

## **Application of The Primum Remedium Principle in Corruption Crime Cases**

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### **ABSTRACT**

*This research believes that the application of the Primum Remidium principle in Corruption Crimes in Indonesia can achieve its goal, namely eradicating corruption more easily. The researcher's beliefs will be accompanied by scientific arguments and using a systematic research methodology. This research is qualitative research with a descriptive approach, namely describing the urgency of implementing the Primum Remidium principle in criminal acts of corruption in Indonesia. The data that researchers use in this article is primary data obtained from credible sources in the form of scientific articles, books, websites, and other things. These data were analyzed using the stages of data collection, data analysis, data reduction, and drawing conclusions. The result in this article show The application of the Primum Remidium principle in criminal acts of corruption must be applied to 8 types of criminal acts of corruption which include state finances, bribery, embezzlement, extortion, fraudulent acts, conflicts of interest, and gratification. In these 8 types of corruption, there should no longer be any such thing as mediation, the principle of presumption of innocence, mediation, and so on which are forms of the ultimum remidium principle. If the investigator has met the qualifications for evidence, then the potential corruptors should be processed immediately without compromising the quality of the evidence.*

**Keywords :** *Crime Cases, Primum Remidium, Corruption.*

### **INTRODUCTION**

Yudi Kristiana in his book provides an opinion regarding the meaning of corruption, that: "The definition of corruption in the wider community is often interpreted as embezzling money or taking money belonging to the state, however, from a legal perspective there are many conditions. The meaning of corruption, both in a juridical perspective and in a general sense, is actually the same. It's just that in the juridical sense it refers to the elements of offenses as formulated in statutory regulations, while corruption is generally interpreted as an act of bribery, abuse of authority or going against the law that benefits oneself, trading influence, etc., which are despicable in nature (Havinanda, 2021).

One definition of corruption that is easily digested and understood by ordinary people is as conveyed by Dewa Brata in his journal, as follows: "Corruption is the act of stealing, because it is the same breed as thieves, cheating, mugging, mugging, snobbing, nilep, robbing,

stealing, cheating, embezzling, manipulating, all of which are considered despicable from a normal perspective. The breed is evil, so the perpetrator deserves the name evil." Literally, corruption is something that is rotten, evil and destructive (SANTOSO, 2021). If you talk about "corruption, you will indeed find such a reality because corruption concerns moral aspects, nature and circumstances. which is damaging, positions in government agencies or apparatus, abuse of power in positions due to gifts, economic and political factors, as well as placement of families or groups into services under the authority of their position (Elsa Priskila, 2021).

Thus, it can literally be concluded that the term corruption actually has a very broad meaning. a. Corruption, misappropriation or embezzlement (of state or company money and so on) for personal and other people's interests b. Corruption: rotten: corrupt; likes to use goods or money entrusted to him; can be bribed (through his power for personal interests) . Evi Hartanti in her book again believes that: "From a legal perspective, criminal acts of corruption generally fulfill the following elements: a. Acts against the law b. Abuse of authority, opportunity or means c. Enriching oneself, others, or corruption d. It is detrimental to state finances or the state economy" (Rahmawati, 2013).

Shed Husein Alatas is quoted by Evi Hartanti in her book as follows: "The characteristics of corruption explained by Shed Husein Alatas are: a. Corruption always involves more than one person. This is not the same as cases of theft or fraud. A corrupt operator does not actually exist and the case usually falls under the definition of embezzlement (fraud). Examples are statements about travel expenses or hotel accounts. However, here there is often a tacit understanding among officials who practice various deceptions to make this situation happen (Zenno, 2017). One method of fraud is excessive requests for pocket money, this is usually done by increasing the frequency of travel to carry out duties. Cases like this are carried out by today's political elites which then result in polemics in society. b. Corruption is generally carried out in secret, unless the corruption is rampant and so deep that individuals in power and those within their environment are not tempted to hide their actions. However, even so, the motives for corruption are kept secret. c. Corruption involves elements of mutual obligation and benefit. d. Those who practice corrupt methods usually try to cover up their actions by protecting them behind legal justifications e. Those involved in corruption want firm decisions and are able to influence those decisions. f. Every act of corruption contains acts, usually carried out by public bodies or the general public (society). g. Any form of corruption is a betrayal of trust" (Pratiwi et al., 2021).

Observing the provisions of Law Number 31 of 1999 as amended by Law Number 20 of 2001, criminal acts of corruption can be grouped into 8 (eight) types, namely: a. Corruption is related to "state finances as regulated in articles 2 and 3; b. Bribery corruption as regulated in Article 5 paragraph (1) letter a, Article 5 paragraph (1) letter b, Article 13, Article 5 paragraph (2), Article 12 letter a, Article 12 letter b, Article 11, Article 6 paragraph (1) letter a, Article 6 paragraph (1) letter b, Article 6 paragraph (2), Article 12 letter C, article 12 letter d; c.

Corruption, embezzlement in office as regulated in Article 8, Article 9, Article 10 letter a, Article 10 letter b, Article 6 paragraph (2), Article 12 letter c, Article 12 letter d; d. Extortion corruption as regulated in Article 12 letter e, Article 12 letter g, Article 12 letter f; e. Corruption is a fraudulent act as regulated in Article 7 paragraph (1) letter a, Article 7 paragraph (1) letter b, Article 7 paragraph (1) letter c, Article 7 paragraph (1) letter d, Article 7 paragraph (2), Article 12 letters h; f. Corruption, conflict of interest in office as regulated in Article 12 letter i; g. Gratification corruption as regulated in Article 12B in conjunction with Article 12C; Corruption is another criminal act related to corruption as regulated in Article 21, Article 22 in conjunction with Article 28, Article 22 in conjunction with Article 29, Article 22 in conjunction with Article 35, Article 22 in conjunction with Article 36, Article 24 in conjunction with Article 3 (RIANGDI, 2023)1.

In Indonesia, steps to establish positive law to deal with the problem of corruption have been carried out over several periods of history and through several periods of changes in legislative regulations. "In the Criminal Code (KUHP) there are actually provisions that threaten criminal offenses with people who commit official offenses, in particular offenses committed by officials who are related to corruption (Kementerian Hukum dan HAM, 2018). The provisions for criminal acts of corruption contained in the Criminal Code are deemed to be less effective in anticipating or even overcoming the problem of criminal acts of corruption. Therefore, legislation was formed to eradicate the problem of corruption, with the hope of filling and perfecting the deficiencies in the Criminal Code. With the enactment of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (Abdullah et al., 2021).

In Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, the paradigm used is the *Ultimum Remidium* paradigm where litigation to eradicate criminal acts of corruption is considered as the last resort or final weapon. However, eradication through immediate action needs to be done. Corruption matters must be resolved legally to stop the flow of corruption and prevent further loss/damage. Such a paradigm is called *Primum Remidium* (Wahyuni, 2014).

*Primum remedium* can be defined as the first solution or action taken by law in resolving a problem or conflict. This concept views that problems must be overcome in the simplest and most effective way first before moving on to more complex or drastic methods. *Primum remedium* emphasizes the importance of preventing further damage and minimizing the losses caused by the problem. In legal practice, *primum remedium* can be applied in several cases, for example in resolving disputes between two parties (Windarto, 2021). For example, if two parties have a dispute regarding land ownership rights, then the *primum remedium* that can be taken is mediation or negotiation. This action is considered the simplest and most effective way to complete problems without involving the courts or more drastic legal action (Rozi, 2018).

Based on the urgency above, the researcher believes that the application of the Primum Remidium paradigm and concept in criminal acts of corruption is very necessary and is believed to be effective in eradicating corruption in Indonesia at its roots by moving quickly and preventing all flows of corruption that will cause further damage.

## **RESEARCH METHODS**

This research believes that the application of the Primum Remidium principle in Corruption Crimes in Indonesia can achieve its goal, namely eradicating corruption more easily (Lexy J. Moleong, 2018). The researcher's beliefs will be accompanied by scientific arguments and using a systematic research methodology (Imam Gunawan, 2014). This research is qualitative research with a descriptive approach, namely describing the urgency of implementing the Primum Remidium principle in criminal acts of corruption in Indonesia (Sugiyono, 2019). The data that researchers use in this article is primary data obtained from credible sources in the form of scientific articles, books, websites, and other things (Manzilati, 2017). These data were analyzed using the stages of data collection, data analysis, data reduction, and drawing conclusions (Qanita, 2020).

## **RESULT AND DISCUSSION**

### **Corruption and Corruption Crimes**

Yudi Kristiana in his book provides an opinion regarding the meaning of corruption, that: "The definition of corruption in the wider community is often interpreted as embezzling money or taking money belonging to the state, however, from a legal perspective there are many conditions. The meaning of corruption, both in a juridical perspective and in a general sense, is actually the same. It's just that in the juridical sense it refers to the elements of offenses as formulated in statutory regulations, while corruption is generally interpreted as an act of bribery, abuse of authority or going against the law that benefits oneself, trading influence, etc., which are despicable in nature (Havinanda, 2021).

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In Indonesia, steps to establish positive law to deal with the problem of corruption have been carried out over several periods of history and through several periods of changes in legislative regulations. "In the Criminal Code (KUHP) there are actually provisions that threaten criminal offenses with people who commit official offenses, in particular offenses committed by officials who are related to corruption (Kementerian Hukum dan HAM, 2018). The provisions for criminal acts of corruption contained in the Criminal Code are deemed to be less effective in anticipating or even overcoming the problem of criminal acts of corruption. Therefore, legislation was formed to eradicate the problem of corruption, with the hope of filling and perfecting the deficiencies in the Criminal Code. With the enactment of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (Abdullah et al., 2021).

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### **Application Of The *Primum Remidium* Principle In Corruption Crime Cases**

*Primum remedium* can be defined as the first solution or action taken by law in resolving a problem or conflict. This concept views that problems must be overcome in the simplest and most effective way first before moving on to more complex or drastic methods. *Primum remedium* emphasizes the importance of preventing further damage and minimizing the losses caused by the problem. In legal practice, *primum remedium* can be applied in several cases, for example in resolving disputes between two parties (Windarto, 2021). For example, if two parties have a dispute regarding land ownership rights, then the *primum remedium* that can be taken is mediation or negotiation. This action is considered the simplest and most effective way to complete problems without involving the courts or more drastic legal action (Rozi, 2018).

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principle. If the investigator has met the qualifications for evidence, then the potential corruptors should be processed immediately without compromising the quality of the evidence.

## CONCLUSION

Primum remedium can be defined as the first solution or action taken by law in resolving a problem or conflict. This concept views that problems must be overcome in the simplest and most effective way first before moving on to more complex or drastic methods. Primum remedium emphasizes the importance of preventing further damage and minimizing the losses caused by the problem. In legal practice, primum remedium can be applied in several cases, for example in resolving disputes between two parties (Windarto, 2021). For example, if two parties have a dispute regarding land ownership rights, then the primum remedium that can be taken is mediation or negotiation. This action is considered the simplest and most effective way to complete problems without involving the courts or more drastic legal action (Rozi, 2018).

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