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Ratio Legis of Article 12 Letter F : The Extortion in Corruption

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Abstract: *Corruption crimes encompass a variety of offences, one of which is the Extortion Offence. Extortion offences involve offenders proven to demand, receive, or withhold payments through force or threats on material matters while performing their duties as certain officeholders. In Indonesia, regulations for corrupt acts involving extortion offences are outlined in Article 12 letter f of Law Number 20 of 2001, amending Law Number 31 of 1999 on the Eradication of Criminal Acts of Corruption, as well as Article 425 paragraph (1) of the Indonesian Criminal Code. The extent to which a person is considered to have committed a corrupt act involving extortion is a crucial aspect of corruption offences. This study employs the Normative Research Method utilizing statutory and conceptual approaches, with legal material analysis conducted through descriptive means. The findings show that significance of Article 12 letter f in the Corruption Eradication Act as an extension and lex specialist in Article 425 paragraph (1) of the Criminal Code. Officials can take measures to prevent such misconduct to avoid improper cash handling or extortion by those in positions of authority over them. This study offers an in-depth study of illegal levies in corruption, emphasizing Article 12 letter f of Law Number 20 of 2001, aiming to bridge the gap of previous studies and provide practical insights for law enforcement in anti-corruption efforts in Indonesia through normative legal research.*

Keywords : *Corruption; Extortion; Ratio Legis*

Abstrak: Tindak Pidana Korupsi meliputi berbagai macam delik, salah satunya adalah Delik Pemerasan. Tindak pidana pemerasan melibatkan pelaku yang terbukti meminta, menerima, atau memotong pembayaran dengan paksaan atau ancaman mengenai hal-hal yang bersifat materiil dalam menjalankan tugasnya sebagai pemegang jabatan tertentu. Di Indonesia, pengaturan tindak pidana korupsi yang melibatkan delik pemerasan dituangkan dalam Pasal 12 huruf f Undang-Undang Nomor 20 Tahun 2001 tentang Perubahan atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi dan Pasal 425 ayat (1) Kitab Undang-Undang Hukum Pidana (KUHP). Sejauh mana seseorang dianggap telah melakukan tindak pidana korupsi yang melibatkan pemerasan merupakan aspek yang krusial dalam ranah tindak pidana korupsi. Penelitian ini menggunakan Metode Penelitian Normatif dengan menggunakan pendekatan perundang-undangan dan konseptual, dengan analisis bahan hukum yang dilakukan secara deskriptif. Temuan dari penelitian ini menyoroti signifikansi Pasal 12 huruf f dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi sebagai perluasan dan lex spesialis dari Pasal 425 ayat (1) KUHP. Langkah-langkah untuk mencegah pelanggaran tersebut dapat diambil oleh pejabat untuk menghindari penanganan uang tunai yang tidak benar atau pemerasan oleh mereka yang memiliki posisi otoritas di atasnya. Penelitian ini menawarkan kajian mendalam mengenai pungutan liar dalam ranah korupsi, dengan menekankan pada Pasal 12 huruf f UU No. 20 Tahun 2001, bertujuan untuk

menjembatani kesenjangan penelitian-penelitian sebelumnya dan memberikan wawasan praktis bagi penegakan hukum dalam upaya antikorupsi di Indonesia melalui penelitian hukum normatif.

Kata Kunci : Korupsi; Pemerasan; Ratio Legis

INTRODUCTION

Crime and violations are inevitable as long as humans reside on Earth. With people occupying different social statuses, the evolution of human civilization will persist, leading to the emergence of crime and violations. Giriraj Shah's assertion that the first act of breaking a prohibition, eventually labelled as a sin, occurred when Adam and Eve were banished from paradise to Earth¹ further emphasizes that humans have disregarded prohibitions since ancient times.

Furthermore, corruption has emerged as a rapidly evolving crime in the 21st century. It is no longer confined to specific social groups but has spread to intellectuals, the wealthy, highly educated individuals, government officials, and state officials with official duties. It includes positions in various sectors such as judiciary, prosecution, police, military, legislative, governors, mayors, state-owned enterprises, and other civil services.² In Indonesia, corruption has taken on various forms, including bribery, causing state losses, embezzlement, fraudulent acts, conflicts of interest, gratification, and extortion, with a high likelihood of involvement by officials.³

Corruption offences often entail collusion between a party, typically an official, and various other parties.⁴ These collaborations can range from interactions between public officials, corporations, entrepreneurs, or even other officials. It is important to note that the victims of corruption are not always ordinary citizens; in some cases, they can be government employees or individuals working within government institutions. It is particularly evident in corruption involving extortion, which has become increasingly prevalent in Indonesia. An illustrative example is the case in Gresik Regency, East Java, where the regional revenue and financial management agency called *Badan Pendapatan Pengelolaan Keuangan dan Aset Daerah* (BPPKAD) employees were accused of embezzling employee incentive fees. The former acting head of BPPKAD, M. Mukhtar, was found guilty of corruption under Article 12 letter f of Law Number 31 of 1999, as amended by Law Number 20 of 2001, which pertains to the Eradication of Corruption Crimes (referred to as the "Corruption Law or UU PTK" hereafter)

¹ Sadjijono, *Hukum Pidana Dalam Jabatan Perspektif Terbentuknya Delik* (Yogyakarta: Laksbang Justitia, 2021).

² Sadjijono.

³ Dany Try Hutama Hutabarat et al., "The Eradication Of Corruption And The Enforcement Of The Law In Indonesia As Seen Through The Lens Of Legal Philosophy," *Policy, Law, Notary and Regulatory Issues (POLRI)* 1, no. 2 (2022): 1–8. DOI : <https://doi.org/10.55047/polri.v1i2.74>.

⁴ Febryan Alam Susatyo and Muchlas Rastra Samara Muksin, "Constructing the Concept of Commissioner Judge in Enforcing the Exclusionary Rules Principle in Indonesia," *Justisi* 10, no. 3 (2024): 505–17, <https://doi.org/10.33506/js.v10i3.2607>.

Prosecutors and judges determined that M. Mukhtar engaged in corrupt activities as outlined in Article 12 letter f of the Corruption Law. Specifically, the focus was on the subjective elements related to abusing authority for personal gain or the benefit of others through intentional misconduct, as evidenced by the extortion offence.

Despite the previous study, there still needs to be an improvement, primarily centred around corruption offences^{5,6,7}, with inadequate explanations about extortion offences that are classified as corruption crimes. Hence, the purpose of this study is to address these gaps and specifically concentrate on examining the ratio legis of Article 12 letter f of Law Number 20 of 2001, which pertains to the Amendment of Law Number 31 of 1999 on the Eradication of Corruption Crimes as an Extortion Offence in Corruption Crimes in Indonesia. The specific objective is to comprehend the ratio legis of Article 12 letter f of Law Number 20 of 2001, which deals with the Amendment of Law Number 31 of 1999 on the Eradication of Corruption Crimes as an extortion offence in corruption crimes in Indonesia, including a detailed explanation of the elements of extortion offences in Article 12 letter f of Law Number 20 of 2001 concerning the Amendment of Law Number 31 of 1999 on the Eradication of Corruption Crimes.⁸

Then, the novelty of this study is that it provides an in-depth analysis of the offence of extortion in the context of the crime of corruption, with a particular focus on Article 12 letter f of Law Number 20 of 2001 amending Law Number 31 of 1999 on the Eradication of the Crime of Corruption in Indonesia. This study identifies gaps in previous studies through normative legal research methodology and seeks to provide a more comprehensive understanding of the crime. By paying attention to the ratio legis (legislative intent) of Article 12 letter f, this study provides not only in-depth insight into the elements and implications of the offence of extortion in the criminal offence of corruption but also practical implications for law enforcement and corruption eradication efforts in Indonesia.

METHOD

This study's normative legal research methodology consists of reviewing legal materials and literature using a statutory perspective. This approach depends on legal resources such as laws and pertinent literature to scrutinize and deliberate on the topic. The normative research methodology embraces a statutory approach, which involves evaluating current

⁵ Vanessa Gan and Pan Lindawaty Suherman Sewu, "Penegakan Hukum Bagi Pelaku Dan Perlindungan Hukum Bagi Korban Terkait Sekstorsi Dalam Tindak Pidana Korupsi Berdasarkan Peraturan Perundang-Undangan Di Indonesia," *Bhirawa Law Journal* 4, no. 2 (2023): 184–93. DOI : <https://doi.org/10.26905/blj.v4i2.11127>.

⁶ Cecep Dudi Muklis Sabigin, "Perspektif Perbuatan Melawan Hukum Oleh Pejabat Publik Dalam Tindak Pidana Korupsi," *Jurnal Konstituen* 3, no. 1 (2021): 49–58. <https://ejournal.ipdn.ac.id/konstituen/article/view/2387>.

⁷ Yasmirah Mandasari Saragih and Muhammad Arif Sahlepi, "Kewenangan Penyadapan Dalam Pemberantasan Tindak Pidana Korupsi," *Hukum Pidana Dan Pembangunan Hukum* 1, no. 2 (2019): 63–72. DOI : <https://doi.org/10.25105/hpph.v1i2.5467>.

⁸ Andhiya Moza Faris and Dian Rachmat Gumelar, "Right To Be Forgotten as an Effort to Suppress Recidivism Rate of Theft Crime" 10, no. May (2024): 358–72.

laws and regulations and linking them to the examined legal matters. Laws and regulations, which include statutes and regulations, serve as the foundation of this methodology.⁹

In this methodology, the study follows legal provisions and legally binding decisions about the origins' explanations, particularly the ratio legis of Article 12 letter f of the Corruption Law, which defines extortion offences in corruption crimes in Indonesia. Moreover, a conceptual approach addresses legal matters that need more specific legislation. This approach relies on legal principles derived from the opinions of scholars and legal doctrines, which can be found in various sources such as books, literature, articles, and other relevant materials about the legal issues being investigated. The researcher examines the ratio legis of Article 12 Letter f of the Corruption Law related to extortion offences in corruption crimes in Indonesia.

DISCUSSION

Ratio legis of Article 12 letter f of the Corruption Law as Extortion Offence

Legal rules are not created only based on the discretion of a state authority but rather through an agreement between the government and the citizens. The people's representatives primarily hold the power to regulate or create laws in the legislative branch.¹⁰ However, the executive branch can establish universally binding regulations if it has received approval from the representatives during the law drafting process.

Those forming laws must genuinely understand the overarching policies embodied in law because laws are tools a state can use to regulate its society. Furthermore, it is crucial to recognize that the purpose, foundation, essence, or ratio legis behind the creation of a law must be exact and transparent, ensuring that the content of the law aligns harmoniously with its intended objectives and aspirations.¹² It is because the development of the law's content should be rooted in the requirements of the governing state and its society.

Extortion or "*knevelarij*" comes from the word "*knevelen*," which means a request or extortion carried out while performing official duties. According to the Criminal Code (hereinafter referred to as "KUHP"), it is defined as requesting money or goods with a threat or coercion with the intent to benefit oneself.¹³

In Article 425, paragraph (1) of the Criminal Code, extortion is a crime against official duty. Extortion is an act followed by a threat or coercion to benefit oneself unlawfully. Chazawi believes that in criminal law, coercive acts can be physical or psychological, and

⁹ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Prenada Media, 2021).

¹⁰ Elwi Danil, *Korupsi: Konsep, Tindak Pidana Dan Pemberantasannya* (Jakarta: PT. Raja Grafindo Persada, 2021).

¹¹ Lu Sudirman, Hari Sutra Disemadi, and Kevin John Paul Manurung, "Elaborate the Superiority of Smart City in South Korea: A Study Comparison of Laws," *Justisi* 10, no. 2 (2024): 373–95, <https://doi.org/10.33506/js.v10i2.3081>.

¹² Hasanal Mulkan, *Hukum Tindak Pidana Khusus* (Prenada Media, 2022).

¹³ Vanti Y Rolobessy, Faissal Malik, and Suwarti Suwarti, "Legal Liability of Illegal Online Loans in the Perspective of Criminal Law," *Journal of Social Science* 4, no. 2 (2023): 439–54. DOI : <https://doi.org/10.46799/jss.v4i2.542>.

considering the consequences for the person being forced, coercive acts can be distinguished into two types.¹⁴

Coercive acts (against the will) render the victim powerless, meaning that the alternative to rejecting the will of the coercer carries a very high risk. This risk would not be chosen by anyone in any circumstance. Therefore, if in a situation where the choice of the person being forced is an unlawful act or a criminal act, the act loses its unlawful nature, and the coercion falls under the type of coercion contained in Article 48 of the Criminal Code.

Coercive acts still force the person to choose another option contrary to the will of the coercer¹⁵. However, the chosen option is undesirable or unpleasant both physically and psychologically. Therefore, if the person being forced chooses what the coercer desires as an action, the act does not lose its unlawful nature. Hence, based on Article 425 paragraph (1) of the Criminal Code, it can be concluded that only officials, as defined in Article 92 of the Criminal Code, are legally capable of committing a crime against official duty in the case of extortion while performing official duties.¹⁶

Article 12, Letter f of the Corruption Criminal Law (*UU Tipikor*) regulates extortion offences committed by state officials or civil servants. This provision's legislative ratio is to protect the public from extortion actions carried out by state authorities who should serve the public with integrity and honesty. This provision ensures that state officials do not abuse their power for personal or specific group benefits. With this provision, extortion actions that harm the public can be prevented, and a clean government free from corruption, collusion, and nepotism can be created. It aligns with the goal of corruption criminal law to effectively and efficiently eradicate corruption crimes.

Elements of Extortion Offence in Article 12 Letter F of the Law on the Eradication of Corruption Crimes

Hartanti explains that extortion in corruption crimes differs from bribery or gratification crimes because the act of corruption looks at who actively commits it.¹⁷ Furthermore, Hartanti argues that active extortion in corruption involves civil servants or state officials who actively demand or tend to extort from the public in need of services or assistance, as well as fellow civil servants or state officials. Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) is one of the articles governing extortion offences in

¹⁴ Adami Chazawi, *Hukum Pidana Materiil Dan Formil KORUPSI Di Indonesia* (Media Nusa Creative (MNC Publishing), 2022).

¹⁵ Suwarno Panji Setia Darma Tri Sinurya, Widodo, "Strategi Pemberantasan Dan Pencegahan Korupsi Di Indonesia Dalam Masa Pandemi COVID-19," *Jurnal Education and Development* 9, no. 3 (2021): 125–30, DOI : <https://doi.org/10.37081/ed.v9i3.2768>.

¹⁶ Hisar Sitohang, Martono Anggusti, and Uton Utomo, "Analisis Hukum Terhadap Tindak Pidana Korupsi Dengan Penyalahgunaan Jabatan Dalam Bentuk Penyuapan Aktif" (Universitas HKBP Nommensen, 2020). <https://repository.uhn.ac.id/handle/123456789/4381>.

¹⁷ Roy Ganda Marbun et al., "Tinjauan Yuridis Tindak Pidana Korupsi Sebagai Extra Ordinary Crime," *Jurnal Ilmiah Simantek* 4, no. 3 (2020): 234–43. <https://www.simantek.sciencemakarioz.org/index.php/JIK/article/view/184>.

corruption crimes, adopted from the ratio legis of Article 425 paragraph (1) of the Criminal Code (KUHP). This adoption is based on the principle of *lex specialis derogat legi generalis*.¹⁸¹⁹

Article 12, letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) stipulates the elements that constitute offenders of corruption crimes.²⁰ One of these elements is "State officials or state organizers." The definition of state officials, as outlined in Article 1 number 2 of the Law, includes various categories such as civil servants based on the State Civil Apparatus Law, the Criminal Code, and individuals who receive salaries or wages from state or regional finances. Also, individuals receive salaries or wages from corporations that receive state or regional financial assistance, and individuals who receive salaries or wages from other corporations that use capital or facilities from the state or the community.²¹

Meanwhile, Article 2 of Law Number 28 of 1999 on State Administration originating from corruption, collusion, and nepotism outlines the categories of state organizers. These include state officials in the highest state institutions, state officials in high state institutions, ministers, governors, judges, other state officials as stipulated by prevailing regulations, and other officials with strategic functions related to state administration according to prevailing regulations.²²

Thus, based on these articles, Article 12 Letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) encompasses various categories of state officials and state organizers involving high-ranking state officials and other officials with strategic roles in state administration. It is intended to provide a legal basis for eradicating corruption crimes within the civil service and state organizers.

According to the Hoge Raad decision quoted in Chazawi's book, the term "state official" is defined as an individual officially appointed by the government to carry out state duties or part of state duties, including the use of its equipment.²³ Chazawi further details this concept by highlighting three main elements inherent in defining a state official. First, the status as a state official begins with the appointment made by the government, reflecting the government's authority to appoint specific individuals to play certain roles and

¹⁸ Winshery Tan, Agustianto Agustianto, and Febri Jaya, "Legal Dilemma between Law on Protection Child and Marriage Law in Addressing Early Marriage," *Justisi* 10, no. 2 (2024): 396–404, <https://doi.org/10.33506/js.v10i2.2814>.

¹⁹ Gerson Sem Buinei et al., "Restorative Justice Approach in Dealing with Crimes at Police Level (A Study at Polresta and Polres Sorong)" 2, no. 1 (2024): 1–12.

²⁰ Ridwan Arifin, Oemara Syarief, and Devanda Prastiyo, "Korupsi Kolektif (Korupsi Berjamaah) Di Indonesia: Antara Faktor Penyebab Dan Penegakan Hukum," *Jurnal Hukum Respublica* 18, no. 1 (2020): 1–13. DOI : <https://doi.org/10.31849/respublica.v18i1.3947>.

²¹ Vicky Zaynul Firmansyah and Firdaus Syam, "Penguatan Hukum Administrasi Negara Pencegah Praktik Korupsi Dalam Diri Pemerintahan Indonesia," *Integritas: Jurnal Antikorupsi* 7, no. 2 (2021): 325–44. DOI : <https://doi.org/10.32697/integritas.v7i2.817>.

²² Salma Napisa and Hafizh Yustio, "Korupsi Di Indonesia (Penyebab, Bahaya, Hambatan Dan Upaya Pemberantasan, Serta Regulasi) Kajian Literatur Manajemen Pendidikan Dan Ilmu Sosial," *Jurnal Manajemen Pendidikan Dan Ilmu Sosial* 2, no. 2 (2021): 564–79. DOI : <https://doi.org/10.38035/jmpis.v2i2.595>.

²³ Andi Hamzah, "Hukum Acara Pidana Indonesia, Jakarta," *Sinar Grafika*, 2021.

responsibilities in the context of executing state duties. Second, a state official is expected to perform tasks directly related to state functions or part of those tasks, emphasizing their connection to the administration of government functions and public services.²⁴ Lastly, the third aspect is that the work undertaken by a state official must be public, meaning tasks aimed at the general interest or the overall interest of the state. Thus, the concept of a state official not only covers the legal aspect of appointment but also emphasizes the functions and general nature of the tasks undertaken by the individual, highlighting the importance of service not tied to personal or specific group interests.²⁵ This definition serves as a solid foundation for understanding the rights and obligations of state officials and explaining their vital role in carrying out state functions for the overall welfare of society.

In Article 12, letter f of the Law on the Eradication of Corruption Crimes (UU PTPK), the phrase "state officials and state organizers" can be affirmed by the provisions of Law Number 43 of 1999 Jp. Law Number 8 of 1974 on Civil Service Principles (hereinafter called "Civil Service Law"). Considering those included in the definition of state organizers, as explained above, one is a state official. A state official, as defined in Article 1 paragraph 4 of the Civil Service Law, is "a State Official is a leader and member of the highest or superior state institution as referred to in the 1945 Constitution and other State Officials as stipulated by law."

The terminology "State Organizer" above is an addition to the legal subject "Official" as meant in the elements of the Criminal Code. According to the researcher, the term "Official," in Article 92 of the Criminal Code, is included in the terminology "State Organizer" mentioned above. Therefore, in the legislative process, the use of the term "state official or state organizer" in the elements of Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) is intended to broaden the scope of legal subjects in formulating this offence.

There is a significant connection between the corruptor and their official duties when performing duties. Specifically, this relationship involves the execution of duties related to their position, especially in the context of requesting, receiving, or payment deduction. The Supreme Court Decision of the Republic of Indonesia Number 25K/Kr 1955, dated January 23, 1956, emphasizes this, stating that one of the elements of Article 425 (1) of the Criminal Code is carrying out actions within one's duties.

Based on expert testimony, such as Bambang Suheryadi in Decision Number 59/Pid.Sus-TPK/2019/PN.Sby, the element "on duties" emphasizes that prohibited acts, such as requesting or receiving payment cuts, must occur while the offender performs their duties. In this context, the phrase "on duties" becomes a crucial affirmation in linking the corruptor's actions with the context of their work or responsibilities at that time.

²⁴ Ajeng Trisna Prameswari and Kristiyadi Kristiyadi, "Analisis Pertimbangan Hakim Tidak Terpenuhinya Unsur Memperkaya Diri Dalam Putusan Nomor 18/PID.SUS-TPK/2022/PN SMG," *Verstek* 10, no. 4 (2022): 727–35. DOI : <https://doi.org/10.20961/jv.v10i4.72715>.

²⁵ Op. Cit Adami Chazawi, *Hukum Pidana Korupsi Di Indonesia*, 2nd ed. (Jakarta: Sinar Grafika, 2020).

Emanuel Sujatmoko, another expert who provided testimony in the same decision, highlights the phrase "state organizers on duties" in Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK). It is interpreted as the execution of authority or core tasks and functions by state organizers, affirming that corrupt acts occur when they carry out responsibilities or powers inherent in their positions.

I Gede Artha, an expert who also testified in the same decision, state that corruptors involve the position or status of the respective state official or organizer when performing duties. In other words, the element "on duties" refers to the execution of tasks inherent in the position or role undertaken by the corruptor.²⁶

This article formulates three specific actions included in the elements of corruption crimes: requesting payment, receiving payment, and payment deduction. In connection with the following elements, this corruption crime is formal. For example, to complete the act of receiving payment, the state official who receives it must receive it. In other words, the money has been transferred to them or is under the control of the person receiving it, related to the material aspect of the offence.

If payment has not been received, the act is not considered completed and only an attempted receipt. The formulation of the corruption offence in Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) can be compared to the formulation in Article 362 of the Criminal Code regarding theft. For instance, taking is considered complete if the taken object transfers control to the person taking it. Therefore, Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) can be considered as a formal offence that is not purely formal, as although it is formulated formally, it contains consequential elements that must occur to complete the prohibited act, referred to as the material offence.²⁷

Furthermore, Chazawi argues that there is a slight difference between the act of receiving payment, as the act of requesting payment is considered complete if done in writing or verbally to another person, particularly another state official. It contains a demand for the other person to pay or deliver a certain amount of money without the requested person fulfilling the request. According to the judgment of the panel of judges in decision number 144/Pid.Sus/TPK/2019/PN Sby, a state official or state organizer, can be said to "request payment" if they have "requested payment" from another state official or state organizer or state funds, regardless of whether the payment request is fulfilled or not. Therefore, requesting payment is an effort to be given or to obtain something that has been determined in terms of quantity or amount, and it is requested with consent.²⁸

According to Ginting in his study, "requesting payment" must be done by coercion or

²⁶ Oksidelfa Yanto Yanto et al., "Mengoptimalkan Peran Perguruan Tinggi Dalam Mengurangi Prilaku Korupsi," *Jurnal Legislasi Indonesia* 17, no. 1 (2020): 70–84. DOI : <https://doi.org/10.54629/jli.v17i1.535>.

²⁷ Op cit. Chazawi, *Hukum Pidana Korupsi Di Indonesia*.

²⁸ Op cit pg225

by fraud or deception; it is free, without any illegal activity, but it must not request more than what he did (requesting something false), making it seem like another state official or state organizer has a debt when it is known they do not.²⁹ Furthermore, Chazawi argues that "receiving payment" to complete the corruptor's act has transferred control to the recipient. Ginting further argues that "receiving payment" is already completed by proving that the offender has received something where another state official or state organizer has given their right, even though it is known that it is not an obligation. This obligation is related to the meaning of "debt" in Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK).³⁰ Chazawi argues that its nature is similar to the act of receiving payment, where the completion of the act of payment deduction requires an actual payment cut, meaning there is a consequence of receiving payment in an amount less than what should have been received.

Moreover, Chazawi argues that " payment deduction," which is similar to receiving payment, requires actual payment cuts to complete the act of payment deduction, meaning there is a consequence of receiving payment in an amount less than what should have been received. Based on the considerations of the panel of judges in decision 144/Pid.Sus/TPK/2019/PN Sby, a state official or state organizer, can be said to "cut payment" if they have reduced the payment that should be received by another state official or state organizer or have withdrawn it from state funds. Based on the opinions of the previous experts, it can be concluded that deduction is a unilateral desire without an agreement or understanding, like a request to reduce payments or rights from other state officials or state organizers with a predetermined amount. So, to have the act of payment deduction, two conditions must be met.³¹

There are two crucial aspects to consider in receiving payment.³² First, the payment (money) must be factually received by the recipient. In other words, the action is realized if the money has transferred to the hands or control of the individual being paid. Second, there is an element of the difference in the amount between the payment that should be received and the actual amount received. This difference in quantity must create a clear discrepancy where the amount that should be received is greater than the amount received by the recipient. Thus, the act of receiving payment in the context of criminal law occurs when there is a financial transaction involving the receipt of money, and there is a difference between the amount that should be received and the amount received by the offender.

The offender creates an illusion or false perception about the existence of a debt, which may involve fraudulent or deceptive actions towards others to obtain payment that is not justified. This action can include acts of deception or misleading others to claim that

²⁹ Yenni Wiranti and Ridwan Arifin, "Tantangan Dan Permasalahan Penegakan Hukum Tindak Pidana Korupsi Di Indonesia," *Kosmik Hukum* 20, no. 1 (2020): 45–55. DOI: <https://doi.org/10.30595/kosmikhukum.v20i1.3822>.

³⁰ *Op.cit* Adami Chazawi

³¹ *Op cit* pg 226

³² Sabigin, "Perspektif Perbuatan Melawan Hukum Oleh Pejabat Publik Dalam Tindak Pidana Korupsi."

there is a debt that others must pay, even though there is no actual debt obligation. This action creates a false impression or claim about the existence of a debt, which may involve acts of fraud or deception to obtain payment that is not justified.

Fahmi argues that debt is a liability³³, In contrast, according to Munawir, debt is any company's financial obligation to others that has yet to be fulfilled, where this debt is a source of funds or capital of the company from creditors. Based on the opinions of previous experts, it can be concluded that debt is an obligation to deliver goods or money to others that have been determined in terms of size or nominal in an agreement or contract.³⁴

Bambang Suheryadi, while providing expert testimony in Decision Number 59/Pid.Sus-TPK/2019/PN.Sby, explains that implicitly, the core of the element "as if having a debt" is also interpreted as an element of coercion because it originates from the article on psychological coercion to describe compulsion; psychologically, the victim feels forced to do something, where one state official facing another state official must pay as if he has a debt even though it is not true.

Chazawi argues that in the phrase "as if," there is an element of untruthfulness. What is untrue is that other state officials, state organizers, or state funds have a debt to the corruptor, a state official. This issue is related to requesting payment from other state officials, state organizers, or state funds when, in reality, no debt is the work of the corruptor. Because state officials have the power of position, they create this work. Since other state officials, state organizers, or state funds are said to have a debt to the corrupt state official, other state officials receive payment cuts or make payments to the corruptor, even though they have no such debt. So, those who suffer losses due to this act are other state officials, state organizers or state funds. Therefore, the actual situation is that other state officials, state organizers, or state funds do not have a debt to the corrupt state official, which is an intentional element.³⁵ As for what is meant by "state funds," are funds managed by the treasurer as referred to in Article 77 of Indonesia Corruption Watch (ICW).

The existence of the illegal nature of the act in corruption crimes in Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) does not need to be proven because it is only implied, not explicitly stated. Therefore, there is an element of fraud or deception in this article. The hidden psychological coercion in corruption crimes in Article 12 Letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) lies in the authority of the position and the act of the corruptor to request, receive, or cut payments carried out when they are performing their official duties. At the same time, the victim is unaware of the actual situation.³⁶ This factor strongly influences other state officials to receive payment cuts

³³ Irham Fahmi, "Analisis Laporan Keuangan: Alfabeta" (Bandung, 2020).

³⁴ Slamet Munawir, *Analisis Laporan Keuangan*, Edisi Ke-4 (Yogyakarta: Liberty, 2019).

³⁵ Agus Wibowo, *Pengetahuan Dasar Antikorupsi Dan Integritas* (Bandung: CV. Media Sains Indonesia, 2022).

³⁶ Irfan Setiawan and Christin Pratami Jesaja, "Analisis Perilaku Korupsi Aparatur Pemerintah Di Indonesia (Studi Pada Pengelolaan Bantuan Sosial Di Era Pandemi Covid-19)," *Jurnal Media Birokrasi*, 2022, 33–50. DOI : <https://doi.org/10.33701/jmb.v4i2.2744>.

or have their rights taken in part or in whole by the corruptor.³⁷ The person who knows that the debt does not exist is the corrupt state officials themselves. However, due to the influence of the position authority of the corruptor, other state officials need to be made aware that they do not have the debt in question. Furthermore, Ginting (2005) argues that this "as if" is an assumption of the existence of a debt, so it is related to the authority of the position, making the elements of Article 12 letter f of the Law on the Eradication of Corruption Crimes (UU PTPK) interrelated and cannot be interpreted separately.

According to the insights shared by professionals previously, it is evident that the concept of "debt" does not stem from a formal debt agreement but rather signifies a commitment to deliver something. Hence, the core message of this piece suggests that it seems like government officials or other public administrators or state funds are obligated to authorize payment requests or endorse payment deductions for government officials or state administrators who submit, receive, or deduct payments even though they do not owe any debt.

Criminal Accountability of Corruption Offenders based on Article 12 Letter f of the Corruption Crime Eradication Law

Criminal accountability, also known by its foreign term "*Teorekenbaardheid*" or criminal responsibility, is linked to the punishment of offenders with the aim of determining the culpability of a criminal act, whether it occurred or not. Criminal responsibility involves the objective attribution of blame associated with a criminal act.³⁸

The principle of Legality serves as a foundation for punishing individuals who have committed a crime.³⁹ This implies that criminal liability can be sought only if the criminal act is stipulated in Indonesia's legal framework. Establishing a criminal responsibility system as a criminal policy is a matter of selecting from various alternatives. Therefore, the choice and determination of the criminal responsibility system cannot be detached from rational and wise considerations that align with the conditions and developments in society.⁴⁰

In relation to Corruption Crimes, Article 12 Letter f of the Corruption Crime Eradication Law demands criminal accountability for offenders originating from the Crime of Extortion regulated in legislation. For example, in the case discussed in this study, namely the verdict number 59/Pid.Sus-TPK/2019/PN.Sby, the defendant was proven to have violated the provisions of Article 12 Letter f, in conjunction with Article 18 paragraph (1) Letter b of Law

³⁷ Dewi Puji Rejeki and Winarno Budyatmojo, "Penerapan Undang-Undang Pemberantasan Tindak Pidana Korupsi Terhadap Tindak Pidana Korupsi Dengan Modus Pungutan Liar (Studi Putusan Nomor. 19/Pid/Tpk/2012/Pn. Tk).," *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 5, no. 2 (2019): 185–202. DOI : <https://doi.org/10.20961/recidive.v5i2.47773>.

³⁸ Kadri Husin and Budi Rizki Husin, *Sistem Peradilan Pidana Di Indonesia* (Sinar Grafika, 2022).

³⁹ Gusti Kadek Sintia Dewi, "Mencegah Dan Memberantas Potensi Adanya Korupsi Melalui Pemberian Pendidikan Anti Korupsi Di Lembaga Pendidikan," *Jurnal Ilmu Hukum Sui Generis* 2, no. 4 (2022): 123–32. DOI : <https://doi.org/10.23887/jih.v2i4.1783>.

⁴⁰ Siti Afiyah Deni Setiyawan, Wahab Aznul Hidayat, Hadi Tuasikal, "GREEN RESTORATIVE JUSTICE: ENVIRONMENTAL ENFORCEMENT AND JUSTICE," 2024, 1–22.

Number 31 of 1999 as amended by Law Number 20 of 2001 on the Eradication of Corruption in conjunction with Article 64 paragraph (1) of the Criminal Code.

This results in the defendant, who has violated these provisions, being liable to a maximum imprisonment of twenty years and a fine of up to IDR 1,000,000,000 (one billion rupiahs). The provisions of Article 12 Letter f include elements of Civil Servants or State Organizers who, while performing their duties, request, receive, or cut payments to other civil servants or public funds, as if these civil servants or state organizers or public funds owe a debt to them, even though it is known that this is not a real debt.

According to Article 12 letter f of the Law on the Eradication of Corruption, extortion in corruption offences is defined as the act of demanding money or goods with threats or coercion for personal gain, where the key element involves state officials who unlawfully request, receive, or deduct payments as if there were debts to be paid. Article 12 letter f plays a vital role in the efforts to combat corruption by providing a strong legal basis for taking action against state officials who engage in extortion.

The enforcement of strict laws and criminal accountability are crucial in combating corruption and upholding justice in Indonesia. It includes the imposition of maximum penalties, strengthening the capacity and integrity of law enforcement institutions, and impartially implementing the law. This study also identifies several shortcomings in the current legal implementation. It provides practical recommendations to prevent extortion by state officials, such as increased supervision, education, and public awareness of the dangers of corruption and the importance of community participation in oversight.

Ineffectiveness in detaining violators of Article 12 Letter f due to low punishment levels can be attributed to several factors outlined in the research paper. Factors such as the absence of technical knowledge of child psychology in the courtroom, adversarial court system, lack of skills and training among officials, staff shortages, and poverty all play a role in the failure to penalize criminals involved in offences like corruption and gratification.⁴¹ Furthermore, the legal enforcement gap in laws such as the Foreign Corrupt Practices Act (FCPA) and the use of informal dispositions in prosecution cases have made arrests merely a cost of doing business, reducing the deterrent effect of legal action against bribery and corruption. These issues highlight systemic challenges in effectively prosecuting and deterring offenders of various criminal activities, ultimately impacting the intended outcomes of the justice system.

The ineffectiveness of the punishment level for violators of Article 12 letter f, as highlighted in the research paper, contributes to the ineffectiveness of education in

⁴¹ Mevryn Musonda Mwewa, Qinglin Zhang, and Imasiku L Mwiya, "Factors Responsible for Low Conviction of Child Sexual Abuse Offenders-Lusaka District, Zambia," *European Scientific Journal* 11, no. 26 (2015); Miriam F Weismann, Christopher A Buscaglia, and Jason Peterson, "The Foreign Corrupt Practices Act: Why It Fails to Deter Bribery as a Global Market Entry Strategy," *Journal of Business Ethics* 123 (2014): 591–619; Alfiana Dwi Putri Maesty and Hari Soeskandi, "Pemberian Remisi Bagi Pelaku Tindak Pidana Korupsi," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 2, no. 3 (2022): 1214–40.

Indonesia. Various studies have shown the existence of educational crimes such as plagiarism and maladministration in universities, emphasizing the need for stronger law enforcement actions.⁴² Also, the legal basis and execution of education in Indonesia are encountering obstacles as a result of deviations in management, ethical behaviour, and code of ethics within educational institutions, including instances of cheating and bribery, which impede the efficiency of the education system.⁴³ Further, the lack of quality graduates, the politicization of education, and the need for educational reform further highlight the issues disrupting the education sector in Indonesia.⁴⁴ Overcoming these legal and systemic shortcomings is crucial to enhancing the overall effectiveness of education in this country.⁴⁵

CONCLUSION

It can be concluded that based on the analysis of Article 12 letter f of the Corruption Eradication Law (UU Tipikor), this study concludes that extortion carried out by state officials or state organizers is a serious form of corruption that harms society. A deep understanding of the elements of extortion in this context is crucial to enforce the law effectively. Although the law has established severe sanctions with a maximum sentence of 20 years in prison and a fine of up to Rp. 1000.000.000,- (one billion rupiahs), challenges in law enforcement and systemic issues still hinder the effectiveness of corruption eradication. Therefore, an improvement in law enforcement and legal education is needed to ensure stricter and fairer criminal accountability for corrupt actors in Indonesia. This research provides practical insights for law enforcement officials and other stakeholders in efforts to combat corruption and strengthen the integrity of public services in Indonesia.

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⁴² Taufik Husni, "Judicial Review of Educational Crimes in Higher Education," *Pelita: Jurnal Penelitian Dan Karya Ilmiah* 20, no. 2 (2020): 146–59.

⁴³ Adi Mansar, "The Effectiveness of Criminal Law Jurisdiction on Children in Indonesia," *Randwick International of Social Science Journal* 3, no. 4 (2022): 891–901.

⁴⁴ Nasrul Syakur Chaniago et al., "Analysis of Legal Basis in Education: Study of Law, Policy and Deviance in Education," *AL-ISHLAH: Jurnal Pendidikan* 15, no. 2 (2023): 2103–13.

⁴⁵ Agnes Sukasni and Hady Efendy, "The Problematic of Education System in Indonesia and Reform Agenda," *International Journal of Education* 9, no. 3 (2017): 183.

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