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RESEARCH ARTICLE

LAW ENFORCEMENT POLICY ON VILLAGE FUND CORRUPTION IN INDONESIA

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Abstract

This study aims to examine law enforcement policies for corruption of village funds. The allocation of village funds that are large enough is very prone to corruption. Modes of corruption of village funds include embezzlement, mark ups, abuse of authority, fictitious activities or reports, and withholding of funds. Therefore, assistance and supervision are needed in managing village funds. The enforcement of village fund corruption must be emphasized on the principle of ultimumremedium and emphasize the settlement with non-penal efforts (Government Internal Supervisory Apparatus). This is because the amount of state losses due to village fund corruption is not comparable to the cost of handling village fund corruption crimes by the Prosecutor's Office and the Police which reached 200 million. The problems that will be in this study are what are the causes of Village Fund corruption and what are the forms of preventive and law enforcement policies in dealing with problems related to misappropriation of village funds. The research method used is a normative research method with a statute approach and case approach and will be analyzed using content analysis.

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Introduction:-

The Indonesian government's commitment to strengthen the authority of village autonomy is realized through Law No. 6 of 2014 about Villages. One form of village strengthening is the transfer of village funds allocated in the central government budget. On average, each village receives a transfer of funds of around Rp 1 billion. [1] The budget allocation has been carried out since 2015 with a considerable value. In 2021, the Village Fund Allocation is set at IDR 72 trillion and in 2022 IDR 68 trillion which is intended for 74,961 villages in 434 regencies/cities throughout Indonesia.

The large allocation of village funds opens up space for corruption committed by village officials. Corruption occurs because of the monopoly/ dominance of the village head in the administration of village government. Paternalistic leadership characteristics provide discretionary space for village heads to cause low accountability in village fund management. On the other hand, the space for participation to supervise in preventing corruption of village funds is still weak. Villagers do not have access to information on village programs and budgets, so village community organizations and Village Consultative Council cannot perform supervisory functions. Based on Indonesian

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Corruption Watch (ICW) monitoring from news and official ministry document reports, it is reported that in 2021 there have been 154 cases involving 245 suspects and state losses of 233 billion. The ICW report is an iceberg phenomenon because the reality is much larger. [2]

Corruption of village funds is closely related to the accountability of village government management. Village fund management must be carried out based on planning, implementing, monitoring, and evaluating village finances which must be understood by every village government leadership holder, namely the Village Head. [3] However, the characteristics of the village government bureaucracy are still traditional and the capacity of village officials is still very low. This condition causes the village fund objectives not to be achieved optimally. [4] Much of the corruption of the Village Fund was caused by the incompetence of village officials in the financial administration process resulting in administrative errors. [5] This paper examines prevention efforts carried out through assistance and guidance in the management of village funds and the enforcement of corruption laws by prioritizing non-penal efforts so that there is no over-criminalization of village officials.

Research Methods:-

The research method used is a normative research method, using the statute approach and case approach related to Law Enforcement Policies on Village Fund Corruption in Indonesia. The statute approach examines matters relating to legal principles, legal views and doctrines, and laws and regulations related to sustainable agricultural land, and data that is accurate and can be accounted for, while the case approach examines cases of corruption in funds. Village. [6] Apart from that, an in-depth examination of the legal facts was also carried out to then seek solutions to the problems that arise in the symptoms in question. [7]

Discussion:-

A. Village Fund Accountability

Village funds are intended to finance the implementation of village government, village development, development and empowerment of village communities. Village funds are managed and accounted for through a state financial accountability mechanism based on the provisions of the bylaws issued by the village ministry and the ministry of home affairs. Village Fund transfers have produced infrastructure outputs that support economic activities such as village roads, village markets, village-owned enterprises, agricultural facilities, etc. In addition, village funds also serve to improve the quality of life of rural communities such as the provision of clean water, educational facilities, health advice, and so on. The village fund is very helpful for the village government in realizing the achievement of 17 goals and 169 targets of Sustainable Development Goals and becomes a safety net for the welfare of rural communities during the Covid-19 pandemic through the provision of direct cash assistance. [6]

According to ICW, there are 5 corruption hotspots in the Village Fund management process, namely from the planning process, accountability process, monitoring and evaluation, implementation, and procurement of goods and services in terms of distribution and management of Village Funds. Furthermore, the vulnerable point of corruption of village funds according to the Corruption Eradication Commission lies in the lack of ability of village heads in village financial management and program supervision. [7] Furthermore, the allocation of village funds that are so large every year that aims to build rural communities is very vulnerable to corruption in various modes. The modes of corruption in this village also vary including Embezzlement of money, Mark Up, Abuse of authority, Fictitious Activities or Reports, and Withholding of Funds. Therefore, Government Internal Oversight Apparatus needs assistance and supervision of village funds in preventing corruption of village funds.

The next cause of corruption of the Village Fund can be based on the village head's lack of understanding of village finances and the existence of political promises of the village head in practice also affects the corruptive behavior of the village head, this is an implication of the political promises of the elected village head which is poured into the village development program. [8] Apart from that, the cause of corruption of the Village Fund also occurs in relation to administrative matters, for example related to reports on infiltration and accountability. [9] Therefore, in the Government Administration Law it is explained that in the case of corruption of village funds the first step that must be taken is the supervision and investigation of alleged abuse of authority first carried out by Government Internal Oversight Apparatus which is not only directed to a penal settlement.

The village law gives great authority to the village government, so that the position of village head becomes the central village-level leader who monopolizes village finances, even though there are village institutions that

supervise the running of the Village Fund. However, the village institution with its capabilities cannot carry out its functions properly and correctly. Implementing village governments, especially in the use of Village Funds that are prone to corruption, requires an instrument of supervision by the Government Internal Supervisory Apparatus which emphasizes guidance. Supervision is carried out based on the prohibition of abuse of authority so that administrative errors occur that cause financial losses to the state. [10]

In order to ensure accountability, the use of Village Funds requires guidance and supervision carried out by the Central Government to Regional Governments which is coordinated with the Regional Government Internal Oversight Apparatus of districts/cities. [11] Therefore, guidance and supervision are needed in the use of Village Funds from both the Central and Regional Governments, explaining that guidance related to the use of Village Funds by the Minister is guidance through socialization, monitoring, and evaluation of priorities for the use of Village Funds nationally using digital applications in accordance with the provisions of laws and regulations, governors and regents are required to carry out guidance through socialization, monitoring, and evaluating the Priority of Village Fund Use in a tiered manner and coaching can be assisted by Professional Assistance Personnel and third parties in accordance with the provisions of laws and regulations. [12] The Village Fund's corruption prevention policy focuses on corruption cases caused by administrative errors and abuse of authority resulting in state losses and aims at the repair and return of state losses.

B. Village Fund Corruption Prevention Policy

Preventive policies are actions that focus on prevention before the criminal act of corruption in village funds occurs by prioritizing non-penal processes related to administrative problems in the management of village funds. Preventive policies are crime prevention policies outside of criminal law so that penal settlements are made the last resort in village fund corruption cases. Where the goal is to improve certain social conditions that exist in problems in the village. [13] Thus, preventive policies actually have a very strategic position, holding a key position that must be intensified and made effective to realize the ultimate goal of criminal politics. [14] Cases of village fund corruption in Lampung Province reached 72 cases with a total state loss of IDR 14,048,499,105.32. In the penal enforcement of village fund corruption from the investigation and police investigation stages, approximately 200 million funds are needed and 150 million at the prosecution stage.

Based on this description, it would be very irrelevant if it was only concerned with the aspect of deterrence, which basically enforces the criminal law on corruption with the aim of returning state losses. If all state losses are settled in a penal manner, the state will lose more and can be said to have wasted state finances. Therefore, ideally the settlement of village fund corruption is resolved administratively or through the Government's Internal Supervisory Apparatus. This aims to reduce the practice of over-criminalization, which is essentially a decision to determine an act as a crime in law without being supported by adequate reasons. In the context of the Village Fund, protection for state finances is sufficient so that actions that harm state finances do not need to be criminalized or punished under Article 2 paragraph (1) and Article 3 of the Corruption Crime Act. Apart from that, if a village with a total number of villages, namely 83,381, always uses penal law enforcement, it will create new problems, while prioritizing non-penal policies can solve problems related to corruption in village funds.

Therefore, preventive policies are a model for preventing corruption, especially Village Fund corruption. What can be done is structuring the quality of human resources, structuring work management in agencies and organizations, optimizing the role of the internal supervisory unit for agencies and organizations, increasing community participation, and mentoring. to villages in the management of Village Funds, for example with the Village Guard program from the Attorney General's office. [15] Furthermore, responding to village fund corruption, the fact is that not all of the state losses are large and under the cost of handling cases which reach 200 million at the Indonesian Attorney General's Office and the Indonesian Police. In response to this, the ideal solution is through the Government's Internal Supervisory Apparatus. This aims to realize the principle of fast, simple and low-cost justice, namely by prioritizing preventive measures or prevention as an embodiment of the principle of *ultimum remedium* or punishment as a last resort. [16]

Following up on this matter, legal policies in dealing with corruption in village funds, law enforcement officials and elements of the state involving the Ministry of Home Affairs, the Indonesian Attorney General's Office, and the Indonesian National Police made a memorandum of understanding regarding the Coordination of Government Internal Supervisory Apparatuses and Law Enforcement Officials in Handling Reports or Complaints on the Administration Regions in 2023 which regulate the handling of cases related to village financial management.

Settlement of Corruption Crimes in village funds where the nominal loss to the state is less than the cost of handling it is indeed more effective and efficient if it is resolved non-penalally to avoid wasting state finances. [17] Settlement of Corruption Crimes in village funds with small state losses departs from the Concept of Restorative Justice, namely repairing state losses and repairing perpetrators (Reparatoir Sanctions). State losses are repaired by returning and repairing the perpetrators while still imposing sanctions as described above in order to provide a deterrent effect and prevent the same problems from occurring as criminal theories. [18] Therefore a sanction instrument is needed that can be included in the MoU or made into a legal policy or law that regulates sanctions for perpetrators of corruption in village funds whose state losses are less than the costs of handling cases, for example sanctions related to authority (not maybe become the village head again) or sanctions related to fines (returns are still carried out and administrative fines are added). [19]

The imposition of this sanction is intended so that the provision that returns state losses does not abolish crimes is not violated. [20] Apart from that, the imposition of sanctions is aimed at providing a deterrent effect on perpetrators of corruption in village funds so that similar cases do not occur in the future. The program is expected to be able to optimize supervision in the use of village funds which have reached 1 billion in 74,000 villages. Apart from that, the existence of the MoU is aimed at preventing a waste of state finances due to the handling of corruption in village funds, the fact that the state losses are not comparable to the costs of handling cases which reach 200 million to the police and prosecutors. [21] This is very irrelevant if small state losses must be forced to settle by penal means.

Conclusion:-

Based on the results of research related to law enforcement policies for corruption of village funds in Indonesia, it is known that the modes carried out for corruption in the village environment also vary including embezzlement of money, Mark Up, Abuse of authority, Fictitious Activities or Reports, and Withholding of Funds. Therefore, Government Internal Oversight Apparatus needs assistance and supervision of village funds in preventing corruption of village funds. The enforcement of corruption in village funds should ideally be emphasized on the settlement of Government Internal Oversight Apparatus if the amount of state losses is small and below the cost of handling corruption cases which reaches 200 juta to the Prosecutor's Office and Police. Therefore, an MoU was held involving the Ministry of Home Affairs, the Prosecutor's Office of the Republic of Indonesia, and the Indonesian Police, which arranged settlements related to corruption violations in villages. In the MoU, it was explained that the settlement of corruption in village funds takes precedence over the principle of ultimum remedium and emphasizes the concept of Restorative Justice, namely fixing state losses and fixing perpetrators (Reparatoir Sanctions). State losses are corrected by way of returns and repairs of perpetrators while still providing sanctions as described above in order to have a deterrent effect and prevent the same problems from occurring as criminal theories.

References:-

1. Hulu, Yamulia, R. Hamdani Harahap, and Muhammad Arif Nasution. "Village Fund Management in Village Community Empowerment." *Jupii: Journal of Social Sciences Education* **10** (1): 146-154 (2018)
2. Endah Dwi Winarni, "Accountability in Village Fund Management Based on PP Number 8 of 2016 (Case Study in Srikaton Village, Jaken District, Pati Regency)", *Journal of Daulat Law*, **1** (1): 16 (2018)
3. Yusrianto Kadir and Roy Marthen Moonti, "Prevention of Corruption in Village Fund Management", *IUS Journal*, **6** (3): 431 (2018)
4. Karyanto, Rudy. "Is the Distribution of Village Funds Hampered by the Characteristics of the Village Head?." *Journal of Accounting and Business* **16** (2): 149-161 (2016)
5. HS. Tisnanta, Institutional and Cultural Approaches for Strengthening Human Right Cities and SDG's at the Village Level, <http://repository.lppm.unila.ac.id/16003/download>
6. Mongilala, Chrisye. "Juridical Study on the Management and Accountability of Village Funds in South Minahasa Regency." *Lex et Societatis* **4** (6): 45-54 (2016)
7. Abidin, Muhammad Zainul. "A review of the implementation of village finances in support of the Village Fund policy." *Journal of economics & public policy* **6** (1): 61-76 (2015)
8. Wibisono, Nurharibnu. "Uncovering the phenomenon of public scrutiny of village funds in Madiun Regency." *ACTION Journal (Accounting and Information Systems)* **2** (2): 23-34 (2017)
9. Astuti, Titiek Puji, and Yulianto Yulianto. "Good governance of village financial management welcomes the enactment of Law No. 6 of 2014." *Accounting and Finance Periodical Indonesia* **1** (1): **1-15** (2016)
10. Ishatono, Ishatono, and Santoso Tri Raharjo. "Sustainable development goals (SDGs) and poverty alleviation." *Share: Social Work Journal* **6** (2): 159 (2016)

11. Peter Mahmud Marzuki, Legal Research, *Jakarta Kencana Prenada Media Group*, 35 (2011)
12. Mukti Fajar and Yulianto Achmad, Dualism of Normative & Empirical Legal Research, *Yogyakarta, Student Library*, 34 (2010),
13. Abdulkadir Muhammad, Law and Legal Research, *Bandung: Citra Aditya Bakti*, 32 (2004)
14. Mutmainah, Ina, and Bambang Agus Pramuka. "Implementation of accountability for village fund management and government internal control system (SPIP) in Kedungwuni district, Pekalongan regency." *Journal of Economics, Business, and Accounting* **19** (4): 34-43 (2017)
15. Rumpia, James Reinaldo, and H. S. Tisnanta. "Law and Language: Reflection and Transformation of the Fulfillment of Economic, Social and Cultural Rights." *Law Lantern* 5 (2018): 247.
16. Tisnanta, H. S. "Public Participation as a Citizen's Human Rights in the Implementation of Regional Government." Refika Aditama, Jakarta (2005).
17. Dian Herdiana, Tendency of Corruptive Behavior of Village Heads in Development, Villages, MATRA UPDATE Journal of Policy Innovation, BPP Ministry of Home Affairs, jurnal.kemendagri.go.id/index.php/mp
18. Rizki Zakariya, Community Participation in Village Fund Corruption Prevention; recognize the modus operandi. INTEGRITY: Anti-Corruption Journal, DOI: 10.32697/integrity.v6i2.670 © Corruption Eradication Commission
19. <https://antikorupsi.org/id/article/cegah-korupsi-dana-desa>
20. djpb.kemenkeu.go.id/portal/id/berita/lainnya/opini/3840-membedah-potensi-dan-tantangan-dana-desa-tahun-2022.html
21. <https://smeru.or.id/id/file/2844/download>.