



## BASIC IMPLEMENTATION OF THE NATIONAL OFFICE IN PREVENTION OF GRATUITY CASES

### IMPLEMENTASI DASAR KANTOR NASIONAL DALAM PENCEGAHAN KASUS GRATIFIKASI

**Ahmad Taqwa<sup>1\*</sup>, Muhammad Ihsan<sup>2</sup>**

<sup>1</sup>\*Universitas Tamansiswa Palembang, Email: [ahmadhabibietaqwa@yahoo.com](mailto:ahmadhabibietaqwa@yahoo.com)

<sup>2</sup>Universitas Tamansiswa Palembang, Email: [ihsanaisyah2007@gmail.com](mailto:ihsanaisyah2007@gmail.com)

\*email koresponden: [ahmadhabibietaqwa@yahoo.com](mailto:ahmadhabibietaqwa@yahoo.com)

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#### Abstract

The scientific background regarding the case of gratuity in Indonesia, in terms of juridical violations under Articles 12A, 12B, and 12C of Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, has caused poverty across various aspects of people's lives. In addition, efforts to eradicate the crime of gratuity need to be supported by professional human resources and the enforcement of legal sanctions to foster personal awareness of anti-corruption. Based on the description above, the problem formulation is focused on: 1) Why is the integrity of state officials needed in eradicating graft cases? 2) What is the relationship between the philosophical study of the integrity of state officials in the case of gratuities? 3) What is the legal purpose of the integrity of state officials in the case of gratuities? The purpose of this study is to analyze the integrity of state officials in eradicating cases of gratuity. The approach method in this study is a normative juridical approach. The types of legal materials used are primary, secondary, and tertiary. The analysis technique used is qualitative descriptive. The results of the study are the eradication of gratuities in Indonesia, namely unlawful acts (corruption) by state officials/employees, receiving bribes (gratuities) from corporations or related parties, abuse of authority, and the practice of collusion with fictitious projects offering a 50%:50% profit split with contractors. This research novelty concludes that gratuities are unlawful acts by state officials who must be audited their salary financial data and even their family's financial data through the Annual Personal Tax Payment Letter in accordance with the Regulation in Lieu of Law Number 1 of 2017 and reported to the Financial Audit Agency and the Financial Transaction Analysis Reporting Center in accordance with the Law of the Republic of Indonesia Number 8 of 2010.

**Keywords :** Integrity, State Officials, Gratification.

#### Abstrak

Latar belakang ilmiah mengenai kasus gratifikasi di Indonesia dalam pelanggaran yuridis menurut Pasal 12A,B,C Undang-undang Nomor 31 Tahun 1999 Juncto Undang-undang Nomor 20 Tahun 2001



Tentang Pemberantasan Tindak Pidana Korupsi telah menimbulkan kemiskinan dalam berbagai sendi kehidupan masyarakat. Selain itu upaya pemberantasan tindak pidana gratifikasi perlu didukung oleh sumber daya manusia yang professional dan penegakan sanksi hukum guna menumbuhkan kesadaran pribadi anti korupsi. Berdasarkan uraian di atas, maka rumusan masalah difokuskan pada: 1) Mengapa integritas pejabat negara diperlukan dalam pemberantasan kasus gratifikasi ? 2) Apa hubungan kajian filosofis integritas pejabat negara dalam kasus gratifikasi? 3) Apakah tujuan hukum integritas pejabat negara dalam kasus gratifikasi? Tujuan dari penelitian ini untuk menganalisis integritas pejabat negara dalam pemberantasan kasus gratifikasi. Metode pendekatan dalam penelitian ini adalah pendekatan yuridis normatif. Jenis bahan hukum yang digunakan bahan hukum primer, sekunder, dan tertier. Teknik analisa yang digunakan adalah deskriptif kualitatif. Hasil penelitian adalah bentuk pemberantasan gratifikasi di Indonesia yaitu perbuatan melawan hukum (korupsi) oleh pejabat/pegawai negara, dan menerima suap (gratifikasi) dari korporasi atau pihak yang terkait, penyalahgunaan wewenang, praktik kolusi proyek fiktif keuntungan 50%:50% dengan pihak kontraktor. Kesimpulan novelty penelitian ini adalah gratifikasi merupakan perbuatan melawan hukum oleh pejabat negara harus di audit data keuangan gajinya bahkan data keuangan keluarganya melalui Surat Pembayaran Tahunan Pajak Pribadi sesuai dengan Peraturan Pengganti Undang-undang Nomor 1 Tahun 2017 dan dilaporkan ke Badan Pemeriksa Keuangan serta Pusat Pelaporan Analisis Transaksi Keuangan sesuai dengan Undang-undang Republik Indonesia Nomor 8 tahun 2010.

**Kata Kunci :** Integritas, Pejabat Negara, Gratifikasi.

## 1. INTRODUCTION

Nowadays, people respect positions and wealth more than they do morals and knowledge. This view of philosophical thinking is wrong because Allah SWT will exalt those who believe and have knowledge to several degrees (QS. Al-Mujadillah (58): 11). In philosophical studies, the author argues that science must include honesty, diligence, politeness, and sincerity. The problem of corruption will not end if officials continue to enrich themselves and their groups. The KPK has made maximum efforts to improve the integrity of state officials (Ministry of National Education, 2015: 541). Integrity, according to the author, is the consistency between thoughts, speech, and actions according to noble values. According to the Pocket Book of Understanding Gratification, gratuity actually means neutral, but it becomes haram if it meets the criteria of Article 12B of the Corruption Eradication Law (Muhammadiansyah et al., 2010: 3).

Regarding the principle of proof, Article 12B of the Anti-Corruption Eradication Law stipulates that if the gratuity value is above IDR 10 million, the reverse burden of proof is on the recipient. One obstacle is determining whether the gift is related to the position or is just a tradition, such as Eid parcels. Indonesia, as a country of Law, must uphold human rights values and equality before the Law (Hartanti, 2005: 1). During the Development Reform Cabinet, President B.J. Habibie responded to the aspirations of the people by forming a Legal Reform Team to eradicate KKN (Chaerudin et al., 2008: 42).

The government also established the KPK for preventive and repressive actions. The eradication of corruption not only provides a deterrence effect, but also functions as a preventive effect (Chaerudin et al., 2008: 43). In fact, many state officials from the Constitutional Court to the Village level were involved in this case (PT Bengkulu Decision No.



4/Pid.Sus-TPK/2018/PT. BGL). Corruption has caused damage in various aspects of life (Hamzah, 1984: 3). A heavier reconstruction of criminal sanctions is needed because the current sanctions are considered not to be able to provide a total deterrent effect (Dahwir, 2017: 689). That man is strong because of his morals. The focus on the substance of the rule of Law must be clarified to prevent abuse of authority (Febrian, 2004: 398). Based on this description, the problem of this research is: The Integrity of State Officials in the Eradication of Gratification Cases in Indonesia.

What legal issues are focused on: 1) Why is the integrity of state officials needed in eradicating gratuity cases? 2) What is the relationship between the philosophical study of the integrity of state officials in the case of gratuities? 3) What is the legal purpose of the integrity of state officials in the case of gratuities? The purpose of this study is to analyze the integrity of state officials in eradicating cases of gratuity. Premium recommendation, What scientific void to be filled from this research aims for science with the essence and usefulness of science, not only aimed at solving problems but also satisfying and enriching the soul (Suriasumantri, 1990: 364). The relationship between knowledge and the rules of Law or sharia is a rule of Allah SWT that regulates aqidah, worship, adab, and morals (Santoso, 2016: 79). Therefore, the existence of legal or sharia rules maintains order in society and serves as a benchmark for good behavior. The novelty of this research lies in the relationship between science and morality, which must still prioritize morality, because moral people are certainly knowledgeable, but knowledgeable people are not necessarily moral. For example, the behavior of state officials who have everything yet still commit corruption out of greed and a lack of morals. Sanctions for corruptors must be heavier, if necessary. For the perpetrators, sanctions need to be publicly shamed through social media and media publications.

## 2. RESEARCH METHOD

The research method used in this study is a normative juridical approach, with a philosophical approach through legislation (statute approach) in Articles 12A, 12 B, and 12C of Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The types of legal materials used are primary legal materials in the criminal Law, secondary in journals, and tertiary on the internet. The qualitative descriptive analysis technique is used to analyze problems related to the integrity of state officials in the eradication of gratuity cases in Indonesia. Meanwhile, the conclusion is deductive.

## 3. RESULT AND DISCUSSION

### a. The Relationship of Globalization of Accountability to the Philosophical Study of the Integrity of State Officials in the Case of Gratification

The accountability of state money reporting must be transparent (Ministry of National Education, 2015). Accountability is a principle that holds that every development activity must be accountable to the community, the holder of the highest sovereignty (Najib, 2008).



Therefore, the community needs legal certainty, with severe punishment for the perpetrators of gratuities, based on the principle of acts against material laws (Barata, 2008). In Legal Liability Theory, responsibility is defined as the obligation to bear losses and the losses suffered (Algra in Salim et al., 2013). Based on this theory, the author analyzes that corrupt perpetrators always abuse power for personal gain. Corruption is categorized as a white-collar crime, committed by a respectable person in a position of high social status. The use of criminal Law to address gratuities is part of law enforcement policies aimed at protecting the community.

Efforts to eradicate gratuities in Indonesia consist of preventive and repressive measures. Preventive measures are carried out by improving personal morals, starting from self-honesty and awareness of responsibility in the hereafter. Meanwhile, repressive actions are carried out through the provision of strict sanctions such as disrespectful dismissal (PHK) for state officials and the imposition of prison sentences of up to life in accordance with Article 12 B paragraph (2) of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes 20 of 2001. The relationship between the rule of Law and the legal objective of the integrity of state officials is that the rule of Law is the principle that the Law must govern a country, not the individual decision of an official (Basiang, 2009). However, the regulation often encounters obstacles because lawmakers themselves frequently exceed their legal authority. In terms of asset recovery, there are regulatory differences between Law No. 1 of 2006 and Law No. 25 of 2003 that often constitute technical obstacles (Erthatero, 2019).

In the evidentiary system, Indonesia adheres to the theory of negative legal proof (Negatieve Wettelijk Stelsel), under which judges can impose a sentence only if there is valid evidence and the judge is convinced (Sasangka & Rosita, 2003). Fair law enforcement requires legal protection for defendants and progressive legal assistance for victims (Agus, 2012). The ultimate goal is to realize a just and civilized humanity in accordance with Pancasila.

### **b. The Relationship of Human Rights to the Legal Objectives of the Integrity of State Officials**

Human rights are basic rights given by God, such as the right to live and receive protection (Ministry of National Education, 2015). Human rights are moral principles that are protected in both national and international Law. In the criminal context, punishment serves as moral education, enabling the convict to recognize his mistakes (Achmad, 2013). According to Rashid Ariman, there are three main schools in criminal theory: absolute theory (retribution), relative theory (purpose), and combined theory (Ariman & Raghib, 2015). The absolute theory emphasizes that crime is absolute retribution for a crime. Figures such as Immanuel Kant saw it as a demand for morality, while Hegel saw it as a way to restore justice (Ariman & Raghib, 2015). The author analyzes that the purpose of punishment must include retribution as well as coaching through the correctional system. This aims to ensure that the community can accept the inmates back and that they do not repeat their actions (Law Number 12 of 1995). The phenomenon of strict law enforcement against abuse of authority and gratuities can be seen



from the track record of judges such as Artidjo Alkostar, who often aggravate the punishment of corruptors at the cassation level.

**Table 1. Corruption Cases Handled by Artidjo Alkostar**

| No. | Nama               | Putusan   |
|-----|--------------------|---|
| 1.  | Anas Urbaningrum   | KPK Demand: 15 Years in Prison<br>Jakarta Corruption Court Verdict: 8 years in prison<br>Jakarta High Court Verdict: 7 years in prison<br>Cassation Verdict: 14 years in prison (up 7 years but 1 year lower than the prosecutor's demands) and obliged to pay a fine of 5 billion subsidies for one year and four months of confinement. Also, they are obliged to pay a compensation of Rp. 57,592,330,580 to the state.<br>Cassation Panel: Artidjo Alkostar, MS Lumme, and Krisna Harahap |
| 2.  | Akil Mochtar       | KPK demands: Life imprisonment<br>Jakarta Corruption Court Verdict: Life imprisonment<br>Jakarta High Court Verdict: Life imprisonment<br>Cassation Verdict: Life imprisonment (same as the prosecutor's demand)<br>Cassation Panel: Artidjo Alkostar, MS Lumme, and Krisna Harahap   |
| 3.  | Angelina Sondakh   | KPK demands: 12 years in prison<br>Jakarta Corruption Court Verdict: 4.5 years in prison<br>Jakarta High Court Verdict: 4.5 years in prison<br>Cassation Verdict: 12 years in prison (the same as the prosecutor's demands) and pay compensation of 12.59 billion and 2.35 million US dollars (or about 27.4 billion)<br>Cassation Panel: Artidjo Alkostar, MS Lumme, and Krisna Harahap<br>Then, this sentence was reduced to 10 years in prison at the review level (PK)                    |
| 4.  | Sutan Bhatoegana   | KPK demands: 11 years in prison<br>Jakarta Corruption Court Verdict: 10 years in prison<br>Jakarta High Court Verdict: 10 years in prison<br>Cassation Verdict: 12 years in prison (up one year and one year more than the prosecutor's demands)<br>Cassation Panel: Artidjo Alkostar, MS Lumme, and Abdul Latief   |
| 5.  | Irjen Joko Susilo  | KPK demands: 18 years in prison<br>Jakarta Corruption Court Verdict: 10 years in prison<br>Jakarta High Court Verdict: 18 years in prison<br>Cassation Verdict: 18 years in prison (according to the verdict of the Jakarta High Court and the prosecutor's demands)<br>Cassation Panel: Artidjo Alkostar, MS Lumme, and M Askin  |
| 6.  | OC Kaligis         | Jakarta Corruption Court Verdict: 5.5 years in prison<br>Jakarta High Court Verdict: 7 years in prison<br>Cassation Verdict: 10 years in prison<br>Cassation Panel: Artidjo Alkostar, Abdul Latief, and Krisna Harahap  |
| 7.  | Ratu Atut Chosiyah | Jakarta Corruption Court Verdict: 4 years in prison<br>Jakarta High Court Verdict: 4 years in prison<br>Cassation Verdict: 7 years imprisonment<br>Cassation Panel: MS Lumme, Krisna Harahap, and Artidjo Alkostar  |

Other major cases, such as the Bank Bali or BLBI corruption case with the defendant Djoko Tjandra; former President Suharto's corruption case; the Bali Bombing case; human



rights crimes in East Timor and Tanjung Priok; the Polycarpus case with the death of human rights activist Munir; the corruption case of Prosecutor Tri Gunawan; the corruption case of Anggodo Widjoyo and Gayus Tambunan; and the corruption of the e-KTP project of the defendants Irman and Sugiharto.

According to the author's analysis, the form of eradication of gratuities in Indonesia can occur because:

- 1) The economic demands of the family and the lack of income from a person's main job mean that when he finds an opportunity to increase his income, he is willing to sacrifice his conscience. So that an action called gratuity does not occur: if you borrow money at the bank and do not exceed half of your salary, and the salary is not enough to pay the debt, you will look for impure income, either bribes or gratuities.
- 2) Personal character, namely, people who often act dishonestly, becomes a habit in life, allowing gratification in solving a trivial matter, especially in more complicated circumstances. May honesty bring blessings and be on time, because results never betray effort.
- 3) An honest judiciary without bribes or gratuities to state officials, both for judges, clerks, and prosecutors, starting at 1 the district court level, high court, and central court.

According to the author's analysis, bribery, as defined as a gratuity, is the act of giving something valuable that the recipient must like. Some of the main causes of gratuities include failures in the education sector, efforts to win tenders in the bureaucracy for the procurement of goods and services, and the desire to expedite court proceedings. The relationship between human rights and the integrity goals of state officials is close, as gratuities often involve human rights violations in the economic and social fields. Officials who lack integrity are considered to deprive the community, especially people experiencing poverty, of their rights and to hinder national development. Therefore, it is necessary to impose both penal sanctions, including a criminal sentence of 20 years in prison or life, and administrative sanctions, such as dishonorable dismissal.

### **c. The Relationship of Democracy to the Legal Objectives of the Integrity of State Officials in Gratification Cases**

Democracy is a system of government in which all people participate in governing through representatives, which prioritizes equality of rights and obligations (Ministry of National Education, 2015). The meaning of 'democratically elected' in Article 18, paragraph 4, of the 1945 Constitution should not be limited to uniformity in the Regional Elections, because each region has distinct characteristics and historical roots (Mukti, 2012). Supposedly, the concrete norms of democracy in Indonesia are formulated to be in harmony with global democratization while still grounded in local wisdom (globalization) to maintain the integrity

<sup>1</sup> See Nashriana in court as an organ in judicial power that functions to examine and adjudicate the case of the accused. The verdict can be in the form of acquittal (*vrijpraak*), acquittal from prosecution (*onslag van alle rechtvervolging*) or sentencing to the defendant. Nashriana, *Op.Cit.*, p. 205.



of the Republic of Indonesia (Mukti, 2012). In relation to sanctions for integrity violators, there are three schools of criminal theory (Straftheorie), namely (Ariman & Raghib, 2015):

- 1) Absolute Theory (Retribution): Prioritizes that every unlawful act must be punished with a criminal penalty.
- 2) Relative Theory (Purpose): The author argues that this theory aims to prevent the criminal from repeating his actions and to help him become a better person. However, in practice, the policy of criminalization in the Law on the Eradication of Corruption often fails to consider a sense of justice and propriety (Siregar, 2018).
- 3) Joint Theory: Focuses on retribution that does not exceed the limit, the defense of social order adapted to the suffering of the victim, as well as the elimination of blame to create balance.

According to the author's analysis, the relationship between democracy and the legal goal of the integrity of state officials in eradicating gratuities is the application of sanctions, including the revocation of the right to run for office for 5 years and heavy prison sentences, to achieve public welfare and fair law enforcement.

#### ***Grand Theory***

1. Law Enforcement Theory is an effort to realize the value of law into reality Satjipto's view that humans who practice the law make it a reality

According to Soerjono, the activity of harmonizing the values of the rules in the attitude of action to maintain the peace of life, law enforcement is influenced by factors, namely:

1. The factor of legal substance itself is the law.
2. Legal structure factors, including the institutional structure or law enforcement officers, namely the police, prosecutor's office, judiciary, lawyers, namely the parties who form and implement the law. Factors of facilities or facilities that support law enforcement.
3. The factor of legal culture is legal awareness in the honesty of the community and state administrators in obeying the law. The ancient Roman phrase *Quid sine leges moribus* is what a law means if it is not supported by the good behavior of the community.

Justice theory. According to Salim, HS quoted from Notonegoro in Jhon Stuart Mill dividing the concept of justice is the ability to give oneself and others what they should and what they are entitled to. Salim HS quoted Hans Kelsen from Aristotle, justice is divided into two types, namely: Justice in the general sense and Justice in a special sense. Justice in a general sense is justice that applies to everyone. Do not discriminate between one person and another. Justice in a special sense is justice that applies only to certain people.





### **Middle Range Theory**

1. The theory of the welfare law state. This theory is the basis for the authority for the state to eradicate corruption crimes that harm state finances or the state economy and hinder national development, in order to realize a just and prosperous society based on Pancasila and the 1945 Constitution. According to Otje Salman and Anton F. Susanto, basically our country has adhered to the theory of the welfare state, as contained in the analysis of the preamble to the 1945 Constitution of the fourth amendment. In this theory, the author analyzes that this theory aims to create welfare for the community which aims to create a religious, just and civilized society and aims for social justice for all Indonesian people.
2. The theory of legal responsibility (responsheid), according to Algra, is "The obligation to bear responsibility and bear the losses suffered (if sued), both in legal responsibility. So that the person concerned can be required to pay compensation and/or carry out a criminal offense. Meanwhile, administrative responsibility is a responsibility imposed on people who make administrative errors, such as doctors who commit administrative violations, can have their practice license revoked.



### **Applied Theory**

1. The Theory of Proof according to Hari Sasangka and Lily Rosita is divided into 4 systems, namely:
  - a. Evidence System or Theory Based on Conviction *In Time*
  - b. Evidence System or Theory Based on the Judge's Conviction for Logical Reasons (*Conviction In Raisone*)
  - c. System or Theory of Positive Legal Proof (*Positif Wettelijk*)
  - d. Negative Legal Proof System or Theory (*Negatieve Wettelijk Stelsel*)
2. Criminal Theory. According to H.M. Rasyid Ariman and the opinions of leading legal experts in criminal law, there are three types of criminal theory (*Straftheorieon*) or punishment in criminal law known, namely:
  - a. Absolute theory or retaliation (*vergending theorieen*)
  - b. Relative theory or objective (*utilitarian/doeltheorieen*)
  - c. Combined or combined theory (*compromice theory*)

**Figure 2. A theoretical framework that is the basis for analyzing the integrity of state officials in the eradication of gratuity cases in Indonesia**

#### **d. Philosophical Foundations**

The philosophical foundation holds that regulations are formed based on a view of life, awareness, and legal ideals that originate in Pancasila and the Preamble to the 1945 Constitution. The author argues that internal factors, such as weak integrity, and external factors, such as globalization, transparency, and accountability, cause the high level of corruption in Indonesia. Another significant factor is the judge's decision, which tends to be light so as not to deter the perpetrator.

To form the integrity of state officials, the KPK Law was formed with the support of the police and the prosecutor's office. The function of the police in investigation must apply the principles of simplicity, speed, and low cost, while upholding the values of legal certainty and justice (Pettanasse, 2014). Philosophically, integrity is the key to honesty in eradicating



gratuities. However, there is a gap between expectations (*Das Sollen*), where the verdict should be severe under Article 12B of the Corruption Law, and reality (*Das Sein*), where gratuities are difficult to punish, and judges' sentences are often low.

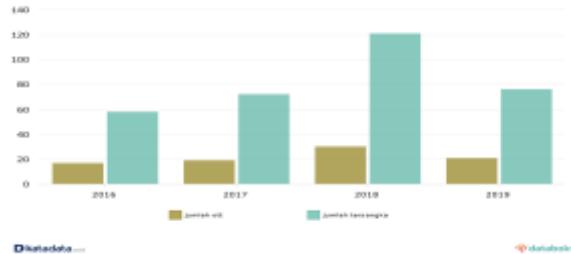
According to the author, the philosophical study of integrity must prioritize honesty over position and property. As the ancient Roman proverb goes, *Quid sine leges moribus*, which means that the Law will be meaningless without good behavior from the people. The legal purpose of this integrity is to realize a just and civilized humanity for the sake of social welfare. The author also proposes strengthening penal sanctions by imposing a minimum sentence of 8 years in prison to address the practice of judges' verdicts in the field.

#### e. Juridical Basis

The juridical basis shows that regulations are enacted to fill legal gaps and ensure legal certainty for state officials by managing scientific data, as reviewed in Law Number 5 of 2014. Scientific data, in an effort to prevent, the author criticizes the importance of the eavesdropping function. Since the revision under Law No. 19 of 2019, the direct correlation between the data and the legal conclusion, namely the implementation of wiretapping by the KPK, requires obtaining written permission from the Supervisory Board to maintain accountability for legal procedures. The analysis of state officials subject to the Law in this regulation includes leaders of high state institutions, as well as notaries.

#### f. Sociological Basis

The sociological foundation is grounded in empirical facts and in people's need for justice, derived from the values of Pancasila and Islamic Law. However, sociologically, the substance of the rule of Law is still often violated by state officials involved in bribery (Febrian, 2004). This can be seen from the empirical data of the Hand Capture Operation (OTT) conducted by the KPK. Throughout 2015-2019, there were 87 arrest operations involving 327 suspects, with the peak in 2018, when 30 cases of bribery and gratuities were recorded (Corruption Eradication Commission, 2019). This data shows that analyzing the community's legal culture and the integrity of officials remains a major challenge in eradicating gratuities in Indonesia.



**Figure 3. Bribery/gratuity crimes in 2016-2019**

Data source: KPK Annual Report 2016-2019

From tracing cases handled by the KPK, the OTT netted 327 gratuity/bribery cases during 2015-2019. The Corruption Eradication Commission (KPK) said it had conducted 87 hand-holding operations (OTT) involving 327 initial suspects over 2015-2019. Based on the



sociological basis of the graph data, the author analyzes the policy for determining the type of crime (strafsoort), the severity of the crime (strafmaat), and the implementation of the crime (strafmodus) as instruments for the public prosecutor in prosecuting the perpetrators of the crime of gratuity. From these demands, the judge should impose a heavier sentence, so that it is expected to have a preventive and repressive effect against the crime of gratuity/bribery.

#### 4. CONCLUSION

According to the author, the author concludes as follows:

- a. The integrity of state officials is needed to eradicate graft cases, as integrity is the initial key to doing so. The KPK's efforts to eradicate gratuities need to be supported by the integrity of its own officials, who should uphold professionalism, honesty, and responsibility, especially towards the Indonesian nation. Gratification will continue to occur due to weak law enforcement, namely: The substance of the Law according to the size of the crime criteria is small or the length of the crime (strafmaat) is regulated in Article 12 B, paragraph 2 of Law Number 31 of 1999 Juncto Law No. 20 of 2001, the type of crime (strafsoort) concerning the Eradication of Corruption. The legal implication is that the punishment for the gratuity case should be clear: the heaviest sentence is life imprisonment, or a minimum of 4 years and a maximum of 20 years. But in fact (Das Sein), the gratuity is not easy to punish because of the criminal implementation (strafmodus) of the judge's sentence of 2 years. The legal structure is law enforcement (judges, prosecutors, police, lawyers). In fact (Das Sein), judges sentence gratuities lightly, so this is the main factor and root of the proliferation of gratuities and other corruption. Because there is no legal awareness and corrupt officials lack morals, they even consider gratuities as unexpected sustenance. The legal culture: there is no culture of shame or dishonesty (for judges). We do not ask; if someone gives, we accept.
- b. According to the author, the philosophical study of the integrity of state officials in the case of gratuities is: the philosophical value of integrity of state officials (legislative, executive, judicial, and business) must also prioritize the morality of honesty. So that it has an impact on the value of goodness and order for the nation and state of Indonesia in philosophy, we should respect morals and science rather than positions and wealth. Because Indonesia does not lack smart people, it's just that Indonesia lacks honest people. The philosophy of religion and Pancasila must be cultivated in the form of honesty and justice. Because the one who makes the Law is human. Like a solid building, humans are solid because of their morals. Thus, to create a holy law, honest human beings are needed. So, we must cultivate simplicity, not a luxurious lifestyle. And instilling a moral sense of empathy in the community, namely, feeling the difficulties or suffering of others. The ancient Roman philosophy of Quid sine legibus holds that Law is meaningless if the good behavior of its people does not support it. Legal culture reflects the community's legal culture. Without real and practiced behavior, the Law is nothing more than an expression on a blank piece of paper without ink strokes. Ius Constitutum / the current rules are



imprisonment for a minimum of 4 (four) years, Article 12 B, paragraph 2 of Law Number 31 of 1999, Juncto Law No. 20 of 2001, a type of crime (strafsoort) concerning the Eradication of Corruption. Therefore, the Ius Constituendum / law that is amended or revised Article 12 B, paragraph 2, with a minimum prison sentence of 8 (eight) years. Because, in the court's findings, the judge decided half. However, according to the prosecutor, it is about 2/3 of 8 years = 5 years and 3 months. The judge's verdict should not be less than that.

- c. The legal purpose of the integrity of state officials in eradicating gratuity cases, according to the author's analysis, is to support law enforcement policies for the protection of the community and to realize a just and civilized humanity, achieving welfare and social justice for all Indonesian people and upholding Pancasila and the 1945 Constitution. The author's goal in this non-penal effort is to build effective corporate governance and improve communication. For example, the transparency report on the audit of his financial/salary data and his family through the Annual Payment Letter of Personal Tax in accordance with the Regulation instead of Law Number 1 of 2017 with a third-party audit, namely by the Financial Audit Agency, the Financial Transaction Analysis Reporting Center (PPATK) in accordance with the Law of the Republic of Indonesia Number 8 of 2010. As well as forming an integrity pact that does not do gratuities, namely forming an independent body/inspectorate auditor through the Blowing System report by SOE employees and state officials in government agencies, to create a fair law for the welfare of the community. The author's goal in the penal effort is to take enforcement (repressive) actions, the eradication of gratification, which is the provision of strict sanctions with disrespectful layoffs of employees and state officials, then published to the media, so that there is a deterrent effect for other perpetrators. With the imposition of a criminal sentence of 20 years or life imprisonment in accordance with Article 12 B(2) of Law Number 20 of 2001. As well as the merger of corrupt prison cell blocks with ordinary criminals. The author's goal is to invite the public, law enforcement officials, and state officials in this non-penal effort to prevent gratuitous acts so that they are aware of the need to cultivate honesty and instill memories of death because, in essence, words, deeds, and science will be accounted for in the world and in the future.

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