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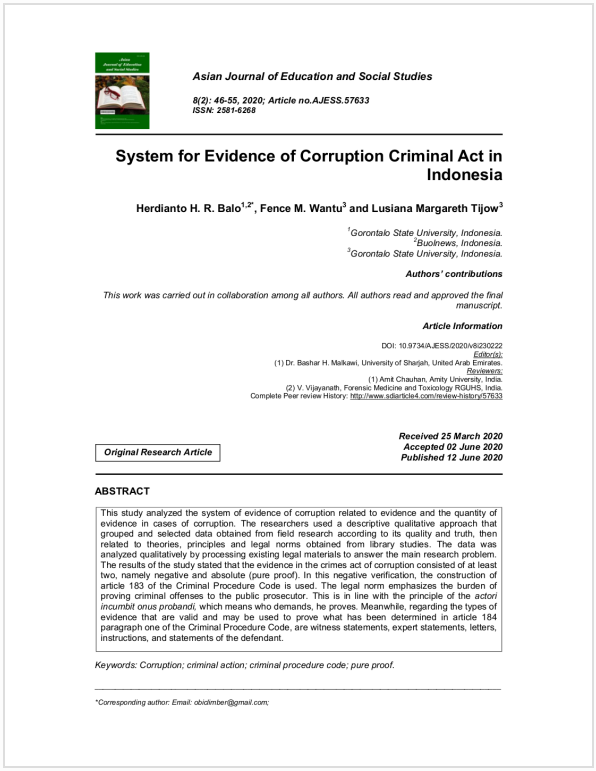

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System for Evidence of Corruption Criminal Act in Indonesia

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Authors' contributions

This work was carried out in collaboration among all authors. All authors read and approved the final manuscript.

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Keywords: Corruption; criminal action; criminal procedure code; pure proof.

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Keywords: Corruption; criminal action; criminal procedure code; pure proof.

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1. INTRODUCTION

The 1945 Constitution stipulates that the Indonesian State is based on law (*rechstaat*), not based on mere power (*machstaat*). This means that the Republic of Indonesia is a democratic rule of law based on the *Pancasila* and the 1945 Constitution, upholds human rights, and guarantees all citizens at the same time in law and government and must uphold the law and government with no exception [1].

As a developing country, Indonesia needs to develop in all fields. The essence of development is a process of continuous change towards an improvement in people's lives. Thus development will always lead to changes, which directly or indirectly in all aspects of life. In the process of development itself, it turns out there are also many factors that inhibit development that develop together with the development of development itself. One of the obstacles to development is corruption.

The problem of corruption is a very central problem in the period of development today and often it causes prolonged discussion and discussion by various groups of society. Related to the problem of corruption in Indonesia, Marwan Effendy expressed his opinion, that:

"Corruption in various forms is now rampant and has entered into almost all lines of life (deep-rooted), so it is not excessive if there is an assumption that corruption in Indonesia has been carried out systematically and extensively (widely) even some people consider it a crime extraordinary (extraordinary crime). Because it is not only detrimental to the state and society, but also has an impact on the smooth running of development and the development of national economic growth"[2].

Corruption is a big and interesting problem as a legal problem. This problem is related to a complicated type of crime to overcome it. This is caused by corruption in contact with various aspects of human life, both in relation to politics, economics, and social culture, which in turn, if left unchecked, will damage the joints of community, nation and state life.

To realize the rule of law, the Indonesian government has laid a policy foundation in the fight against corruption. The various policies have been stated in the form of Legislation, including the Decree of the People's Consultative Assembly No. XI/MPR/1998 concerning the Implementation of a Clean and Corruption Free State, Collusion and Nepotism, Law Number 31 of 1999 concerning Eradication of Corruption as amended by Act Number 20 of 2001 concerning Eradication of Corruption.

Corruption exists if a person deliberately puts his personal interests above the interests of the people and the ideals which he oaths to serve. This corruption appears in many forms and stretches from trivial questions to very large questions. Corruption can involve the misuse of tariff and credit policy instruments, housing policies, law enforcement, and regulations relating to public security, contract implementation and loan repayment, or concerning simple procedures. Not only that, corruption can occur in the private and government sectors and often even both. In a number of developing countries corruption has permeated the system. Corruption can involve promises, threats, or both, can be started by public servants or other interested parties, can involve services that are legal or non-legal, can occur outside or within government organizations. Corruption boundaries are difficult to formulate depending on local customs and laws.

The long history of eradicating corruption in Indonesia has begun since the early days of independence, but in reality, corruption is increasingly becoming. Corruption in Indonesia has reached its nadir, a point that cannot be tolerated anymore. Corruption has become so entrenched and systematic that it is said to have been entrenched in this nation. Various expressions were put forward to illustrate the increase in corruption. In the past, corruption was carried out by the executive, now the legislative body also took part. The term judicial mafia and the issue of bribery in the ranks of the Supreme Court, to the corruption of buying and selling positions in the Ministry of Religion of the Republic of Indonesia also recently also complements the designation of Indonesia as the land of corruption, because all the forces in this country also take part, both executive, legislative, even the judiciary.

Various groups argue that corruption in Indonesia has become a chronic disease and is difficult to cure, even corruption has become a unified system in the administration of state government. Corruption is an ordinary crime, but in Indonesia it is considered extraordinary, because it plagues and threatens the life of the nation and state. "Extraordinary" because the crime of corruption is sociological. Every crime is

extraordinary because of the impact and community reaction. If corruption is made into an extraordinary crime, the implication is to eradicate and extraordinary ways to deal with corruption. The possibility of excessive conditions arising that could disrupt the life of the nation and state, law enforcement has broad powers under the pretext of the fight against corruption, can accuse anyone who is newly suspected of corruption.

Enforcement of the law has been improved to become extraordinary, so that the recruitment of moral law enforcers and the right system in eradicating corruption must be sought. In eradicating Corruption by using the provisions contained in the Criminal Code considered inadequate, which then problems arise in connection with the demand to apply the principle of reverse proof that must be carried out by the defendant, then in 1971 Act No. 3 of 1971 concerning Eradication was formed Criminal Acts of Corruption, which since in the deliberation of this Act, actually intended to use a reverse proof system but was always hindered by reason of reverse proof contrary to the principle of presumption of innocence, however, taking into account the principle of *lex specialis derogat legi generalis* finally in 1999 enacted into Law No. 31 of 1999 concerning Eradication of Corruption, which adopts a system of limited reversal proof. this is guaranteed in article 37 which allows the application of limited inverted evidence to certain and concerning the confiscation of assets resulting from corruption.

Article 37 does not expressly state the need to reverse the burden of proof. Because it is not specifically regulated, its application can give rise to perceptions and interpretations for law enforcers, and then be reaffirmed by the enactment of Law Number 20 Year 2001 concerning Eradication of Corruption, which is in the form of a Limited and Balanced Proof Burden Reversal System. The regulation regulates reverse evidence more clearly, namely in the provisions of Article 12 B, 12 C, 37A, 38A, and 38B. Although the draft law on reverse proof is still being drafted by the government because it still contains pros and cons, but with the realization of the use of the principle of reverse proof that has been carried out namely in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Eradication of acts corruption crimes that use the principle of reverse evidence (Article 12B, 12C, and 37, 37 A, 38A and 38B).

With regard to the scope of this evidence, corruption is indeed a complicated problem, because the perpetrators of this corruption act neatly. The difficulty of proof in this corruption case is a challenge for law enforcement officers, because the overall burden of proof is borne by the public prosecutor. In order to solve the problem of the difficulty of proving corruption, one of the efforts that can be taken is to apply inverse proof of corruption cases. Indeed the application of this reverse proof had attracted the attention of legal experts in Indonesia because the reverse proof was considered a violation of human rights, and contrary to the presumption of innocence or the presumption of innocent.

Many people consider that the Corruption Crime Evidence system in Law Number 31. of 1999 amended by Law Number 20 of 2001 (hereinafter referred to as UUTPK) is better, because it adopts a reverse proof system. With the thought that the reverse system is easier to prove the TPK that was indicted, so that it is also automatically easier to eradicate corruption. Opinions like that were not entirely correct. It is true that the UUTPK adopts a reverse proof system, but questions like what is meant by the reverse system, how is it applied, what is the standard of evidence used and so on, questions like that are not easily answered by everyone [3].

Evi Hartanti argues that: “Corruption in Indonesia until now is still one of the causes of the decline in the nation's economic system. The development of criminal acts of corruption has increased both in terms of quantity and quality. Therefore, it can be said that corruption in Indonesia is not an ordinary crime but rather an extraordinary crime. For this reason, the eradication of corruption must be carried out using special methods” [4].

Departing from the thought of Evi Hartanti above, then it is fitting that when corruption has been classified as an extraordinary crime, the eradication efforts cannot be carried out normally, but must be done in extraordinary ways. Extraordinary efforts undertaken to reduce corruption can be seen with the birth of various laws and regulations and various institutions established by the Government of the Republic of Indonesia in the process of tackling corruption. The amount of corruption in Indonesia should have been reduced, but in reality it has not changed. This is caused by aspects of proof that are not working properly.

The author discusses the aspects of proving corruption in which the prosecutor is often difficult to prove the guilt of the defendant because the burden of proof system adopted so far based on Law No. 8 of 1981 concerning the Criminal Procedure Code on proof is strictly regulated that the one who must prove the accused's guilt is the public prosecutor.

According to Adami Chazawi that: "The burden of proof system in ordinary criminal cases is the duty of the public prosecutor. However, the burden of proof in corruption act undergoes a new paradigm shift by applying a reversal of the burden of proof. Through the reverse proof the defendant must be able to prove that the assets he owned were obtained in a legal manner, but if the defendant cannot prove that the assets that he owned were obtained by legal means then they can be considered as perpetrators of corruption" [5].

The issue of proof is indeed very important and is needed in the process of examining a Corruption Criminal Act so that the evidence is really carried out carefully, as well as the systematic preparation of the indictment, and the description of the indictment. In this regard, researchers are interested in examining the evidence and quantity of evidence in cases of corruption.

2. MATERIALS AND METHODS

This research is normative. As it is known that legal science recognizes two types of research, namely normative legal research and empirical legal research. According to Peter Mahmud Marzuki that normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues encountered [6]. Mukti Fajar and Yulianto Acmad argued, that: sociological or empirical legal research, which includes, research on legal identification and research on legal effectiveness [7].

The research approach taken is a qualitative descriptive approach that groups and selects data obtained from field research according to its quality and truth, then linked to theories, principles and legal norms obtained from library studies in order to obtain answers to the problems formulated.

Types and sources of legal materials are obtained from primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include materials obtained from primary sources that are original sources that contain information on the data, in other words sources that directly provide data to data collectors [8]. The primary data that are the subject of this study are informants from the Corruption Court, the High Prosecutors' Office in the form of interview data. In addition, the authors also interviewed speakers from certain parties who have legal disciplines up to strata three (doctorate). This data is processed for specific purposes according to the needs of researchers who are concerned with the burden of proof of corruption. Secondary legal material is legal material that is usually in the form of documentation data and official archives [9]. Secondary legal material is material obtained from other library materials consisting of court decisions, legislation, journals, scientific papers, papers, reports and other legal materials. Meanwhile, tertiary legal materials are legal materials that can provide guidance and explanations for primary and secondary legal materials consisting of legal dictionaries, legal encyclopedias, the internet, legal magazines and legal newspapers.

After all the necessary data is collected, the data is selected, compiled, and subsequently analyzed qualitatively by processing existing legal materials for further analysis to address the main problems in this study.

3. RESULTS AND DISCUSSION

3.1 Evidence Material in the Case of Negative and Absolute Corruption Criminal Action

Indonesia is more focused on combating corruption in the criminal justice process. The criminal justice process begins at the stage of investigation, verification, prosecution to give the judge's verdict in court. Proof is a very crucial process for both the defendant and the public prosecutor. It was mentioned like that because when there was a disagreement between the defendant and the public prosecutor, then the proof would be the final reference of the panel of judges in issuing a decision.

Corruption verification law, especially regarding the burden of proof, there is a difference with the provisions in the Criminal Procedure Code. In certain cases there are certain criminal acts that have irregularities. The burden of proof is not absolute on the public prosecutor, partly on the defendant, or both parties, where the public prosecutor and the defendant provide evidence

to the contrary. Practitioners call it the inverse and semi inverse system. So there are three evidentiary loading systems in the law of proof of corruption, namely the burden of proof on the public prosecutor, the burden of proof on the accused and the third burden of proof of balance.

The evidentiary material in a corruption case consists of at least two, namely negative and absolute (pure proof). In this negative verification the construction of Article 183 of the Criminal Procedure Code is used. The legal norm emphasizes the burden of proving criminal offenses to the public prosecutor. This is in line with the principle of the *actori incumbit onus probandi* which means who is the one who demands, he proves.

The relation to the burden of proof on the public prosecutor is explained that the public prosecutor must prepare evidence and evidence accurately, because if it is not so it will be difficult to convince the judge of the accused's guilt. Mansur Kartayasa believes that in Indonesia's formal criminal legal system, which is regulated in the Criminal Procedure Code, the burden of proof regarding criminal acts committed by the defendant lies with the public prosecutor [10]. The logical consequence of the burden of proof on the public prosecutor is correlated with the principle of presumption of innocence and the actualization of the principle of not self-blame (non-self-incrimination). The problem of proof in corruption is indeed a complicated problem, because the perpetrators of this corruption act neatly.

In Indonesia the Criminal Procedure Code does not provide an explanation of the meaning of proof, the Criminal Procedure Code only contains the types of legal evidence that are stipulated in Article 184 paragraph one of the Criminal Procedure Code. Although it is like that many references and opinions of some experts who provide an understanding of the proof itself. Proof in the sense of criminal procedure law is a provision that limits court hearings in an effort to find and defend the truth, both judges, public prosecutors, defendants and legal counsel [11].

The verification process in Indonesia has several systems including: belief system, positive system (*positief wettelijk*), negative system (*negatief wettelijk*), free verification system (*Vrijbewijs/conviction intime*). Indonesian law recognizes various types of evidence, both in civil law, state administration, and criminal law itself, which has been regulated in Article 184 paragraph 1 of the Criminal Procedure Code. Various types of evidence include: witness statements (meaning article one point 26 of the Criminal Procedure Code), information expert (understanding article one number 28 of the Criminal Procedure Code), letter (terms and explanation of article 187 of the Criminal Procedure Code, instructions (understanding article 188 of the Criminal Procedure Code), and the information of the defendant (understanding articles 189 Verses one to four of the Criminal Procedure Code.

This relates to the imposition of proof of a criminal act of corruption, wherein in positive law, the principle of sharing the burden of proof is contained in article 163 Hirzine Indische Regulation, article 283 of the *Reglement op de Burgelijk* and article 1865 of the Civil Code which states that the obligation is to carry out the obligation to prove is the party who instances that he has a right or to establish himself or to deny someone else's right to point to an event. As for the context of the distribution of the burden of proof in criminal cases themselves, it is also very important especially as it concerns the resolution of corruption cases. The criminal law itself stipulates that the burden of proof is the duty or authority of the Public Prosecutor.

According to Denny Manoppo (Head of the Gorontalo Prosecutors' Investigation Section): "... in cases of corruption, the burden of proof is not only submitted to the Public Prosecutor, but also to the defendant to refute the indictment of the Public Prosecutor, specifically concerning the origin of the alleged assets resulting from corruption [12].

The evidence submitted to the defendant as explained above is regulated in the provisions Article 38B, is a reverse proof that is specific to the seizure of assets which are allegedly also originating from the results of criminal acts of corruption as contained in articles 2, 3, 4, 13, 14, 15, 16 Law No. 31 of 1999 and articles 5 to 12 of Law No. 20 of 2001. During its development, Indonesia's anti-corruption regulations introduced reversal of evidence, specifically on gratuities that were considered bribes as stated in Article 12B in conjunction with Article 37.

In addition, the anti-corruption regulation also extends the epicenter of evidence in the Criminal Procedure Code. This expansion aims to facilitate the investigation and proof of corruption. Reversal of evidence was also adopted in the anti-money laundering regulations. Even in a quo

regulation introduces the principle of reversal of pure evidence, as confirmed in Article 77 jo Article 78. So, the evidence that initially only became the domain of the prosecutor (conventional evidentiary burden) then experienced a shift (shifting) to the defendant (reversal of the burden of proof). The principle of reversal of evidence is basically divided into two, namely the reversal of pure (absolute) verification that is introduced in money laundering and reversal of evidence that is limited and balanced which is introduced in corruption.

The burden of conventional evidence in this context, the defendant plays an active role stating that he is not a criminal. Therefore the defendant in front of a court hearing will prepare all the burden of proof and if it cannot prove it, the defendant is found guilty of committing a crime. In principle, this type of burden of proof theory is called the "load reversal of proof" theory.

Duke Arie Widagdo also explained: "... The burden of proof on the defendant is a necessity because to prove a guilty person and not to commit a criminal act of corruption is the authority of the investigator. It is the duty of the investigator to look for as much evidence as stipulated by the Criminal Procedure Code [13].

Furthermore, Duke Arie Widagdo added, that: "The burden of proof in an ordinary crime case is the duty of the public prosecutor. However, the burden of proof in corruption acts undergoes a new paradigm shift by applying a reversal of the burden of proof. Through reverse proof the defendant must be able to prove that his assets are obtained in a legal way, but if the defendant cannot prove that his assets are obtained in a legitimate way then he can be considered as a criminal act of corruption" [13].

The emergence of Law No. 20 of 2001 on changes to Law No. 31 of 1999 concerning Eradication of Corruption Crimes allows the defendant to reverse the evidence in court. The legal basis for reverse evidence is found in Articles 12B, 37, 37A and 38 of Law No. 20 of 2001. For the defendant who is undergoing trial in court because the defendant committed a criminal act of corruption as stipulated in Article 37 paragraph (1) and (2) of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning Eradication of Corruption Crime has the right to prove that he did not commit a criminal act of corruption and in the event that the defendant can prove his innocence, the evidence is used by the court as a basis for stating that the indictment is not proven.

Regarding his assets, Article 37 A of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning Eradication of Corruption Criminal Law stipulates that the defendant is obliged to provide information about all his assets and the assets of his wife or husband, children, and the assets of any person or corporation that is allegedly related to the case being charged. In the event that the defendant cannot prove that the assets are not balanced with his income or the source of the addition of his wealth, then the information is used to strengthen the existing evidence that the defendant has committed a criminal act of corruption.

The development of the Anti-Corruption Law in Indonesia has actually provided a balanced concept for the application of inverse evidence to the accused. The defendant still needs balanced legal protection for violations of fundamental rights relating to the principle of presumption of innocence and the principle of self-blame. Reverse proof is often seen as a process of proof without regard to the rights of the accused so that it contradicts the principle of the *presumption of innocence* and the principle of non-self incrimination (something that should not be done in a criminal justice process). A person is found not guilty before being proven legally. Everyone has the right not to be compelled to give testimony to himself or plead guilty.

This reverse system is contrary to the principle of innocence and only applies to: b) bribery corruption receiving gratuities with a value of IDR 10 million or more (Article 12B paragraph (1) letter a); and b) assets that have not been charged, but are suspected to have something to do with corruption (Article 38B). In addition, the authors consider that the burden of proof is reversed considered to deviate from the Indonesian Criminal Procedure Code. Under Article 66 of the Criminal Procedure Code the suspect or defendant is not burdened with proof of obligation. So that someone suspected of having committed a crime has no obligation to carry out the burden of proof reversed.

The reverse proof system originated from the known proof system of Anglo-Saxon countries whose application was limited in certain cases, especially in the crime of gratuity or bribery. The reverse burden of proof method in Indonesia was born marked by the passing of Law No. 3 of 1971. However, the method of proof is reversed in Article 17 of Law No. 3 of 1971 was not

regulated explicitly and absolutely, because the evidence had not been fully carried out by the defendant but also by the Public Prosecutor. Likewise, in Article 18 which regulates the ownership of perpetrators' property.

In relation to the burden of proof of this balance, Adami Chazawi argues that: "In the law of proof of corruption, especially regarding the imposition of proof there is a difference with the provisions in the Criminal Procedure Code. In certain cases there are irregularities in certain acts. The burden of proof is not absolute on the public prosecutor, partly on the defendant, or both parties, where the public prosecutor and the defendant are opposites. Practitioners call the reverse and semi-reverse systems" [14].

Concretizing this principle both the public prosecutor and the defendant proved each other before the trial. Normally, the public prosecutor will prove the defendant's fault while the defendant will prove otherwise that the defendant was not legally proven and convincingly guilty of committing the criminal act charged.

The burden of proof is placed both on the defendant and the public prosecutor in a balanced manner regarding matters (objects of evidence) that differ in an opposite way (Article 37A). include [15]: a) Article 37 is the legal basis for the reverse verification system; and b) Article 12B paragraph one letter a and Article 38B is a provision regarding a criminal act of corruption (the object) which has the burden of proof using an inverse proof system. According to Law No. 20 of 2001 the reverse evidence is applied to the crime of gratification relating to bribery (Article 12B paragraph one) and to the claim of seizure of the assets of the accused allegedly originating from one of the criminal acts in Articles 2, 3, 4, 13, 14, 15, 16 Law No. 31 of 1999 and Articles 5 - 12 of Law No. 20 of 2001. From the point of view of the object that must be proven by the defendant, the inverse of evidence is only applied to two objects of evidence, namely:

1. In bribery corruption receiving gratuities with a value of IDR 10 million or more (Article 12B paragraph one jo 37 paragraph 2 jo 38A). Reverse proof of bribery corruption receiving gratification, the defendant is burdened with the obligation prove not committing corruption accepting gratification, can be called a pure reverse load system. Because the object that must be proven by the defendant is directly to the elements of the criminal act which are charged which contain direct legal consequences on the exemption order or vice versa criminal conviction or release from lawsuits;

2. Against the assets of the defendant who have not been charged (Article 38B jo 37). The defendant's obligation proves in reverse which is not against the criminal act charged. The legal consequences of successfully or not proving that the assets of the defendant are obtained from corruption or not, do not determine the defendant is convicted or acquitted of charges of corruption in the main case. But just to be able to impose the criminal confiscation of goods in the event that the defendant fails to prove his property as legal property. Or vice versa, not to impose criminal confiscation of goods in the event that the defendant succeeds in proving his property as legal property [15].

The reverse proof burden system often encounters problems in its application, including: the principle of inverted proof contrary to the provisions of the 1945 Basic Law as the highest legal basis. In Indonesia, the legal principle of "*lex superior derogat legi inferiori*" still applies (lower level legal regulations must comply with higher legal regulations. Although the principle of inverse evidence is contained in a number of clauses of the law, these regulations must not violate existing provisions on.

Based on Article seven paragraph one of Law Number 12 of 2011 concerning the Formation of Legislation, it states that the type and hierarchy of legislation consists of [16]: a) The 1945 Constitution of the Republic of Indonesia, b) Decree of the People's Consultative Assembly c) Government Acts / Regulations in lieu of Laws, d) Government Regulations, e) Presidential Regulations, f) Provincial Regional Regulations, and g) Regency/City Regional Regulations.

The provisions of Article 28 I paragraph one of the 4th Amendment of the 1945 Constitution emphasize that [17] the right to life, the right to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be known as individuals before the law, and the right to be prosecuted on a retroactive basis is a human right that cannot be reduced under any circumstances.

The right to be prosecuted on the basis of retroactive laws can be excluded in the case of gross violations of human rights classified as crimes against humanity. This article applies the principle of retroactivity, especially for handling crimes against humanity. The spirit to implement the existence of this retroactive principle can be

considered a setback if it is linked to *the Lex Tallionis* principle as the main source, but the spirit to prevent and eradicate corruption for perpetrators who have enjoyed the results of corruption is not as *Tallionis* spirit, but is an act of recovery and saving assets a country that has been corrupted by irresponsible corruption.

The application of the principle of retroactivity for corruption crimes is something that is possible in addition to being able to overcome the efforts of immunity, as well as to be able to resolve thoroughly and fairly any corruption that has harmed the country. The burden of proof is reversed deviating from the Indonesian Criminal Procedure Code. Under Article 66 of the Criminal Procedure Code the suspect or defendant is not burdened with proof of obligation. So that someone suspected of having committed a crime has no obligation to carry out the burden of proof reversed. The reverse proof system originated from the known proof system of Anglo-Saxon countries whose application was limited in certain cases, especially in the crime of gratuity or bribery.

The reverse burden of proof method in Indonesia was born marked by the passing of Law No. 3 of 1971. However, the method of proof is reversed in Article 17 of Law No. 3 of 1971 was not regulated explicitly and absolutely, because the evidence had not been fully carried out by the defendant but also by the Public Prosecutor. Likewise, in Article 18 which regulates the ownership of perpetrators' property. The burden of proof is reversed also regulated in Law No. 31 of 1999 jo. UU no. 20 of 2001 concerning Eradication of Corruption Crimes. In this law, it has been regulated regarding reverse proof, but the provision is limited, meaning the defendant has the right to prove but because the public prosecutor is still obliged to prove his indictment.

Law No. 15 of 2002 jo. UU No. 25 of 2003 concerning Money Laundering Crimes Act, Article 35 states that for the purpose of examining a court the defendant is obliged to prove that his assets are not the result of a criminal offense.

"The words must contain the understanding that this law adheres to a reverse verification system. However, in the explanation of the article, it was stated that the defendant was "given the opportunity" to prove that his assets did not originate from proceeds of crime. The words "mandatory" and "given the opportunity" have different meanings. Thus assessing the system of proof in this law is still being debated, in fact it makes clear things unclear" [18].

Article 77 of Law No. 8 of 2010 concerning Money Laundering Crimes Act states that for the purpose of a court hearing, the defendant is obliged to prove that his assets are not the result of a criminal offense. In the explanation of this article it is quite clear that the defendant is no longer "given the opportunity" in reverse proof, but is "obliged" to do so.

This is the advantage of the new Money Laundering Crimes Act compared to the old Act [18]. The application of this reverse verification method refers to the predicate crime of money laundering so that it is clearly seen that the verification system plays a very important role.

Not proving the original predicate crime in money laundering is deemed to have deviated from the *presumption of innocence* and the principle of non-self incrimination. The suspect/defendant of money laundering seems to have been considered guilty of money laundering by proving that the criminal act had originated without first proving his guilt which was marked by a judge's decision that had permanent legal force.

In addition, the burden of proof is reversed is also considered as a form of deviation from Article 14 paragraph (3) letter g of the International Convention on Civil and Political Rights which has been ratified by Law No. 12 of 2005 concerning Ratification of the International Convention on Civil and Political Rights which states, "In determining allegations of criminal violations against him, every person has the right not to be forced to give testimony to themselves or plead guilty.

3.2 Quantity of Evidence in Corruption Criminal Act

When a crime can be detected, the main challenge of law enforcement is the aspect of proof. The quantity of evidence in a criminal act of corruption is a key point to gain confidence in the existence of a criminal act with the perpetrators and so that law enforcement does not violate a person's human rights. Regarding the types of evidence that are valid and may be used to prove what has been determined in Article 184 paragraph one of the Criminal Procedure Code, they are: witness statements, expert statements, letters, instructions, statements of the defendant. When compared with the evidences in Article 295 HIR, the evidences in Article 184 paragraph one of the Criminal Procedure Code differ. The differences

are: 1) evidence of recognition according to HIR, which in the Criminal Procedure Code was expanded into the defendant's statement. The definition of the defendant's statement is broader than just a confession. 2) In the Criminal Procedure Code added, the new evidence that was used in the HIR was not evidence, namely expert testimony.

In white collar crimes, the challenge becomes even greater because the perpetrators always try to keep away the evidence that can ensnare them. This condition of course makes law enforcers experience obstacles in getting evidence that leads directly to the perpetrators. In various literatures the author traced that when faced with the quantity of evidence in a criminal act of corruption in which efforts to prevent and eradicate crime develop not only pursue and punish perpetrators, but also complement with: (1) tracing the flow of money (follow the money) the proceeds of crime "Hidden" through Money Laundering Crimes Act; (2) trying to expand the scope of detection of a criminal act and the disclosure of the beneficiary offender; (3) providing a breakthrough in the aspect of proof; and (4) breaking the chain of crime by seizing assets resulting from crime.

In a financial crime, including corruption, money or assets, it can be a person's main goal to commit a crime. Money or assets resulting from crime are also blood that supports a crime organization (bloods of the crime). In Indonesia, Money Laundering Crimes Act has been criminalized since 2002, ie since the enactment of Law No. 15 of 2002 concerning Money Laundering on April 17, 2002. This law was amended by Law No. 25 of 2003 concerning Amendment to Law No. 15 of 2002 concerning the Crime of Money Laundering on October 13, 2003, and has now been replaced with Law No. 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes Act on October 22, 2010.

In addition to criminalizing specifically the act of obscuring the origin of assets resulting from crime, the follow-up approach is also equipped with a detection scheme that involves the financial industry and is supported by various legal breakthroughs that seek to overcome weaknesses in conventional law enforcement. Among the legal breakthroughs related to the evidentiary aspect, namely with the provision that states that to be able to carry out investigations, prosecutions, and hearings in court against money laundering crimes act, it does not need to be proven in advance of the original criminal offense (article 69 of the Money Laundering Crimes Act).

This provision according to R. Wiyono can be interpreted that the money laundering crimes act is a crime that stands alone, whose validity does not depend on the provisions of other criminal acts [19]. Money laundering is basically an effort to process proceeds of crime with a legitimate business so that the money is clean or appears as halal money. Thus the origin of the money was covered up. Definition of money laundering in Law No. 8 of 2010 concerning Prevention and Eradication of Money Laundering Criminal Acts contained in Article one point one, namely: all acts that fulfill the elements of criminal offenses in accordance with the provisions in this law.

In general, in his book, Tb. Irman classifies the elements of money laundering crimes act into 3, namely [20]: transactions, assets, violating the law. Thus money laundering always takes place after a violation of the law, then money laundering will not exist if there is no illegal act that produces wealth. But it is not enough that the act of violating the law only generates wealth, then it is complete if the assets resulting from the crime (the results of the act against the law) are transacted with their origin disguised [20].

Money laundering comes from the existence of a criminal act (*een feit*) which contains, among others, an element of error or negligence, an element of intent, an element of unlawful acts, an element of an object of a criminal offense, an element of an act, an element of a state that accompanies or helping or telling to do. An act does not have to be all complete to be convicted but must look at the formal formulas contained in the rules that have been set.

Criminal acts above are those that constitute the beginning of a criminal act that occurred. In a criminal act, there are always perpetrators and victims, if there are even perpetrators and victims not a criminal act, it must be connected with an act, which is an act that is against the law, so that a criminal act occurs. Because there is a criminal offense directed against the victim by the perpetrators of the crime, the consequences arise. Thus the perpetrators who commit acts against the law directed at the victim are the cause, so the cause of the cause arises as a result.

4. CONCLUSION

The system of loading the evidence against corruption consists of three burden of proof.

Namely the burden of proof on the public prosecutor. Where the public prosecutor must prepare evidence and evidence accurately, because if not so it will be difficult to convince the judge of the accused's guilt. The logical consequence of the burden of proof on the public prosecutor is correlated with the principle of presumption of innocence and the actualization of the principle of not self-blame (non-self-incrimination). The reverse proof burden system needs to be implemented to meet the demands and needs of the community in an effort to hold the state officials accountable for carrying out their duties and authorities. Second is the burden of proof on the defendant. In this context, the defendant played an active role stating that he was not a criminal. Therefore the defendant in front of a court hearing will prepare all the burden of proof and if it cannot prove it, the defendant is found guilty of committing a crime. In principle, this type of burden of proof theory is called the "load reversal of proof" theory. Thirdly, the burden of proof is balanced where both the public prosecutor and the defendant prove each other before the trial. Typically, the public prosecutor will prove the defendant's fault while the defendant will prove otherwise that the defendant was not legally proven and convincingly guilty of committing the criminal act charged.

COMPETING INTERESTS

Authors have declared that no competing interests exist.

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