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The urgency of the criminal sanction implementation through report of asset from state administrator as a prevention of corruption crime

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Abstract
This article discusses the urgency of criminal sanction implemention through the report on the assets of public administrators. This type of research is non-doctrinal research or socio legal research with a sociological juridical approach. Sources of legal materials used are primary legal materials and secondary legal materials. Data collection techniques are interviews based on interactive models with deductive patterns. The results showed that there were still many State administrators who had not reported their assets, other than that the application of administrative sanctions against State administrators violated the obligation to report assets and falsified reports had not been implemented at all.

Keywords: criminal sanctions, asset, state administrators, corruption

1. Introduction

Corruption is a criminal offense committed by the government and political elites. Laundering is an open phenomenon, after reforms, corruption and money laundering occur evenly, from the center to the regions and unfortunately occur in all segments. Many cases of criminal acts of corruption are carried out in congregation by both the government and by political party elites, members of the Legislative Assembly (DPR) and those who are bandar. Corruption According to Sarifuddin Suddding "is a crime of power. Power in the field of law, power in the field of bureaucracy and power in the political field as a crime of power, corruption certainly has a more widespread and dangerous impact on deconstruction than all other crimes [1].

The Corruption Eradication Commission (KPK) released data on corruption in 2018-2019 has increased, eradicating corruption at least 256 people as corruption suspects throughout 2018. A total of 256 suspects were caught around 53 new cases, 30 of which are the result Hand Catch Operation (OTT). There are 26 of the suspects are regional heads consisting of two governors, four mayors and 20 regents. They are the Governor, Jambi, Zumi Zola, Governor of Aceh Irwandi Yusuf, Mayor of Kendari namely Adriatma Dwi Putra, Mayor of Malang namely Moch Anton, Mayor of Blitar namely M Samhudi Anwar, Mayor of Pasuruan namely Setiyono, Regent of Hulu Sungai Tengah namely Abdul Latif, Regent of Kebumen namely M Yahya Fuad, Regent of Jombang namely Nyono Wiharli Suhandoko, and Regent of Ngada namely Marianus Sae

In addition, the Regent of Subang, Imas Aryuminingsih, Regent of Lampung, Tengah Mustafa, Regent of Sula Islands, Ahmad Hidayat Mus, Regent of West Bandung, Abu Bakar, Regent of Mojokerto, Kamal Pasha, Regent of Bener Meriah, Ahmadi, Regent of South Lampung, Zainuddin Hasan, Regent of West Bandung, Abu Bakar, Regent of Mojokerto, Kamal Pasha, Regent of Bener Meriah, Ahmadi, Regent of South Lampung, Zainuddin Hasan, Regent Malang is Rendra Kresna. In addition, the Regent of Bekasi, Neneng Hasanah, Regent of South Bengkulu namely Dirwan alias Dirwan Mahmud, Regent of South Buton namely Agus Feisal Hidayat, Regent of Purbalingga namely Tasdi, Regent of Tulungagung namely Syahri Mulyo, Regent of Cianjur namely Irvan Rivano Muchtar, Regent of Cirebon namely Sunjaya Purwadisastra, Regent and the Regent of Jepara, Ahmad Marzuq.

The cases that ensnared them were bribes related to the procurement of goods and services (17 cases), bribes related to implementation permits and rotation of regional officials (3), bribes for the ratification of the Regional Expenditure Budget (3), bribes other than that were as for the allocation of special autonomy funds to Aceh (1), related to the release of court decisions (1), and finally to procurement corruption (1). This means that procurement projects in the regions continue to be a problem in each regional head despite the "e-budgeting", "e-procurement" system, and the One Stop Integrated Service (PTSP), which has been over and over for three years, being touted by the central government together with Corruption Eradication Commission. Another interesting thing, in the case of bribery related to the ratification of three regional budget, namely North Sumatra Province, Malang City, and Jambi Province the suspects also increased. That was because the bribes were given by the regional heads to the Regional House of Representatives (DPRD) members to pass their respective local budgets. Parliament members who received money also became suspects. While the head of the ministry of ministry as many as 1 person, eslon I, II to III as many as 24 people, as many as 5 people judge, criminal acts of laundering that occurred in 2018 as many as 6 people [2].

The same data was also released by Transparency

[1] Sarifuddin Sudding, Perselingkuhan Hukum Dan Politik Dalam Negara Demokrasi, Yogyakarta Mahakarya Rangkang Offset 2014, hlm. 254

[2] https://www.pikiran-rakyat.com/nasional/2019/01/02/membaca-tren-korupsi-tahun-2019. Rabu tanggal 08 Mei jam 15, 35 Tahun 2019.

International, The Global Coalition Against corruption (23rd corruption Presception Index 2018 for the measurement year in 2018. CPI 2018 refers to 13 surveys and expert assessments to measure public sector corruption in 180 countries and territories. CPI ratings are based on scores. A score of 0 means it is very corrupt and 100 is very clean. The 2018 CPI revealed that there was a decadence / deterioration in efforts to eradicate corruption by most countries. More than 2/3 of the countries surveyed were below a score of 50 with a global average score of 43. Since 2015, the global CPI score has stagnated at 43. These findings were revealed by Patricia Moreira, Managing Director of Transparency International in Berlin. According to Moreira. "The failure of most countries to control corruption has been proven to contribute to the democratic crisis throughout the world [3].

Indonesia for several times also participated as one of the countries assessed. "The CPI of Indonesia in 2018 ranks 38th and is ranked 89th of the 180 countries surveyed. This number / score increased by 1 point from 2017 last year. Transparency International researcher. There are two sources of data that contributed to the increase in CPI of Indonesia in 2018, namely Global Insight Country Risk Ratings and Political and Economy Risk Consultancy. Meanwhile, five of the nine indices stagnated, namely the World Economic Forum, Political Risk Service, Bertelsmann Foundation Transformation Index, Economist Intelligence Unit Country Ratings, World Justice Project-Rule of Law Index while the two experienced a decline namely the IMD World Competitiveness Yearbook and Varieties of Democracy [4].

The level of awareness of the state administrators in reporting their assets as a whole among Executives who must report is 266,536, who have reported 232,293, have not reported 34,243, the judiciary must report, 20,350, who have reported 18,685 while those who have not reported 1,665. Legislatof-MPR is mandatory report, 8, already reported 8. Legislative-DPR, mandatory report 551, who have been reported 456, not yet reported 95. Legislative-DPD, mandatory report 132, have reported 106, have not reported 26, have not reported 26. Legislative-DPRD, mandatory report 17,922, already reported 15,002, who have not yet reported are 2.92. Legislative Election-DPR RI, mandatory report, 800, who have reported 246, not yet reported 554. Legislative Election-DPD RI, authorized report 694, have reported 556, not yet reported 138. Legislative election DPRD, must report 15,318, have reported 8,046, have not yet reported 7,272. State-Owned Enterprises / Regional-Owned Enterprises are obliged to report 28,228, which have been reported are 26,754, among those who have not yet reported are 1,474 [5].

The data above shows that the legal culture of the State administrators in reporting assets is not optimal. The actions of State administrators who do not report their assets are one of the first indications that they are involved in corruption. There are a number of things that make state administrators disobeying the law in reporting the assets of State administrators. First, State administrators are concerned about the derivative consequences that will be received in the form of tax payment obligations. Second, the State administrators are concerned about the consequences in the form of an investigation of the increase in assets owned. Third, the weakness of administrative sanctions regulated in the provision of Article 20 of Law 28 of 1999 concerning State Administrators Free from Corruption, Collusion, Nepotism and the application of ineffective and inefficient sanctions are fundamental to the non-compliance of State administrators as required to report.

Of course it is not easy to solve the problem of corruption, even though it must involve all elements of the nation including the people, this is because corruption is a crime called the White Collar Crime, a crime committed by people who have excess wealth and are considered respectable because they have an important position [6]. In fact, according to Harkristuti Harkrisnowo, the perpetrators of corruption are not arbitrary because they have access to corruption by abusing their authority, opportunities or facilities [7]. Whereas according to Marella Buckley, corruption is a violation of public office for personal gain through bribery or an illegal commission [8]. In line with the above opinion, Indriyanto Seno Adji, builds his argument that corruption cannot be denied as a White Collar Crime with actions that always undergo dynamic mode of operation from all sides so that it is said to be an invisible Crime whose handling requires criminal law policy [9].

2. Research Method

This study uses a non-doctrinal research method with the approach of primary legal material data obtained through direct interviews [10]. In addition, interviews with secondary legal materials in the form of journal articles and legal books that are relevant to the core issues in this research are conducted [11]. Non-doctrinal research is oriented to examine the application of the rule of law in social reality.

The approach used in this research is non-doctrinal research by referring to the material in the form of interviews and secondary legal material in the form of journal articles and legal books that are relevant to the core issues in this research. The description of this research starts from the major premise. Existing data were analyzed qualitatively using an interactive model that starts from the process of data condensation (condensation / data development), data display (data presentation) and conclusion drawing / verification) [12]

2. Result and Discussion

2.1 Philosophical, sociological and normative foundation in applying criminal sanctions

The application of a penal policy as an effort to tackle corruption and laundering through the reporting instrument of State assets has a theoretical and practive basis:

[3] https://ti.or.id/corruption-perception-index-2018/ Rabu tanggal 08 Mei jam 15, 35 Tahun 2019.
[4] Ibid
[5] https://www.kpk.go.id/id/statistik/lhkpn/statistik-pelaporan-lhkpn

[6] Sudarto, Hukum dan Hukum Pidana, Bandung, Alumni, 1977, hlm. 102
[7] Harkristuti Harkrisnowo, "Korupsi, Konspirasi dan Keadilan di Indonesia", Jurnal Dictum LeIP, Edisi I, Jakarta, Lentera Hati, 2002, hlm. 67
[8] Marella Buckley, dalam Hans Otto Sano, et.al.,Hak Asasi Manusia dan Good Governance, Membangun Suatu Ketertiban, (alih bahasa oleh Rini Adriati), Jakarta, DepKumHam, 2003, hlm. 15
[9] Indryanto Seno Adji, Korupsi Kebijakan Aparatur Negara dan Hukum Pidana, Jakarta, Diadit Media, 2006, hlm. 374
[10] Soerjono Soekanto, Pengantar Penelitian Hukum, UI Press, Jakarta, hlm. 10
[11] Ibid. hlm. 12
[12] T. Sudrajat & A. Mardianto, Hak atas Pelayanan dan Perlindungan Kesehatan Ibu dan Anak (Implementasi Kebijakan di Kabupaten Banyumas). Jurnal Dinamika Hukum, 2012; 12 (2): 261-269.

a. Philosophical Justification

Why should a State administrator or public official report his assets? To answer this question we can look back to the Caliphate of Umar bin Khattab. Umar bin Khattab required his governors to register his wealth when he was appointed and when he ended his term of office. This is so that it can be known whether the increase in wealth concerned comes from a legitimate source or from a source that has a potential conflict of interest [13].

Philosophical reporting of assets in various parts of the world is relatively still no different from the era of the Caliph of Umar. According to the OECD, the wealth report provides information about assets held by public officials, receipts and expenditures of public officials, receipts received by public officials, positions that produce financial benefits or not and identities regarding wives, siblings, and people related to public official. With this philosophy of asset reporting, LHKPN has a dual role in terms of prevention and enforcement. The role of LHKPN prevention comes from the reporting process carried out by public officials. By reporting on their assets, public officials are expected to feel monitored so they will think several times if they will commit corruption crimes. On the other hand, the reporting can also be used as a means of detecting the possibility of wealth from State Administrators from unauthorized sources or potential conflicts of interest. Mandate in the laws and regulations regarding LHKPN, The State Administrator must actively report his assets as a form of support for the eradication of corruption. LHKPN reporting is an obligation which is inherent to the State Administrators to account for the assets they get from public money. The Corruption Eradication Commission facilitates State Administrators report their assets that have been reported to the Corruption Eradication Commission in a transparent manner so that the public can assess the wealth of the State administrator is reasonable or not in accordance with his profile.

Because they demand the active role of the State Administrators, sometimes there are still some State Administrators who ignore these obligations. The task of the Corruption Eradication Commission is to always remind these obligations, but it is up to the State Administrator himself to report his assets or not. In Law No.28 of 1999 there are indeed sanctions for State Administrators who do not fulfill their LHKPN obligations, will be subject to administrative sanctions in accordance with applicable laws. Unfortunately, clear administrative sanctions are not regulated if the National Administration does not report the LHKPN to the Corruption Eradication Commission or does not properly report its assets. It is here then, the vital role of the State Administrators at the top level. They have a moral and ethical obligation to remind subordinates to report LHKPN. In fact, there are Regional Governments that require all echelon officials to report their assets to the Corruption Eradication Commission to test the extent of bureaucracy transparency and accountability in working. If you have reported the LHKPN, the assets of each echelon official can easily be monitored before taking office, during office (mutation, promotion) after taking office, until retirement. If they do not want to report, the regional head is not reluctant to take it off because all this time the indications of the treasury I / II are hidden in the echelon account below.

b. Sociological Justification

Based on data released by the corruption eradication commission on corruption report on the assets of the State administrators in 2018 July 1, 2019 are presented in Table 1.

Table 1: LHKPN report in 2018

Area	Compulsory reporting	Already Reported	Not yet reported	Obedience
Executive	266.536	232.293	34.243	87,15%
Judiciary	20.350	18.685	1.665	91,82%
Legislative –MPR	8	8	-	100,00%
Legislative –DPR	551	456	95	82,76 %
Legislative –DPD	132	106	26	80,30%
Legislative –DPRD	17.992	15.002	2.920	83,71%
Legislative Election - DPR RI	800	246	554	30,75%
Legislative Election - DPD RI	649	556	138	80,12%
Legislative Election of DPRD	15.318	8.046	7.272	52,53%
State-Owned Enterprises / Regional-Owned Enterprises	28.228	26.754	1.474	94,78%
Total	350.539	302.152	48.387	86.20%

The overall level of awareness of state administrators among Executives, compulsory reporting 266,536, who have reported 232,293, have not reported as many as 34,243, Compulsory reporting judiciary, 20,350, who have reported 18,685 while those who have not reported 1,665. Legislative-MPR, Compulsory reporting, 8, has reported 8. Legislative-House of Representatives, Compulsory reporting 551, which has been reported 456, not yet reported 95. Legislative-Regional Representative Council, Compulsory reporting 132, has reported 106, has not reported 26 The Legislative-Regional House of Representatives, Compulsory reporting 17,922, has reported 15,002, not yet reported 2.92. The legislative election of the Indonesian house of representatives, compulsory reporting, 800, which has reported 246, has not yet reported 554. The Legislative Election of the Indonesian Regional House of Representatives, Compulsory reporting 694, has reported 556, not yet reported 138. Legislative Elections of the Regional House of Representatives, Compulsory reporting 15,318, has reported 8,046, not yet reported 7,272. State Owned Enterprises / Regional Owned Enterprises Compulsory reporting is 28,228, which has been reported is 26,754, while not yet reported is 1,474 [14].

The data above shows that the legal culture of the State administrators in reporting assets is not optimal. The actions of State administrators who do not report their assets are one of the first indications that they are involved in corruption. there are a number of things that make State administrators disobey the law in reporting the assets of State administrators. First, State administrators are concerned about the derivative consequences that will be received in the form of tax payment obligations. Second, the State administrators are concerned about the consequences in the form of an investigation of the increase in assets owned.

[13] Tim Spora, Pengantar Laporan Harta Kekayaan Penyelenggara Negara (LHKPN) Komisi Pemberantasan Korrupsi 2015. Direktorat Pendidikan dan Pelayanan Masyarakat Kedeputian Bidang Pencegahan Komisi Pemberantasan Korupsi, Jakarta 2015. hlm. 7

[14] https://www.kpk.go.id/id/statistik/lhkpn/statistik-pelaporan-lhkpn

Third, the weakness of administrative sanctions and the application of sanctions are other fundamental things that give birth to disobedience to the State administrators as mandatory reports.

c. Normative Justification

Reporting assets from State administrators as instruments of prevention, eradication and overcoming criminal acts of corruption, is a very important instrument to detect an increase in assets and assets of State administrators. The urgency of reporting assets as an instrument of prevention, eradication and overcoming acts of corruption is not accompanied by strengthening the substance of the law. Law Number 28 of 1999, first, the authority possessed by the Corruption Eradication Commission that is regulated in the provisions of Article 13 of Law 30 of 2002. It reads as follows "In carrying out the preventive tasks as referred to in Article 6 letter d, the Corruption Eradication Commission has the authority to carry out preventive measures or efforts as follows: a. register and examine the report on the assets of state administrators; b. receive reports and determine the status of gratuities; c. organizing anti-corruption education programs at every level of education; d. design and encourage the implementation of a socialization program to eradicate corruption; e. conduct anti-corruption campaigns to the general public; f. conduct bilateral or multilateral cooperation in combating corruption [15].

Corruption Eradication Commission as an institution that is authorized to manage is not accompanied by the authority to impose sanctions on State administrators who do not report assets, falsify reporting assets before, during, after taking office, Both Administrative Sanctions regulated in the provisions of Article 20 of Law Number 28 1999, which reads as follows. "Paragraph (1) Every State Operator violating the provisions as referred to in Article 5 number 1, 2, 3, 5, or 6 shall be liable to administrative sanctions in accordance with the provisions of the applicable laws and regulations. Paragraph (2) Every State Operator violating the provisions as referred to in Article 5 number 4 or 7 shall be liable to criminal sanctions and / or civil sanctions in accordance with the provisions of the applicable laws and regulations" [16].

The application of sanctions provided for in the provisions of Article 20 above is left to the agency where the State administrator works. In addition, there is no categorization of the determination of the model of administrative sanctions that must be applied to State administrators in what terms and under what circumstances.

2.2 Construction of the application of criminal sanctions against state administrators not reporting and falsifying their assets report

Of the three theoretical foundations, the practicalities described above can be drawn from the conclusions of Law 28 of 1999 concerning state administrators that are free from corruption, collusion, nepotism, have weaknesses on several sides, so that they are not relevant to the spirit of eradicating modern corruption based on prevention. Legal expert Satya Arinanto once questioned the effectiveness of Law Number 28 of 1999 because it did not explicitly include sanctions for state officials who did not report and declare wealth. According to him, although Article 20 of Law Number 28 Year 1999 stipulates administrative and criminal sanctions, the sanctions in question are felt to be floating because they only refer to the applicable laws and regulations. Therefore, Arinanto suggested that Law No. 28 of 1999 be revised to include criminal sanctions for state administrators who refuse to report wealth, but as a short-term breakthrough that can be sought in the Criminal Code articles that can be used to resolve the problem of the absence of criminal sanctions that are assertive [17].

The writer views that it is necessary to apply criminal sanctions as an effort to prevent corruption and money laundering through the instrument of prevention, against state administrators who do not report wealth and who falsify wealth reporting. The application of criminal sanctions against state administrators is based on the reporting function of state administrators as preliminary evidence of detecting conflicts of interest and improperly increasing assets owned by State administrators.

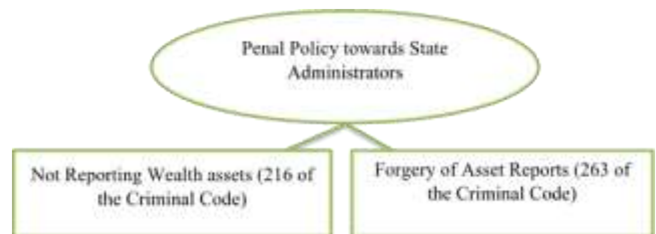

Fig 1: Market Application Scheme for State Administrators

Referring to the provisions of Article 216 of the Criminal Code can ideally be applied to the state administrators who do not report their assets. Article 216 of the Criminal Code states that:

1. Whoever intentionally disobeys an order or a request that is carried out based on statutory regulations by a civil servant who is assigned to carry out an oversight or by a civil servant who is assigned or who is declared authorized to carry out an investigation or investigation of a criminal act, likewise whoever intentionally impedes, impedes, or thwarts an act committed by one of the civil servants to carry out a statutory regulation, is liable to a four-month and two-week imprisonment or a fine of up to nine thousand rupiahs
2. Equated with public servants as intended in the first part of the previous paragraph, where each person based on the legislation is assigned to carry out a general task, either permanently or temporarily

According to P.A.F. Lamintang, et.al., criminal provisions formulated in Article 216 paragraph (1) of the Criminal Code regulates two types of criminal acts, namely [18];

a) Intentional disobedience to an order or request carried out based on statutory regulations by a civil servant assigned to carry out an oversight or by a civil servant assigned or who is declared authorized to carry out an investigation or investigation of a criminal offense;
b) Intentionally obstructs, inhibits or thwarts an action

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[15] Undang-Undang Nomor 30 Tahun 2002 Tentang Komisi Pemberantasan Tindak Pidana Korupsi

[16] Undang-Undang Nomor 28 Tahun 199 Tentang Penyelenggara Yang Bersih Bebas dari Korupsi, Kolusi, Nepotisme

[17] Deputi Pencegahan dan Direktoral Penelitian dan Pengembangan Komisi Pemberantasan Korupsi. Op.cit. hlm.293

[18] P.A.F. Lamintang dan Teo Lamintang, Delik-Delik Khusus: Kejahatan Terhadap Kepentingan Hukum Negara, Sinar Grafika, Jakarta 2010. hlm. 642

taken by one of the civil servants to carry out a statutory regulation.

It was further explained that the first category of criminal acts regulated in Article 216 paragraph (1) of the Criminal Code consists of subjective elements in the form of opzettelijk or intentionally and the objective element is not to obey an order or request carried out based on statutory regulations by a civil servant assigned to carry out surveillance or by a civil servant assigned or declared authorized to conduct an investigation or investigation of a criminal offense [19].

By paying attention to the explanation contained in memorie van toelichting which states that *opzettelijk* must be interpreted as willens en wetens, to be able to declare an offender proven to have intentionally committed the first type of criminal offense as regulated in Article 216 paragraph (1) of the Criminal Code, what must be proven is [20]:

1) Perpetrators have wanted to disobey an order or request made based on statutory regulations by civil servants referred to in the first part of Article 216 paragraph (1) of the Criminal Code and Article 216 paragraph (2) of the Criminal Code;
2) The perpetrator knew that the request or command has been carried out by civil servants as it was intended above;
3) The perpetrator knew that a command or request that has been done by legislation;
4) The perpetrator knows that the person who issued the order or who submitted the request is one of the civil servants:
    a. The one is assigned to conduct surveillance, or
    b. The one assigned to investigate
    c. The one is declared authorized to conduct an investigation or investigation of a criminal act, or
    d. The ones who are based on statutory regulations are assigned to carry out general tasks, both those assigned permanently or those who are temporarily assigned.

From the elements that have to be proven, it can be seen that the disobedience of the state administrators to report their assets is clearly an intention of the state administrators to disobey an order or request made based on statutory regulations. The order or request is also clear from the civil servants, in this case the Corruption Eradication Commission that carries out general tasks, supervisory tasks or even investigative tasks whose authority is clearly stipulated in the law. Thus it can be concluded that Article 216 paragraph (1) can be applied to provide criminal sanctions for State administrators who do not report or do not renew their assets report.

According to Dr. Muhammad Taufiq, the provisions of Article 216 of the Criminal Code can be applied to State administrators who have not reported their assets or who have not updated their assets reports. Article 216 contains elements of those who intentionally disobey or demand, which are carried out according to the law by the civil servants who are obliged to supervise the civil servants who are required or authorized to investigate or examine punishable actions. The State Administrator intentionally not reporting assets is an act that intentionally does not comply with the provisions of Article 5 of Law 28 of 1999 other than disobeying the orders of the Corruption Eradication Commission based on the authority regulated in Article 13 of Law 30 of 2002. Law 28 of 1999 never revokes the provisions of Article 216 to be applied to state administrators who do not obey the laws or state officials who are given the power to investigate and examine [21].

In the event that the State administrators do not report their assets honestly by hiding certain assets, changing the origin of the assets from the real ones, or reducing the nominal value of certain assets, it is also appropriate to consider the "falsification of the document" crime as regulated in Articles 263 and 264 of the Criminal Code. Acts of state officials to report assets that are dishonestly done intentionally to hide or disguise the origin, source, location, designation, transfer of rights, or the actual ownership of assets that are known to or supposedly constitute the result of a criminal offense, then the act can qualify for money laundering as regulated in Article 4 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. It sounds as follows:[22]

Any person who conceals or disguises the origin, source, location, designation, transfer of rights, or actual ownership of the Asset known or assumed to be a criminal offense as referred to in Article 2 paragraph (1) is convicted of a criminal offense Money with a maximum imprisonment of 20 (twenty) years and a maximum fine of Rp 5,000,000,000 (five billion rupiahs)).

According to Yudi Kristiana, the prohibited acts in the provisions of article 4 above, namely hiding or disguising the origin, source, location, designation, transfer of rights, or actual ownership of assets that are known or reasonably suspected are the results of criminal acts as stated in provisions of article 2 of paragraph (1). Kristiana further said that the act of hiding and disguising is an alternative formulation, meaning that between hiding and disguising can replace each other and, is a choice of the same quality. In proving the public prosecutor can choose one of them in accordance with legal facts.[23]

So even though the sanctions affirmed in Article 20 paragraph (1) of Law Number 28 Year 1999 are only in the form of administrative sanctions, it is very open to the possibility of applying criminal sanctions for state administrators who do not report assets, do not renew reporting, or report their assets dishonestly. The formulation of a penal policy towards state administrators who do not report wealth and who falsifies their wealth reports is necessary to make effective efforts to prevent corruption in Indonesia. The role of criminal sanctions through the State administrator of assets report instrument is an effort to prevent corruption in the Indonesian nation.

According to Lily Mulyadi, quoting Richard D. Swhwartz and Jerome H. Sknolnick, there are two roles of sanctions in

[19] Ibid. hlm. 643
[20] Ibid. hlm. 643-644

[21] Wawancara dengan Muhammad Taufiq, Dosen dan Praktisi Pindak Pidana Korupsi pada tanggal 26 September 2019
[22] Pasal 4 Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian uang.
[23] Yudi Kristiana, Pemberantasan Tindak Pidana pencucian uang (Prespektif Hukum Progresif)¸Thafa Media, Yogyakarta 2015. hlm. 57

criminal law, namely as follows:[24]

a) *Prevent repetition of criminal acts to Prevent Recidivisn)*
b) Prevent others from doing the same thing as a convicted person *(to deterother from the performance of similar acts)*

Enforcement of administrative and criminal sanctions is absolutely necessary to ensure the compliance of state administrators in the reporting of assets. The construction of law enforcement to prevent corruption, corruption prevention uses the above as an effort to prevent and deal with corruption through the instrument of reporting the assets of the State administrator. The provisions on the provision of criminal sanctions against State administrators who do not report assets and falsify wealth reports are an efficient effort to prevent corruption.The implementation of prevention-based policies by strengthening the legal substance is a new paradigm in eradicating corruption in the world. The new idea of eradication of corruption based on prevention set out in the United Nations Convention Againt Corruption anti-corruption convention in 2003. As stated in the UNCAC as follows:

Article 5 Preventive anti-corruption policies and practices:[25]

a) Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
b) Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption
c) Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
d) States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(Translation of Article 5 Provisions of the Policy and preventive anti-corruption practices):

a) Each State Party shall, according to the basic principles of its legal system, develop and implement or maintain a coordinated anti-corruption policy that promotes public participation and reflects the principles of the rule of law, proper management of public affairs and public ownership, integrity, transparency and accountability.
b) Each State Party shall endeavor to establish and promote effective practices aimed at preventing corruption.
c) Each State Party must endeavor to periodically evaluate relevant legal instruments and administrative actions with a view to determining their adequacy to prevent and eradicate corruption.
d) States parties, as appropriate and in accordance with the basic principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the steps mentioned in this article. The collaboration could include participation in international programs and projects aimed at preventing corruption.

The state can develop and implement or maintain coordinated anti-corruption policies that promote public participation and reflect the principles of the rule of law, management of public affairs and proper public ownership, integrity, transparency and accountability. In addition the State must strive to establish and promote effective practices aimed at preventing corruption.

3. Conclusion

Although there are sanctions that have been affirmed in Article 20 paragraph (1) of Law Number 28 Year 1999 in the form of administrative sanctions for state administrators who do not report assets, do not renew reports, or report their assets dishonestly. For state administrators who do not report assets, reporting their assets dishonestly is very necessary to apply criminal sanctions as an effort to prevent, eradicate and tackle corruption in Indonesia.

Researchers suggest to the government to conduct a judicial review of law 28 of 1999 by regulating the authority of the Corruption Eradication Commission in implementing both administrative and criminal sanctions against state administrators who do not report assets, report their assets dishonestly as efforts to prevent, eradicate and deal with acts criminal corruption committed by the State administrator.

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