

Law Enforcement On The Completion Of A Hand Capture Operation In Criminal Offence

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Abstract : Article 1 Figure 19 KUHAP on caught hands, article 12 letter E Law No. 20 of 2001 concerning corruption criminal, subsequent hand capture operations as set out in section 368 paragraph (1) of the Criminal Code of the chapter XXIII Blackmail and threats. The results of this research show that the article rationing which is the process of implementing the law by Team Saber Pungli Aceh Besar Initially, element of the article is a form of criminal acts of corruption, but with the Some considerations by the team Saber illegal Levy Aceh Besar by conducting deliberation then, the element that is said to be transferred to Article 368 Criminal Code to achieve efficiency in law enforcement. Grouping of special criminal elements among others, civil servants or state organizers; With the intention of favouring oneself or others against the law; by abusing his authority; Forcing a person to give something, pay, or accept payment with a deduction or to work on something for himself, while the common criminal element among them, benefitting oneself or others, elements against Law, and the element forces people with violence or with violent threats so that the person gives an item that is entirely or partially belonging to the person or the elimination of receivables. The value of the evidence is deemed to still have this double meaning direct separation between the common criminal and special criminal, the size of the evidence that is nominally held Rp. 10 million; (ten million Rupiah) can be directly snared with general criminal provisions, as well as nominal above Rp. 10 million; (ten million Rupiah) is directly subject to the Corruption criminal Act article.

Keywords: Law enforcement, hand-catching operations, corruption crimes.

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I. Introduction

Corruption crime is a problem that is currently perceived as rapidly progressing as the development of a nation, so it is increasingly equal needs and encouraging to do corruption (Hamzah, 2005). Corruption is a serious problem, this criminal offense can compromise the stability and security of the community, endangering socio-economic development, as well as politics, and can damage the values of democracy and morality because of the slow action will be a culture. The impact can touch various areas of life.

There are 2 (two) types of criminal acts that can be classified as public and special criminal acts, general criminal acts constitute the entire criminal act included and regulated in the Criminal Code is not regulated Special laws, such as theft, fraud, murder, etc. While the special criminal is a crime or criminal act that is sourced from other regulations outside Criminal Indonesia, one of them is UU No. 31 year 1999 Jo UU No. 20 year 2001 on corruption crime and corruption eradication efforts.

Acts in the criminal act as outlined above can be divided into 2 (two) types namely crime and transgression, crime is a term that includes a sense that relates to the patterns of human attitudes that are very Ranging from being veiled behind the things that seem natural to the things that are harmful, while the offense is Wetsdelikten, that is, the deed that the nature against the new law is known after the rules that determine (Rahardjo, 1983).

Based on the explanation above that can be examined about 2 (two) legal aspects, namely: general criminal and special criminal related to hand capture operation assumed can eradicate and prevent corruption that occurred, both among the state organizers, and society. The hand capture operation cannot be removed from corruption crimes, which is aimed at the operation of the Corruption act itself. Actually, for the process of this hand capture operation is the absence of operational standards, but the justification of the pretext to eradicate corruption effectively. Definition given by article 1 number 19 of the Criminal Code about being caught by hand is the arrest of a person at the time of committing a criminal offence, or immediately after a

moment of crime was committed, or briefly later The crowd as the person who did it, or when later on to him found the allegedly hard object has been used to commit the criminal act indicating that he was the culprit or also helped do Criminal acts.

In general criminal itself there is already a regulation of the allotment of article elements related to the hand capture operation as set forth in article 368 paragraph (1) of the Criminal Code of Law chapter XXIII concerning extortion and threats states that: "Whosoever is with the intent to benefit oneself or others against the law, forcing a person with violence or threats of violence to give things, wholly or partially belonging to that man or someone else , or in order to make debts or to abolish receivables, was threatened by a prison extortion in the last nine years. "

From the contents of the above article can be understood, any person who commits a criminal extortion against the law has fulfilled the element of article 368 the Criminal Code can be sanctioned from the general criminalized, the description of this article began to expand when the subject of the Act Criminal is the civil apparatus of the state or government official which then the process of settlement is known as the operation of hand capture when the subject is proven to commit a criminal offence as mentioned in article 368 of the Criminal Code.

Further regulations contained in article 12 letter e of Law No. 20 of 2001 on Corruption criminal Act, states that: "Sentenced to life imprisonment or imprisonment in the shortest 4 (four) years and a maximum of 20 (twenty) years and a penalty of at least Rp. 200 million,-(two hundred million rupiah) and Palingmany Rp. 1 billion,-(one billion rupiah): Civil servants or state organizers who with the intention of favouring themselves or others against the law, or by abusing the power forcing a person to give something, pay, or accept payments with the deduction, Or to do something for himself ".

The article can be explained that the meaning of a new criminal act of extortion, gratification that is working on something, is not about giving but regarding acceptance. From the provisions of article 12 E The granting of it relates to the position of the state officer or the organizer of the state who receives the giving meaning the giver has the interest.

The provisions are clearly sanctioned against the perpetrators of corruption crimes, which are patterned by the civil servants. Then to the affected element in article 12 Letter e Law No. 20 of 2001 on the eradication of self-beneficial corruption crimes against the law, abusing power, and forcing the other party to give and accept not far the difference between the elements of article 368 the Criminal Code that is not an element of misuse of power. In these two legal aspects law enforcement authorities may choose between a special criminal and a specific criminal for this deed. It is noted that the next applies to the legal law that is often heard is the Asas Lex lex generalis specialist, which the Asas override general regulations by advancing specific regulations, but in the implementation of To the hand-catching operations that meet the common criminal elements ever occurred in the greater Aceh jurisdiction.

Against the enforcement of a special criminal in this context is law No. 31 of 1999 as amended by Law No. 20 of 2001 on the eradication of corruption crimes. Not used properly, in order to process the completion of this case consuming substantial funds up to Rp. 50.000.000.00; (Fifty million Rupiah), while in a hand-held operation is only detrimental to the state and public money amounting to Rp. 2.000.000.00; (Two million Rupiah).

Based on the description of the above background then the scope of this problem can be formulated how to apply the law to article 12 letter E (Multitapator) in Law No. 31 of year 1999 as amended by Law No. 20 of 2001 on the Eradication of corruption crimes in Aceh Besar.

II. Literature Review

Law enforcement is an attempt to rationally overcome evil, fulfill a sense of fairness and power. In order to overcome the crimes against various means as a reaction that can be given to the perpetrators of criminals, in the form of criminal or non criminal law, which can be integrated with one another. If criminal means are called to tackle crimes, it will be implemented criminal law politics, which is to conduct elections to achieve the results of criminal legislation that is appropriate to the circumstances and situations at a time and to The future (Arief, 2002).

Law enforcement can ensure the legal certainty, order and protection of the law in the era of modernization and globalization today can be done, if the various dimensions of legal life always maintain the harmony, balance and harmony between of civil morality based on actual values in civilised societies. As a process of activities covering various parties including the community in order to achieve the goal is a must to see criminal law enforcement as a criminal justice system.

Law enforcement itself should be interpreted in the framework of three concepts, namely as follows:

1. The concept of total enforcement concept which demands that all the values behind the legal norm are enforced without exception.

2. The concept of a full enforcement concept that is realized that the total concept needs to be limited by the event law and so on for the protection of individual interests.
3. Actual enforcement concept which arises after the existence of a discretionary in law enforcement due to limitations, both related to Means quality of human resources, quality His statutes and lack of community participation.

The criminal act is a criminal act that has been done and the deed completely violates the provisions formulated in the law clause concerned. As a result of this writing, it is included in law number 20 of 2001 about the eradication of corruption crimes that does not require proof of pollutant or environmental destroyer, So that a certain consequence can only incriminate or relieve the criminal, although without the result of the deed itself has been banned and can be sentenced when it does. Thus, Delic Formil emphasizes on his actions, regardless of whether the consequences may arise and the deed itself is already contrary to orders or prohibitions and can already be sentenced (Masriani, 2004). In the forbidden and non-refundable delic material is a certain result, such as the death of another person. In the Law No. 20 of 2001 on the eradication of corruption crimes contained in article 2, 3, 4 the delocation of state losses (Sodikin, 2007).

Normative legal certainty is when a rule is made and is reacted for certainty because it is clear and logical, so there is no multitasking. Obviously the intended here does not cause doubts (multi interpretation) and logical. It is evident in the sense that it becomes a system of norms with other norms so that it does not clash or pose a conflict of norms. Legal certainty refers to the enforcement of clear, fixed, consistent and consequent laws whose implementation cannot be influenced by circumstances of subjective nature. Certainty and justice are not merely moral demands, but factually characterizes the law. Simultaneously laws that do not have automatic certainty also do not have justice (Cst Kansil, 2009).

Corruption crime is a special criminal offence because the person who specifically means the subject and the special culprit and the special action that is caused by the action of the corruption of the criminal should be handled seriously and khsusfor it Need to develop specific regulation so that it can expect all criminal acts that are criminal acts of corruption because criminal law is generally not able to reach it.

Corruption crime in law number 31 of 1999 Jo Law number 20 year 2001 is distinguished to be:

1. Pure corruption act, which is acts that are purely corrupt deeds, the deeds in chapter II of article 2 to article 20 of the Law No. 31 of year 1999.
2. Corruption crimes are impure, i.e. deeds relating to any person who prevents, discourage, or thwart directly or indirectly, investigators, prosecutors, and examiners at the Court of trial against suspects or defendant or a witness in corruption. The act is set forth in chapter II of article 21 by article 2 and 3 of Law No. 31 of 1999.

Article 3 of Law number 20 year 2001 has the following elements:

1. For the purpose of the personal or other person or a corportion.
2. Misuse the authority, opportunity, or means to him because of his position or position.
3. May harm the country's financial or economic state.

The notion of corruption crimes under Law No. 31 of 1999 when viewed from the source can be divided into two, namely;

1. Sourced from the formulation of a Corruption criminal act law, namely in article 2, article 3, article 5 to article 16.
2. Sourced from the articles of the criminal CODE which is in the dance into the act of the eruption of the chlorine, namely Article 209, article 210, article 387, article 388, article 415 up to article 420, article 423, article 425, and article 435 of the Criminal Code.

There are three elements of corruption crime, among others:

1. Everyone is a person or individual or including a corporation. Where the corporation means a group of people and/or a wealth organized, whether it is a legal entity or non-legal entity, there are in the general terms of law No. 31 tahun1999 Article 1 paragraph (1).
2. against the law, referred to as against the law is an action where the action is contrary to the prevailing legislation. Because it is in the criminal CODE (Biblical Law) book, the general rule of Chapter 1 (one). The limits of the validity of criminal rules in the legislation of article 1 paragraph (1) of an act cannot be sentenced, except based on the strength of the provisions of statutory laws and regulations.
3. Action, which means the action in clause 1 paragraph (1) of law No. 31 of 1999 is an act by which oneself or any other person or corporation misuse the authority, opportunity or means thereof Because of offices or positions that could harm the finances of the state or the country's economy, sentenced to life imprisonment or imprisonment for the shortest 1 (one) year and maximum 20 (twenty) years and/or a fine of at least Rp 50,000,000.00 (fifty million rupiah) and at most Rp 1,000,000,000.00 (one billion rupiah). This stipulations that information about the self-enrichment or other persons or corporations by means of committing criminal acts of corruption is a very clear act of harm to the state.

Hand capture operation, no any Indonesian legislation containing this term. However, it does not necessarily mean automatic ". In article 1 number 19 of the criminal CODE, it is mentioned that: "Caught hands is the arrest of one in the time of committing a criminal offence, or immediately after a moment of crime was committed, or briefly later seriated by the public As the person who does it, or when later on to him found the allegedly hard object has been used to commit the criminal act indicating that he is the culprit or co-conducting or assisting in criminal acts It is ".

"Caught Hands" is the norm or legal norm. To answer it needs to look back on what is the norm. Norma is essentially a rule or guideline on how the subject behaves. Norma in particular the legal norm always contains 3 (three) possibilities, namely (Soekanto, 1993):

1. "What is not to be done;
2. What to do; Or
3. What can be done ".

Article 3 Presidential Regulation No. 87 year 2016 of the task force of Clean broom The wild levy mentions that in carrying out the duties as referred to in article 2, Personnel Unit Saber Pungli performs intelligence function, prevention, enforcement and Yustisi.

III. The Application Of The Law To Article 12 Letter e (Multitapator) In Law No. 31 of 1999 As Amended By Law No. 20 of 2001 On Corruption Criminal Eradication

Enforcement of hand-catching operations by the Saber illegal Levy team has a standard worker operation which is bound in presidential Regulation No. 87 year 2016 about the task force of clean sweep of wild levy. In carrying out the task, the Saber-led Personnel Unit, the controller/responsible person of the sabre-Saber Pungli can lift the group of experts and working groups as needed.

People generally argue that corruption is an act that causes the financial detriment of the State alone. Whereas in the positive law in Indonesia as stipulated in the law No. 31 year 1999 Jo. Law No. 20 of 2001 on corruption eradication, there are 30 types of criminal acts of corruption that can be grouped into seven groups:

1. State financial losses (article 2 and article 3).
2. Bribes of bribery (article 5 paragraph (1) letter A and B. Paragraph (2); Article 13, article 12 letter A, B, C, D; Article 11, Article 6 paragraph (1) letter A and B).
3. Evasion in position (article 8, article 9, article 10 letter A, B, C.)
4. Extortion (article 12, letter E, G, h).
5. Fraudulent Deeds (Article 7 paragraph (1) letter A, B, C, D. and paragraph (2)).
6. Conflicts of interest in procurement (article 12 Letter I. (7) Gratuities: Article 12B Jo, Article 12 C).

From the grouping of these types of corruption crimes we can see that extortion is one type or grouping of corruption criminal acts. In addition there are other types of criminal acts relating to criminal acts of corruption consist of:

1. To prevent the process of screening corruption (article 21).
2. Not to give information or to give information that is not correct (article 22 Jo. Article 28).
3. Bank that does not provide suspect accounts (article 22 Jo. Article 29).
4. Witnesses or members who do not give information or give false information (article 22 Jo. Chapters 35).
5. Persons who hold secret positions do not give information or give false information (article 22 Jo. Chapters 36).
6. Witnesses who opened the identity of the reporter (Article 24 jo article 31).

Corruption crimes relating to forced requests or the extortion of the department in article 12 letter e its elements include (Prasetya, 2019):

1. Civil servants or state organizers;
2. With the intention of favouring oneself or others against the law;
3. By abusing his authority;
4. Forcing a person to give something, pay, or accept payment with a deduction or to do something for himself or herself.

What happened in the area of Aceh Besar during the extortion in the making of the deed, family card, KTP and other correspondence in the office of the Disdukcapil Aceh Besar at the stage of the commencement notice of Commencement notice The first investigation (SPDP) of the saber-led team immediately wore article 12 letter e so that the perpetrators could be immediately caught up to the deeds he had done.

Then the team of the wild levy of Aceh Besar which was incorporated entirely, conducting deliberations to get in the SPDP's formation a second time. This deliberation is done to put the elements of the article to be imposed for the perpetrators by advancing the principle of pipetting (Baginda, 2019). The principle of this willingness includes the punishment which is appropriate to be given to the perpetrators so as to benefit the victims and society, the use of the value and moral law enforcement officers as the achievement of the

objectives of the Government. In accordance with the teachings of legal purposes theory law enforcement officers want to provide justice, legal certainty, and benefits for the community (Hamdani, 1992).

Consideration of the team of the saber illegal levy Aceh Besar in this change put aside the entire Elements of a special criminal act by fully seeing the common element of public criminal. The common criminal element that was adopted in the first hand capture operation of the Article 423 Penal Code, after seeing the validity of article 423 of the Criminal Code, the Corruption Crime Act has adopted all of the elements related to the subject of State officer Civil (Baginda, 2019).

Based on that, the Saber illegal levy team of Aceh Besar agreed to use article 368 of the Criminal Code. Article 368 of the criminal CODE is considered to be able to provide a deterrent effect for the perpetrators. Elements of the article that can be used are, "whosoever is with the intent to benefit oneself or others against the law, forcing a person with violence or violent threats to give things, wholly or partially belongs to that person or another person, or in order to make debts or to abolish receivables, was threatened because of extortion with imprisonment of maximum nine years. " Elements of the "whosoever" then from the Saber illegal Levy team to report article 368 Jo 55 Penal Code in the News of the examination event (Putra, 2019).

Based on the legal analysis conducted by the police in the news of the event can be explained, based on the fact that there was a clue that on 12 October 2018 in the service workspace and civil registration of the Residence office and Civil registration of Aceh District government, there has been a suspected criminal offence (wild levy) against the activities of the press/laminating Certificate of birth/death of ID CARD, KK conducted by suspect Bebi Sartika and suspect Syamsul Rizal Dja'far by requesting a fee for the legistracy birth certificate with a cost of Rp. 1000,-(a thousand Rupiah) if the legistracy above 10 (Ten) sheets, and also set the cost of Laminating/Pres deed is imposed Cost of Rp. 5,000,-(five thousand rupiah).

The judge of the Jantho state court in deciding this matter was his authority. This judge's competence can be categorized as follows:

1. This is a general matter, However village when this thing that was initially a special criminal case Jantho state court was not authorized in the judge.
2. The perpetrators have fulfilled the element of article 368 Criminal Code, so that the allotment of the criminal has weighed the element of use of the article,
3. The fact that the field has been proven that the perpetrator has committed a criminal extortion,
4. The matter is purely a common criminal case,
5. If the perpetrators or victims of the victim may accept this ruling may appeal to the High Court with a period of time determined.

In the settlement of criminal acts of the corruption of hand capture operations. If one does not run as it should then the law will not reach its destination. The corruption crime of hand-catching operations will be effective if the completion of the solution can explain in detail the types, subjects and legal objects to be achieved. In the enforcement of hand capture operations there are still some supporting factors in its enforcement. The legal factor becomes a loophole for the application of hand-catching operations in criminal acts due to the absence of clear rules regarding evidence in the completion of special and public criminal acts.

IV. Conclusion

The application of the law to article 12 letter E (Multitapator) in Law No. 31 of 1999 as amended by Law No. 20 of 2001 on corruption crime prevention in Aceh Besar refers to the arrangement in the book Law of the Criminal proceedings law, and presidential Regulation No. 87 year 2016 about clean sweep task force of Wild Levy. The rationing of the article which is the process of implementing the law conducted by Team Saber Pungli Aceh Besar Initially, the element of the article that is sent to the defendant Syamsul Rizal Dja'far and Bebi Sartika is a form of corruption criminal Act, But with some considerations by the team Saber illegal Levy Aceh Besar by conducting deliberation, the element that is said to be sent to article 368 Criminal Code to achieve efficiency in law enforcement.

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