

Criminal Responsibility for Prison Officers Who Carry Out Extortions (*Pungli*) in the KPK Detention Center Area

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Abstract

Extortion by prison officers is unacceptable behavior and a form of corruption. It can have serious consequences, not only for public confidence in the legal system and custody, but also for the welfare and rights of individuals under the supervision of the prison. Extortion can occur in various forms, from withdrawing funds in exchange for special treatment to prisoners, selling prohibited goods in prison, to extorting prisoners or their families to obtain complete facilities that should not be available or accessible to prisoners. Extortion in the KPK prison refers to corrupt practices within the institution, which should be a place where law enforcement against corruption is prioritized. The KPK (Corruption Eradication Commission) is an Indonesian government agency established to combat corruption. If there are reports or allegations of extortion in the KPK prison, it is very serious and must be investigated thoroughly. Corruption within law enforcement agencies, especially those tasked with combating corruption such as the KPK, is a betrayal of public trust and undermines the integrity of the justice system. Therefore, if there are indications of extortion in the KPK detention center, firm and transparent law enforcement measures must be taken to uphold justice and ensure that the institution remains at the forefront of fighting corruption.

Keywords: Extortion; Detention Center; Corruption

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INTRODUCTION

Currently, many parties abuse their authority. The relationship between suspects, defendants and prison guards is getting closer. In the midst of guarding the prison, there are some individuals who abuse their authority to do things that are not commendable, the main factor that drives these disgraceful things is the economy, the desire to get money quickly, but the party that abuses its authority is the agency that carries out the duties and mandate of the state. Therefore, this study will explore crucial aspects of Criminal Law in Indonesia. Through an in-depth analysis of existing regulations, this study aims to provide a more comprehensive understanding of the right to authority in the context of Indonesian law. The results of this study are expected to be able to provide recommendations for improving regulations and implementing Criminal Law, in order to create an environment free from abuse of Authority. One of the many problems in the Criminal field is Abuse of Authority. The problem of Abuse of Authority is very much done. It is important to remember that authority is one of the factors that influences the level of Institutional Performance in Indonesia. Not only is it a problem for the prison but it is also a problem for the state which has regulated not to abuse its authority. Illegal levies are one of the things prohibited by the state. a crucial aspect in the relationship between the accused, suspect and prison guard who have things they want to do in the prison such as having freedom in carrying out their sentences in the prison. The impact of the suspect and defendant who want this is a reason for the prison guard to carry out illegal levies so that the suspect and defendant get freedom in

carrying out their sentences. One of the regulations of Law Number 22 of 2022 concerning Corrections (Corrections Law) is a statutory regulation that regulates the correctional system in Indonesia Corrections Law as stipulated in Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH- 01. PK.07.02 of 2009 Number: M.HH-01.PK.07.02 of 2009 Concerning Guidelines for the Provision of Food for Inmates of Correctional Institutions and State Detention Centers.

Replacing Law Number 12 of 1995 concerning Corrections. with this regulation, an idea emerged to examine whether the law made by the state had been implemented properly or not. made in accordance with fair and just criminal norms and principles. In this context, this thesis is directed to conduct an in-depth analysis of aspects of criminal law from a normative perspective. Through this study, it is expected to reveal the extent to which the provisions contained in Law Number 22 of 2022 concerning Corrections (Corrections Law) are in line with the basic principles of Law Number 12 of 1995 concerning Corrections, the rights of prisoners, and the obligations of prison guards. In addition, this thesis also aims to identify potential problems or deficiencies in the regulation, as well as to contribute ideas towards the development of better criminal law policies. (Agus dan Kusumasari, 2003)

MATERIALS AND METHODS

The type of research used in this writing is normative legal research with the opportunity for this research to be made to answer the core of several problems or more of the legal issues that occur and this research uses several approaches, namely the statute approach, conceptual approach, and case approach (Marzuki, 2010).

RESULTS AND DISCUSSION

Illegal Levies

The term illegal levies that are already familiar to many people and illegal levies are often referred to as pungli, extortion also very often occurs among ordinary people and acts of extortion do not only occur among instant or high-ranking people but acts of extortion also often occur among ordinary people. Illegal levies or acts of deliberately asking for something in the form of money and other things to someone. It can be done by asking directly or simply in the name of an agency to cover all actions with the intention of collecting the levy. Extortion is the act of asking for money or other things to other people or more often and familiarly institutions or companies in an extreme and inhumane manner.

Why can it be called that because the act of extortion often targets or asks for money from the victim without hesitation or even worse, it can be done by asking for a very large amount considering the potential victim who will be extorted. If the perpetrators know the background of the newspaper they want to extort, then the perpetrators will easily blackmail the victim by pressuring and threatening both verbally and physically, if the perpetrator is someone influential or from an agency, then the amount of extortion can be ascertained to be very high because the act of extortion that has occurred out there and has been published if the extortion is in the scope of a large organization or agency, then the amount and nominal offered is very large.

Extortion can also be done by a civil servant or state leader by asking for payment of a large amount of money that is actually not appropriate or does not match the nominal amount listed and does not comply with the regulations related to the payment. Illegal levies often ask for an inappropriate amount, even though there is no written rule to pay, but they do it to the victims of illegal levies to pay. As a lay person, certainly not everyone has the educational background to deal with problems like this.

Especially from someone from a village, old people and other low-class people, if placed in a situation like that, all they can do is follow orders and can only follow the orders

that have been said by the perpetrator of the illegal levies. The illegal levies can be categorized as corruption, extortion and even fraud, as well as illegal levies on the grounds of giving commissions for something that we have given. That is a classic reason by a person who is a perpetrator of illegal levies in institutional circles, which they often do just to trick the victims and in that way they can get a lot of profit that will definitely go into their own pockets. (Teguh and Rusli, 2006)

In the case of illegal levies in the public service area, it can be interpreted as an act carried out by individuals or groups who ask victims to make payments that are not listed or do not match the amount and do not comply with existing regulations. Illegal levies in public services often occur because public services often become a fertile ground for dishonest individuals to launch their missions to seek profits, seeing from the frequency of incidents like this, it certainly cannot be separated from several factors that underlie the illegal levies. Illegal levies that often occur in public services can occur because of the omission of healthy service procedures that should have been stated and fixed so that they can be posted or announced to the public or can be accessed and seen by the public so that the public can know the written procedures to minimize the occurrence of illegal levies.

The lack of standardization of the integrity of the implementation of public services in terms of internal supervision and one of the factors is being accustomed to doing despicable things like this, and if we talk about public services, ideally we can prevent it by doing research or finding out the regulations of the place we are going to. However, it also cannot be prevented if the public service does not carry out its duties properly and according to procedures, for example, the lack of integrity from the head of the division or the leader of the agency, and that is the source of the fungus that can continue to grow and reign because the roots of the perpetrators of illegal levies do not give warnings or firmly warn their employees to have an honest nature. (Dewantara, 2017)

Fulfillment of the rights of prisoners in detention centers

Human Rights are the crystallization of various value systems and philosophies about humans and all aspects of their lives. The main focus of Human Rights (“HAM”) is human life and dignity. Historically, the philosophical roots of the emergence of the idea of HAM are the theory of natural rights developed by philosophers such as John Locke, Thomas Paine, and Jean Jacques Rousseau. The essence of natural rights is that all individuals are endowed by nature with rights that are inherent in them, thus cannot be revoked by the state. The literal definition of the power of HAM can be interpreted and is stated in Article 1 number 1 of the Human Rights Law. about the understanding of human rights that have been mentioned before and in essence human rights are rights that already exist and have been created since we were in the womb which can be interpreted as human rights are rights that we get from God and have been created naturally and not rights that are given to humans by other humans

As a country of law, these rights are also inherent in various human existences and so are differences in race, religious differences, gender differences, skin color, they cannot affect human rights as a whole and cannot be a reason for differences in human rights in general and human rights are rights and nature that are inherent in humans

1. Prisoners' rights are human rights that remain with individuals who are in detention or prison. Although their right to freedom is limited as a result of punishment for a crime they have committed, they still have fundamental rights that must be respected and protected. The following are some of the basic rights of prisoners that are recognized in many countries, including Indonesia:
2. Right to Life and Security: Prisoners have the right to be protected from the threat of violence, both from fellow prisoners and prison officers. They also have the right to adequate protection from all forms of torture or inhumane treatment.

3. **Right to Health:** Prisoners have the right to adequate medical care, including access to medicines and other health services. They also have the right to a clean and healthy environment in prison.
4. **Right to Adequate Food and Water:** Prisoners have the right to receive sufficient and nutritious food and water according to established standards.
5. **Right to Education and Training:** Prisoners have the right to access education and skills training programs that can help them when they leave prison.
6. **Right to Visitation:** Prisoners have the right to be visited by their family, friends, and lawyers. This right is important for maintaining social relationships and obtaining legal assistance.
7. **Right to Freedom of Religion:** Prisoners have the right to practice their religion and worship without discrimination
8. **Right to Information and Communication:** Prisoners have the right to access information, including relevant news and legal developments. They also have the right to communicate with the outside world through letters or other means permitted by prison rules.
9. **Right to Fair Legal Process:** Prisoners have the right to receive fair treatment in all legal proceedings involving them, including the right to defend themselves and obtain adequate legal representation. Types of Payment Methods

1. The Actus Humanus Theory in the written philosophy book that true and complete human freedom is subject to carrying out actions that occur as the subject of the action itself. If a person nauseous in his actions acts as a subject and in the theory of Actus Humanus humans enable something he wants to do and can be interpreted if humans know the knowledge in and understand enough about themselves, then it becomes a condition of freedom so that humans have the right to act not under coercion but humans can also be faced with choices in their lives
2. Erroneus Conscience Conscience is a consciousness in humans that guides humans in the world In reality, human conscience does not always direct humans in good actions, meaning that human conscience can guide humans in bad actions. If humans take actions that lead them towards badness and then harm others, then this can be said that the human has a perverted conscience.

Erroneous conscience (the erroneus consience) can be formed due to several factors such as:

- Surrounding environment
- Tradition or culture
- Regulations or policies
- and relationships between humans.

St. Thomas explains: if an erroneous conscience cannot be cured or can no longer be overcome and cannot be blamed or punished, it can be said that the person has escaped from actions that lead to evil morals.

Culpable error arises due to negligence in humans themselves. If the error is related to what the individual himself should know, the implementation is if the individual actually knows but he lets it seem as if he does not know and does not want to know, then lets the incident happen then it can be said that the individual is guilty. If an individual's error of conscience is culpable and vicible, it can be said that the individual is sinful whether the individual follows his heart or not. Someone whose erroneous conscience is culpable and vicible is clearly wrong and sinful because his actions are evil. If a person does not know his conscience, he is still guilty because he allows his heart to be surrounded by error. Then there

is also vincible error if the subject can correct his heart at that time. So that humans can correct the error of their hearts at that time.

Facilities in the detention center

When discussing the facilities in the detention center environment, it must have various facilities to ensure the safety, health, and welfare of the prisoners. Here are some important facilities to have in the detention center:

1. Prisoner Cell: A safe and decent cell to live in, with good ventilation and adequate lighting.
2. Cleanliness Area: A clean bathroom that is not mixed between for men and women. Bathing and washing facilities are also available.
3. Health Facilities: Clinics or health centers with medical personnel who are ready to handle various health problems of prisoners. Including access to doctors, nurses, and medicines.
4. Visiting Room: A safe and decent place for prisoners to meet with their families or lawyers. Usually equipped with tables and chairs and adequate security.
5. Counseling and Education Room: An area for counseling activities, mental guidance, and educational programs that can help rehabilitate prisoners.
6. Recreation Room: Sports facilities or recreational areas to maintain physical and mental fitness of prisoners, such as sports fields or reading rooms.
7. Administration Office: A room for administrative officers and staff who manage the operations of the detention center.
8. Kitchen and Dining Room: Facilities for preparing and serving healthy and nutritious food for prisoners.
9. Security: A tight security system, including CCTV cameras, security doors, and trained officers to maintain security in and around the detention center.
10. Worship Room: Facilities for worship activities according to the religion and beliefs of the prisoners.
11. Education and Training Facilities: Formal and non-formal education programs and skills training that can help prisoners when they return to society.
12. Isolation Room: A place to place prisoners who require special isolation for health or security reasons.

These facilities are designed to create a humane environment and support the rehabilitation of prisoners, so that they can be better prepared when returning to society after serving their sentence. In connection with the provision of supporting facilities for prisoners' activities in detention centers, many are misused by some officers guarding the detention center. One of them is by providing excessive facilities that are outside the rules. In the case of this study, it is the provision of excessive facilities by officers guarding the KPK detention center. There are quite a few detention centers in Indonesia that have standardized buildings and the number of prisoners in one cell is normal, other detention centers often place their prisoners in large numbers in one place and are often called overcrowded.

Overcrowded

In general, detention centers or prisons and correctional institutions in Indonesia are more precise, there are still many and it can be said that there are almost many that are very concerning and require special and serious attention that must be addressed immediately because they still often cause riots in detention centers. The riots arose because the number of prisoners in the cells was too many, causing disputes and resulting in many new disputes and even new criminal acts. The impact of the large number of prisoners in one cell is that the fulfillment of the rights of prisoners is uneven and the fulfillment of their rights is uneven and even often the treatment of wardens or prison guards is unprofessional, where the amount of

prison funding that should be sufficient to create prison housing that is in accordance with standards and in accordance with the burden of costs that have been imposed is not appropriate and makes the goals of the community itself unattainable.

This system should be changed a lot, among others, the highest from the Indonesian government with criminal provisions that can be threatened if incidents like this still occur frequently. People in Indonesia often experience overcrowded cases. (Dewantara, 2017) Not only in the detention center or prison environment, there are even many incidents of facilities that exceed normal capacity but still operate and even sadly create an uncondusive situation.

In the example of the case of the Sukamiskin prison which received bribes related to and notification of the example of the case of the head of the Sukamiskin prison who provided facilities and permits for prisoners to receive special treatment by providing electronic goods such as TVs, air conditioners, dispensers, and refrigerators Wahed Husen who has now been deactivated as the Head of the Sukamiskin Penitentiary has admitted that he received bribes and was wrong in leading and managing the prison. As a result of his actions, Wahed Husen has violated Article 12 letter a or letter b or Article 11 or Article 12B of the Corruption Eradication Law. (Dewantara, 2017)

The case of Wahed Husen who became the Head of Sukamiskin Prison was certainly a big blow to many parties, especially the Ministry of Law and Human Rights. This is because the prison should be a place for inmates to improve themselves, realize their mistakes so that they can play a role again as members of society, but the instructors who should have guided them instead fell into and participated in the crimes committed by the inmates.

Wahed Husen accepted bribes from corruption convict Esa Fahmi Dharmawansyah because Fahmi wanted luxurious facilities in his cell, which was then followed by Wahed Husen so that this violated existing ethics, laws, and norms.

In his theory in the philosophy book that explains the norm of human freedom in carrying out his actions. The main requirement in Actus Humanus is knowing and wanting. Knowing in Actus Humanus is interpreted as if humans have sufficient knowledge of the object and target of their actions and know or recognize themselves. Wanting in Actus Humanus means being a requirement of freedom, so that humans do not act under coercion, but humans are also faced with choices in their lives.

Of course in this bribery case Wahed Husen knew that he was the Head of Sukamiskin Prison, which means he was fully aware of his duties, namely being responsible and coordinating all activities, security, and regulations in Sukamiskin Prison. With the duties and responsibilities he bears, Wahed Husen should be more careful in acting, especially if he abuses his position to gain personal gain, of course that is very unethical. The question now is why did Wahed Husen want to be bribed and then provide luxurious facilities for Fahmi? I explained that if viewed from the Actus Humanus Theory, of course Wahed Husen was aware and knew that his actions in accepting bribes were a mistake and a great sin, it is impossible that Wahid Husen did not know that accepting and providing luxurious facilities were a mistake and a great sin and even included in criminal acts because he was the Head of Sukamiskin Prison where he knew exactly what his authority was. In reality, even though Wahed Husen already knew that his actions were included in criminal acts that were detrimental to many parties, he still accepted the bribe in order to gain personal gain. The case of Wahed Husen accepting bribes is very much in line with the Actus Humanus theory which focuses on Knowing, Wanting, and Being Free. Wahed Husen knew very well about his authority, duties, and position but he abused it for personal gain. He was willing to be bribed by Fahmi without caring about the impact that could arise from his actions. His actions tarnished the good name of the Correctional Institution. His actions made the public distrust law officials again. As a result of his actions, Wahed Husen must now languish

behind bars. In addition, the morals and ethics of Wahed Husen are bad and very reprehensible. Very far from being a role model even though we know that the Head of the Prison should be able to guide and coordinate his inmates to change for the better.

Many officials in Indonesia have forgotten ethics in politics. Wahed Husen is one of them, he is the Head of Sukamiskin Penitentiary, here it means that Wahed Husen has a great responsibility in coordinating, guiding, educating inmates but it turns out that he abuses his power and authority where he forgets the responsibility given to him. Wahed Husen in politics is more directed towards Machiavelli's view. Machiavelli agrees more with politicians who justify any means to maintain their power. If in politics all means are justified then this will make everything that is done dirty because what is done will lead to bad things. In politics, one should be able to protect, guide, educate, especially in the legal sphere. The principle of justice must be a guideline and applied in politics, this is very important because politics is also closely related to the law. The law is very closely related to justice, the concept is that the law must be fair, if the law is not fair then this means that it has violated the nature of human reason. If there is injustice in the law then the perpetrator has the right to be sanctioned by the parties authorized to give sanctions. (Agus dan Kusumasari, 2003)

In the case of bribery of the Head of Sukamiskin Prison, this clearly does not reflect the politics of justice. A corruption convict who is languishing in a cell but can still enjoy luxurious facilities such as a refrigerator, TV, dispenser, AC. The punishment is clearly not proportionate here, a corruptor gets luxurious facilities in a cell while the corruptor should be punished, not given luxurious facilities. The Head of Prison was given a bribe and then gave the facilities desired by the corrupt convict, where is the legal justice in Indonesia? How should the people trust officials in the legal sphere if in reality there are so many who cheat on the meaning of justice itself. Pancasila is a state of law, where the value of truth must be upheld but in reality the law can be bought with money. Wahed Husen as the Head of Sukamiskin Penitentiary should be aware that he is a legal official, he must uphold the truth, not misuse it just to gain personal gain. Indonesian politics and governance should not be like this, it is time for officials in the legal sphere to realize that the interests of the people are number one. Correctional institutions should be a place for inmates to improve themselves so they can return to society, but the reality is that in the cells there is still a criminal mentality because the people who should be able to guide, protect, and educate them also do not apply ethics, cannot uphold justice. If things like this continue, what will Indonesia become?

This is the real reality in Indonesia, prison officials have a money-hungry mentality. Just because they are promised money and a car, they dare to risk their position, authority, and responsibility. Major sins seem to no longer be a fear until people dare to play games with the law, especially when it comes to justice. A prison chief has certainly taken his oath of office, he swears before the people and of course before his God. Why is there no fear in cheating on justice, is it just because of money? If prisoners who have a lot of money can get luxurious facilities, then those who do not have money only get mediocre facilities, of course this creates a gap. The worst thing is that the punishment for a corruptor can be lighter than someone who steals a chicken, how funny it is to see the legal conditions like this. Having stolen people's money, being put in prison and getting luxurious facilities, the punishment given is not commensurate, is this what is called justice? It is time for the law in Indonesia to rise, to rise up to uphold the truth, to uphold justice. It is also time for law enforcement officials to realize that justice is not only accountable in the world but also with God.

CONCLUSION

In the community institution is still in the spotlight seriously and often in the spotlight because often cases and often occur cases and struggle with the existence of illegal levies and other problems such as excess capacity to the age of illegal levies carried out by some individuals who are carried out slowly and emphasize that the loss of human dignity especially if it is done by state officials whose inauguration has been sworn in in such a way and has promised to carry out duties and promised to serve the country and provide security for the country of Indonesia. In Indonesia, many have implemented steps that we can take to combat the occurrence of illegal levies themselves, for example by increasing the variety of information about what is currently popular or as simple as finding out what regulations are in the place we are going to. If we increase our knowledge it will make it easier for ourselves. However, from the officer's side, it is also very necessary to make improvements in their organization because this illegal levy activity is very rampant among agencies and is not only carried out by individuals, but there are cases of carrying out and with the approval of several individuals who have agreed to create new regulations and rules. for the provision and rights of prisoners, the law must be in accordance with existing regulations which must fulfill and humanize prisoners as in, and the application of the principle of respect for human rights. Article 28 (3) of Government Regulation Number 32 of 1999 regulates the procedures and procedures for placing prisoners in correctional institutions and prohibits the use of electronic devices and media, including television and radio, by prisoners or inmates from For personal use, please bring correctional facilities. However, there are still many cells and prisons that provide more facilities and violate existing regulations, as seen from their own electronic devices and facilities. Article 5 (b) of Law Number 12 of 1995 emphasizes the principle. And the same treatment and behavior and the same must be applied to all prisoners without exception, the same treatment must be applied to all Indonesian citizens including corruption prisoners and even officials who are involved in the case. Likewise with the implementation of the provision of electronic facilities in the detention house or in their cells. Not by getting freedom by simply paying more and holding additional costs and giving tips to the officers, making the excuse that selected prisoners can get luxury facilities that are clearly prohibited and written.

The author's suggestion in this writing is a policy for prison guards who are fully responsible for security and order in the prison, hoping that law enforcement officers who can be directly involved can carry out their duties with integrity and honesty in accordance with job provisions and in accordance with existing laws. Honesty is very necessary in carrying out tasks like this, do not make position and authority a golden opportunity to gain benefits that can benefit individuals.

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