take to overcome this is to look at the balance between legitimate income and the assets of state administrators. Suppose a state administrator has assets that are unusual or exceed the monthly salary and other acceptable income from the legitimate state. As a reason, these assets should be suspected as illicit assets obtained from a crime. Because if all salaries are added up, other legitimate income with the assets/assets they own will tend to create an imbalance between the two. As a result, this can be a method to detect the corruption possibility committed by state managers due to the irregularity of their assets.

In fact, state officials who are proven to have unreasonable assets can be labelled as corruptors because they have committed one type of corruption, namely Illicit Enrichment. Unfortunately, there are no juridical provisions in Indonesia that specifically regulate illicit enrichment. In fact, with the existence of illicit enrichment regulations, the eradication of corruption in Indonesia can be strengthened. In addition, illicit enrichment rules can also strengthen the reporting function of the "State Official Wealth Report (*Laporan Harta*

¹⁰ Tim CNN Indonesia, March 01, 2023, *Sri Mulyani Tahu Harta Rp56 M Milik Rafael Tak Masuk Akal*, CNN Indonesia, <https://www.cnnindonesia.com/ekonomi/20230228180841-532-919002/sri-mulyani-tahu-harta-rp56-m-milik-rafael-tak-masuk-akal>, (Accessed on March 28, 2023).

Kekayaan Pejabat Negara, LHKPN)" so that it is not only a formality with no consequences for officials who lie about their wealth. Referring to the problems mentioned above, it is essential for Indonesia to establish specific regulations that enable the confiscation of the unexplained wealth of public officials, which has increased significantly due to illicit enrichment.

This undergraduate thesis discusses the application of illicit enrichment and confiscation of corruptors' assets to reduce instances of corruption and maintain Indonesian economic stability. Moreover, this undergraduate thesis examined how illicit enrichment and confiscation of corruptors' assets can be a solution for Indonesia to prevent corruption and overcome losses due to corruption. This undergraduate thesis will also discuss the possibility of implementing illicit enrichment regulation and confiscating corruptors' assets from the perspective of Indonesian law.

B. Problem Formulation

How to enforce the law against illicit enrichment to preserve the economic stability in Indonesia?

C. Objectives of Research

In line with the problem formulation above, the objective of this research is to analyse the possibility to enforce the law against illicit enrichment to help Indonesia in maintaining economic stability.

D. Benefits of Research

1. Theoretical Benefits

This undergraduate thesis is expected to become an academic resource for enforcing the law against illicit enrichment in Indonesia. Furthermore, the issue of corruption in contemporary times has evolved into a global phenomenon with transnational implications. In addition, the results of this research hold significant value for Indonesia as an academic resource for answering legal issues regarding corruption, enforcing illicit enrichment rules, and increasing corruption cases.

2. Practical Benefits

a. For the Government

It is hoped that this undergraduate thesis may serve as a valuable resource for the government in formulating legal frameworks that are relevant to current legal issues, particularly those described in this undergraduate thesis. Upon perusing the findings of this research publication, it is expected the recommendations and legal remedies contained in this research may be adopted by the government. This research is expected to assist the government in the development of contemporary legal instruments, particularly those pertaining to the regulation of illicit enrichment and corruption. This is necessary for reducing corruption cases to help Indonesia in maintaining the economic stability.

b. For the Community

This undergraduate thesis is expected to drive increased awareness and discernment among Indonesian people to be more concerned and critical about legal science, especially law enforcement pertaining to corruption cases. The growing public discernment about the negative impacts caused by corruption is expected to diminish the propensity of people's motivation to become corruptors.

E. Research Method

1. Types of Research

In writing this undergraduate thesis, the type of normative legal research was used which employed the juridical approach (statutory approach) and conceptual approach. Normative legal research method has been interpreted in this research as legal research at the level of norms, rules, principles, theories, philosophies, and legal rules.

2. Types of Data

Because it has been known that this undergraduate thesis used the normative legal research with statutory and conceptual approach, the type of data that has been used in this undergraduate thesis is secondary data types. This normative legal research used secondary data in the form of primary legal material such as International Law, the Criminal Code, the 1945 Constitution of Indonesia, the Corruption Law, etc. This undergraduate thesis also used the secondary data in the form of archival data, official data from government agencies, and publication data such as accredited research

results, books, national journals, and international journals that are relevant to the topic of this undergraduate thesis.

3. Data Collection

The data collection method in writing this undergraduate thesis has been done by literature study method through the internet or the library. The data was collected by observe all relevant sources including the research data, trusted journal publications, applicable international law and legal regulations in Indonesia related to corruption, illicit enrichment, economic growth, etc.

4. Data Analysis

Because this undergraduate thesis was employs normative legal research, the data provided has been analysed systematically and legally. The systematic and legal analysis refers to the fact that the research in this undergraduate thesis is analysed based on the applicable laws in Indonesia. Data were analysed systematically through a qualitative juridical approach. The data provided has been analysed by systematic and legal analysis. The meaning of systematic and legal analysis used in this undergraduate thesis is that the data provided was analysed concerning the applicable International and national law systems. In addition, there are also juridical thoughts related to conventions, legal principles, and regulations related to the discussion in this undergraduate thesis.

F. Writing Systematics

This undergraduate thesis is divided into five chapters. The first chapter is an introductory chapter containing background information, problem formulation, research objectives, research benefits, and writing systematics. The background section discusses the problem's background, which is the reason for choosing the topic in this undergraduate thesis. The problem formulation of this undergraduate thesis come from the increasing number of corruption cases that have cost Indonesia trillions of rupiah. The large amount of state losses due to corruption has the potential to disrupt economic stability in Indonesia. In this regard, the problem formulation section is a research question that arises referring to the background of the existing problems. Meanwhile, the research objectives and benefits of the research section discussed the objectives and benefits of the research in this undergraduate thesis.

The second chapter discussed illicit enrichment as a form of corruption. This chapter begins with an explanation of the definition and typology of corruption from any perspectives, such as expert perspectives, international law perspectives, and Indonesian legal system perspectives. Furthermore, this chapter describes the definition and any regulation regarding illicit enrichment from various approaches.

The third chapter discussed about law enforcement against corruption from Indonesian legal perspectives. This chapter begins with a discussion of the definition of law enforcement based on various approaches. After that, the

discussion of this chapter will enter into a specific discussion regarding law enforcement against corruption from Indonesian legal perspective.

The fourth chapter discussed about law enforcement against illicit enrichment to reduce corruption cases and preserve economic stability in Indonesia. This chapter contains an analysis of the possibility that corruption can affect the economic stability of a country, especially Indonesia. This chapter also analysed the possibility of reducing the number of corruption cases by enforcing laws against illicit enrichment to maintain economic stability in Indonesia. This chapter also presents illustration pictures to support the existing analysis.

The closing chapter of this undergraduate thesis consists of conclusions and suggestions. The conclusion section contains the essence of the study, which is also the answer to the research question in this undergraduate thesis. The preparation of this conclusion section is adjusted to the order of the existing problems. The conclusion section is also used to determine whether the research objectives have been achieved. The suggestions section is also part of this chapter. The suggestion section itself contains the author's recommendations for overcoming legal problems that exist in this undergraduate thesis.