REVERSE BURDEN OF PROOF IN CORRUPTION ERADICATION PRACTICE

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ABSTRACT

The purpose of this research was to find out; 1) the arrangements between the evidentiary system in the Criminal Procedure Code and the evidentiary system in the current Indonesian Corruption Eradication Law; and 2) synchronizing the regulation of the reverse burden of proof system in the corruption trial with the defendant's human rights at trial. This type of research was normative juridical with descriptive analytical research specifications. The results of this study show that: 1) the reverse burden of proof system is limited in Law no. 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Corruption Eradication, namely on the gratification offenses related to bribery as regulated in Article 12 B paragraph (1) point a. The reverse burden of proof can also be applied to the properties belonging to the defendant who is suspected of having a connection with the case charged (Article 37A) and the properties belonging to the accused who has not been indicted which is also suspected to have originated from a criminal act of corruption (Article 38B). 2) Related to Articles 37A and 38B which regulate the reverse burden of proof on the defendant's property, technical/operational instructions or special procedural law should be given to avoid ambiguity from the law enforcers in the application of this system. Furthermore, regarding the reverse burden of proof on property that has not been indicted (Article 3B), the law must provide limits and explanations regarding the purpose of the property that has not been indicted, so it must be understood that the meaning of the property is in the context of the property found in the trial. However, the public prosecutor has not indicted him who is also suspected of originating from a criminal act of corruption.

Keywords: reverse burden of proof, corruption eradication.

INTRODUCTION

Corruption in Indonesia has been rolling from year to year, recent events are increasingly worrying and concerning. Until now, the phenomena, facts and symptoms of corruption in Indonesia have become so severe and widespread in society. The condition is increasingly worrying and its development in quantity and quality continues to increase from year to year. Both the number of cases that occurred and the number of state financial losses continued to increase. The quality of criminal acts that occur are increasingly systematic and their scope has penetrated all aspects of life as well as the formal government sector and the private sector. Corruption has involved state administrators consisting of executive, legislative and judicial institutions which have become a hotbed for perpetrators of corruption.

The phenomenon of corruption, which is increasingly difficult to prevent and eradicate, can thwart the noble ideals of the founding of the Indonesian state, namely the achievement of a just and prosperous society. The dream of the Indonesian people has been stated in the fourth paragraph of the Preamble to the 1945 Constitution, that "to form a government of the State of Indonesia which protects the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life and participate in carrying out world order... . etc.

The noble ideals of the founders of this country will fail if one of the causes, namely acts of corruption, is not completely tackled based on the system and the determination of all components of the nation. Corruption has caused enormous financial losses to the state, which in turn has a direct impact on the emergence of the country's economic crisis and hampers national development. For this reason, all the power and ability of the government and the community to prevent and eradicate corruption need to be further improved and intensified by all means, while still upholding human rights and the interests of the wider community.

In the context of legal scholarship, corruption is no longer considered a form of conventional crime, as Atmasasmita's opinion which states that corruption is classified as an unconventional crime with a systemic and widespread modus operandi and is an *"extra ordinary crime"*.[1] Along these opinions, Nyoman States Putra Jaya looked at the development of corruption both in terms of quality and quantity today argue that corruption in Indonesia is no longer an ordinary crime, but it is an extraordinary crime .[2] Nyoman United Putra Jaya stated that "the negative consequences of corruption are very damaging to the life of the nation, even corruption is a deprivation of economic rights and social rights of the Indonesian people."[3]

The predicate of a criminal act of corruption for Indonesia with the qualification of an extraordinary crime is clearly recognized for its existence according to the existing positive law. This acknowledgment is stated in the General Explanation of the Law of the Republic of Indonesia Number 30 of 2002 concerning the Corruption Eradication Commission. The qualification of offenses against corruption for Indonesia is not only classified as *extraordinary crimes*, but also with the classification of "*transnational crime*", meaning that the problem of preventing and eradicating corruption is no longer a mere national problem, but has become a problem between countries both in terms of *mode of operandi, locus delicti* or from criminal jurisdiction.

The difficulties in uncovering criminal acts of corruption because the perpetrators of corruption are dominantly carried out by officials or have upper middle social status or called as white-collar crimes. In connection with this phenomenon, Indrianto Seno Adji argues that it is undeniable that corruption is a "*white collar crime*" with actions that always experience a dynamic modus operandi from all sides, so that it is said to be an *invisible crime* whose handling requires criminal law policies.[4]

In the criminal justice process according to Law no. 8 of 1981 concerning the Criminal Procedure Code can be interpreted

1 Romli Atmasasmita, *Sekitar Masalah Korupsi Aspek Nasional dan Aspek Internasional*, (Bandung: Mandar Maju, 2004), p. 13.

2 Nyoman Serikat Putra Jaya, *Beberapa Pemikiran ke Arah Pengembangan Hukum Pidana*, (Bandung: PT. Citra Aditya Bakti, 2008), p. 69.

3 *Ibid*.

4 Indrianto Seno Adji. *Korupsi Kebijakan Aparatur Negara dan Hukum/Pidana*, (Jakarta: Diadit Media, 2006), p. 374.

as adopting a system of evidence according to the law in a negative way (*negative wettelijke bewijs theorie*). The application of this evidentiary system can be understood from the reference to the provisions of Article 183 of the Criminal Procedure Code by writing: "A judge may not impose a sentence on a person unless with at least 2 (two) valid evidence he obtains the belief that a criminal act has actually occurred and that the defendant is guilty of doing it." The evidence in the Criminal Procedure Code is guided by the provisions of Article 184 paragraph (1), valid evidence is: 1) Witness testimony; 2) Expert testimony; 3) Letters; 4) Hints; and 5) Defendant's statement.

In the criminal justice process, according to the criminal procedure law, the task of proving the defendant's guilt is the Public Prosecutor (JPU). The prosecutor in his function as a prosecutor is burdened with the obligation to prove his indictment before the trial. The duty and function of the Public Prosecutor is to prove his indictment as a form of implementation of the principle of formal legality. The principle of formal legality, in principle, is an obligation for the prosecutor as a public prosecutor to prosecute anyone suspected of having committed a crime.

Regarding the regulation that the suspect or defendant is not burdened with the obligation of proof, legal practitioners from the former judge Martiman Prodjohamidjojo are of the opinion that:[5] "The meaning of Article 66 of the Criminal Procedure Code is that the burden of proof is placed on the public prosecutor to prove whether or not a defendant is wrong or not. In this article, the judge allows the defendant to provide information about evidence that is not evidence according to law, but everything can provide more clarity and make it clear about the situation in the case, at least the information can be used as a matter that is beneficial to him.

Guided by several provisions of the Criminal Procedure Code and Law no. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia which is stated and implied in Article 183, 184 paragraph (1) letter e, Article 189 and Article 66 of the Criminal Procedure Code, as well as Article 8 paragraph (3), Law no. 16 of 2004 explicitly and implicitly means that the proof or burden of proof in a general crime is the duty, burden and responsibility of the public prosecutor to prove the crime he is accused of. Because prosecutors are representatives of the state, public legal entities represent the private sector and at the same time act as law enforcers and sub-structure elements in the criminal justice system.

The burden of proof is reversed in accordance with the applicable corruption laws (*positive law/ius constitutum*) in Indonesia which is currently regulated in Article 37 paragraph (1), (2), (3), (4) and paragraph (5) of the Law. No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, that:

1. The defendant has the right to prove that he has not committed a criminal act of corruption
2. The defendant is obliged to provide information about all his assets and the assets of his wife or husband, children and the property of any person or corporation suspected of having a relationship with the case in question.
3. In the event that the defendant cannot prove that the wealth is not balanced with his income or the source of his additional wealth, then This information is used to strengthen existing evidence that the defendant has committed a criminal act of corruption.
4. In the circumstances as referred to in paragraph (1), paragraph (2), paragraph (3) and paragraph (4), the public prosecutor is still obliged to prove his indictment.

In the explanation of article by article on Law no. 31 of 1999, the explanation of Article 37 outlines that: “This provision is a deviation from the Criminal Procedure Code which determines that it is the prosecutor who is obliged to prove that a crime has been committed, not the defendant. According to this provision, the defendant can prove that he has not committed a crime of corruption. If the defendant can prove this, it does not mean that he has not been proven to have committed corruption, because the public prosecutor is still obliged to prove his indictment”.

The provisions of this article constitute limited the reverse burden of proof, because the public prosecutor is still obliged to prove his charges. Observing the provisions of the evidentiary system adopted by Law no. 31 of 1999 in conjunction with Law no. 20 of 2001, it appears to be a deviation from the Criminal Procedure Code, that the Criminal Procedure Code applies *negativewettelijke bewijs proof theory* or the evidence based on the law in a negative way, namely that the prosecutor is burdened with proof by referring to valid evidence according to the Criminal Procedure Code, in accordance with the provisions of Article 184 paragraph (1) as stated in the indictment. The prosecutor still has to prove what he has argued through evidence before the court.

Unlike the case with the regulation of evidence by the Law on the eradication of corruption above, the system of proof is reversed. In a different sense from the norm (reverse), that the burden of proof at the beginning of the proof is borne by the defendant so that it is said to apply a reversal of the burden of proof or a reverse burden of proof system. However, after the defendant proves through his statement that he is not guilty of doing what the prosecutor is accused of, the prosecutor still has to prove his charge. Therefore, it is said that in the process of proving a criminal act of corruption a balanced evidence system is adopted because, apart from the burden of proof, the prosecutor is also burdened with his obligation to prove the defendant through his indictment.

After looking at the provisions of evidence in the Criminal Procedure Code through Article 66, which in essence is that the prosecutor is burdened with the process of proof or burden of proof. Meanwhile, according to Article 37 paragraph (1) specifically that the defendant is burdened with the burden of proof plus the prosecutor as the public prosecutor, then in 2 (two) rules there are conflicts of legal norms related to the reverse burden of proof at trial.

The reverse burden of proof system that was launched and has been applied in the practice of justice for criminal acts of corruption on the basis of judicial practice of criminal acts of corruption on the basis of Article 37 of Law no. 31 of 1999 in conjunction with Law no. 20 of 2001 is in accordance with the considerations of the legislators when drafting it, one of which is the difficulty of proving the crime of corruption. The concept of thinking has also developed after qualifying for criminal acts of corruption to be classified as extraordinary crimes so that handling it also requires extraordinary efforts.[6]

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5 *Ibid*, p. 49

6 Marwan Effendi. *Kejaksaan Posisi dan Fungsinya Dari Perspektif Hukum*, (Jakarta: PT. Gramedia Pustaka Utama, 2005), p. 138.

Of all the phenomena and facts of corruption that occurred, the reason for the government to implement policies with various forms of penal and non-penal efforts in the field of eradicating corruption is to stick to and be oriented towards boundaries or corridors, without violating the principles or general law principles, particularly regarding general legal principles such as the human rights of the suspect/accused or human rights in general. In particular, it does not violate the social, political, economic and legal rights and freedoms that every individual has from birth.

Through the reference to the explanation of the juridical-sociological facts and facts in the background above, that the criminal act of corruption in Indonesia is currently still difficult to eradicate and becomes a problem in theory and practice in law enforcement, the researchers are interested in researching and reviewing the title "". the Reverse Burden of Proof System in Corruption Eradication Practice".

RESEARCH OBJECTIVES

The objectives of this study were:

1. To determine the arrangement between the evidentiary system in the Criminal Procedure Code and the evidentiary system in the current Indonesian Corruption Eradication Act.
2. To find out the synchronization of the reverse verification system arrangement in the corruption trial with the defendant's human rights in the trial.

LITERATURE REVIEW

Reversal of the burden of proof as in the provisions of Law no. 20 of 2001 can be described as known for the mistakes of people who are strongly suspected of committing a criminal act of corruption as stipulated in Article 12B and Article 37 of Law no. 20 of 2001. Then the ownership of the assets of the perpetrators who are strongly suspected of being the result of criminal acts of corruption are regulated in the provisions of Article 37A and Article 38B paragraph (2) of Law no. 20 of 2001. Strictly speaking, the legal politics of legislative policy on corruption offenses is aimed at the perpetrator's mistakes and the property of the perpetrators suspected of originating from corruption.

The existence of reversal of the burden of proof is essential in the context of preventing and eradicating corruption. This aspect is confirmed in the General Elucidation of Law no. 20 of 2001, with the editorial that: "The provisions regarding "the reverse burden of proof" need to be added in Law no. 31 of 1999 concerning Eradication of Criminal Acts of Corruption as a provision that is "premium remidium" and at the same time contains special preventive properties against civil servants as referred to in Article 1 number 2 or against State administrators as referred to in Article 2 of Law no. 28 of 1999 concerning State Organizers that are Clean and Free from Corruption, Collusion and Nepotism, not to commit criminal acts of corruption. This the reverse burden of proof is applied to new criminal acts concerning gratification and to claims for confiscation of the defendant's property which is suspected of originating from one of the criminal acts as referred to in Article 2, Article 3, Article 4, Article 13, Article 14, Article 15, and Article 16 of Law no. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and Articles 5 to 12 of this Law".

Because corruption is an element of money laundering which can harm state finances, this law is also an effort to prevent money laundering crimes. In his explanation it was stated that in order to reach various modus operandi of irregularities in state finances that are increasingly sophisticated and complicated, the criminal acts regulated in this law are formulated in such a way that includes acts of enriching oneself or another person or a corporation in an "unlawful manner" in a formal and material sense. With this formulation, the notion of violating the law in the form of a criminal act of corruption includes despicable acts which according to the feeling of justice of the community must be prosecuted and punished.

Efforts that must be taken by a country to be able to prevent and eradicate money laundering practices are to establish laws that prohibit money laundering and severely punish the perpetrators of these crimes. The existence of Act No. 15 of 2002 on Money Laundering, the crime of money laundering can be prevented or eradicated, among other things, criminalization of all acts in every stage of the process of money laundering comprising:[7]

1. Placement
   Efforts to put cash originating from criminal acts into the*financial system*or attempts to place demand deposits (*cheques*, *bank drafts*, certificates of deposit, etc.) back into the financial system, especially the banking system.
2. Transfer (Layering)
   Efforts to transfer the assets derived from criminal acts*(dirtymoney)*that has been successfully deployed atproviders *service* financial(mainly banks) as a result of efforts placement*(placement)*to other financial service providers. By layering, it will be difficult for law enforcement to find out the origin of the assets.
3. Using Assets (*Integration*)
   Efforts to *use* assets originating from criminal acts have successfully entered the financial system through placements or transfers so that they appear to be halal assets (*clean money*), for lawful business activities or to refinance activities crime.

RESEARCH METHODS

1. Type of Research
   The type of research used was normative juridical. Juridical legal research means a research that refers to legislation, literature studies or research on secondary data.
2. Research Specifications
   The research specification used was descriptive analytical[8], which describes the applicable laws and regulations

[7] Adrian Sutedi, *Tindak Pidana Pencucian Uang*, (Bandung: PT..Citra Aditya Bakti, 2008), p. 133-134.

[8] Ronny Hanitijo Soemitro. *Metode Penelitian Hukum dan Jurimetri*. (Jakarta: Ghalia Indonesia, 1998), p.. 97.

related to legal theories and positive law implementation practices concerning the above problems. In addition to describing the object that is the problem, it also analyzes the data obtained from the research. Descriptive is that this research provides a detailed, systematic and comprehensive picture of everything related to the use of the reverse burden of proof system in the practice of eradicating corruption in the Semarang District Court. Analytical means collecting, grouping, connecting, comparing and giving meaning.

DISCUSSION

1. The arrangement between the Evidence System in the Criminal Procedure Code and the Evidence System in the current Indonesian Corruption Eradication Law.

The reverse burden of proof is regulated in Article 35 of the Money Laundering Law which reads: "For the purposes of examination in court, the defendant is obliged to prove that his assets are not the result of a criminal act."[9]

In reverse, the burden of proof rests with the defendant. In the crime of money laundering, what must be proven is the origin of assets that are not derived from criminal acts, for example, not from corruption, narcotics crimes and other illicit acts. Article 35 contains a provision that the defendant is given the opportunity to prove that his assets are not from a criminal act. This provision is known as the principle of the reverse burden of proof.

The limited reverse burden of proof system contained in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption can only be applied to gratification offenses related to bribery as stipulated in Article 12 B paragraph (1) letter a. Then the reversal can also be applied to the defendant's property which is suspected to have a relationship with the case indicted (Article 37 A) and the defendant's property which has not been indicted which is also suspected to have originated from a criminal act of corruption (Article 38 B). If using the usual system as in the Criminal Procedure Code, in terms of proving a criminal act, the burden of proof is entirely on the prosecutor. In other hand, the defendant is not obliged, in the passive sense. However, in the accusatoir system, by law the defendant has the right to deny the charges and prove otherwise. In the criminal law of corruption, the proof system for the bribery corruption case accepts gratification with an object value of less than Rp. 10 million (Article 12B paragraph b) using the usual burden of proof, namely on the prosecutor.

a. The limited reverse burden of proof system contained in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption can only be applied to gratification offenses related to bribery as stipulated in Article 12 B paragraph (1) letter a. Then the reversal can also be applied to the defendant's property which is suspected to have a relationship with the case indicted (Article 37 A) and the defendant's property which has not been indicted which is also suspected to have originated from a criminal act of corruption (Article 38 B). If using the usual system as in the Criminal Procedure Code, in terms of proving a criminal act, the burden of proof is entirely on the prosecutor. While the defendant is not obliged, in the passive sense. However, in the accusatoir system, by law, the accused has the right to deny the charges and prove otherwise. In the criminal law of corruption, the proof system for the bribery corruption case accepts gratification with an object value of less than Rp. 10 million (Article 12B paragraph b) using the usual burden of proof, namely on the prosecutor.
b. The regulation on reversing the burden of proof in Article 12B paragraph (1) letter a of the UUPTPK should not include elements, "… which are related to their position and which are contrary to their obligations or duties." Then also the nominal amount of gratuity is IDR 10,000,000,- to be deleted in the element of the article so that acts of gratification in a broad sense which cannot be valued in money can also be imposed in this provision. In relation to Article 37 A and 38 B which regulates the reverse burden of proof on the defendant's property, technical/operational instructions or special procedural law should be given to avoid the doubtful nature of law enforcement in the application of this system. Furthermore, regarding the reverse burden of proof on property that has not been indicted (Article 38 B), the law must provide limits and explanations regarding the purpose of the property that has not been indicted, so it must be understood that the meaning of the property is in the context of the property found in trial but has not been charged by the public prosecutor who is also suspected of originating from a criminal act of corruption.

On the other hand, the burden of proof can be reversed on the assets of the perpetrators of corruption so that the emphasis is on returning the state assets that were corrupted by the perpetrators of corruption. Strictly speaking, of the dimensions above context to errors perpetrators suspected of committing corruption still use criminal procedure by proving a negative or beyond reasonable doubt while the return of assets of corrupt actors can be utilized burden of proof reversed because this dimension is relatively not intersect with aspects of human rights, does not violate criminal procedural law, material criminal law or international legal instruments.

With these dimensions, a relatively adequate alternative to proving corruption is to use Oliver Stolpe's *Balanced Probability of Principles Theory*. Basically, this theory puts forward a proportional balance between the protection of individual independence on the one hand, and the deprivation of the individual's right to ownership of his assets which is strongly suspected to be derived from corruption on the other hand. Concretely, placing the perpetrators of corruption against their actions or mistakes should not be based on the principle of the inverse burden of proof, but still based on the principle of "*beyond reasonable doubt*" because the protection of individual rights is placed at the highest level against the deprivation of one's freedom.

In this context, the position of the human rights of the perpetrators of corruption is placed at the highest level by using the theory of "*Highest Balanced Probability Principles* which continues to use the evidence system according to the law negatively or based on the principle of "*Beyond reasonable doubts*". Then, simultaneously on the one hand, specifically, the reverse burden of proof can be carried out on the assets of the perpetrators of corruption using the theory of *Lower Probability of Principles*.

[9] Pasal 35 Undang-undang Nomor 15 Tahun 2002 jo Undang-undang Nomor 25 Tahun 2003 tentang Tindak Pidana Pencucian Uang

2. Synchronization of the Regulation of the The reverse burden of proof System in the Court of Corruption Crime with the Human Rights of the Defendant in Trial

There is a crucial dilemma in Indonesian legislation concerning the reverse burden of proof. In the provisions of Article 12B and Article 37, Article 38B of Law Number 31 of 1999 in conjunction with Law no. 20 of 2001 regulates the reverse burden of proof. Strictly speaking, there are errors and ambiguities or inconsistencies in the formulation of norms regarding the reverse burden of proof in the provisions of Article 12B of Law no. 31 of 1999 in conjunction with Law no. 20 of 2001. The provisions of Article 12B paragraph (1) read: "Every gratuity to a civil servant or state administrator is considered a bribe if it is related to his position and is contrary to his obligations or duties, with the following provisions: (a) the value of which is IDR 10,000,000.00 (ten million rupiah) or more, proof that the gratification is not a bribe is made by the recipient of the gratification; (b) whose value is less than IDR 10,000,000.00 (ten million rupiah), proof that the gratification is a bribe was made by the public prosecutor."

There are some fundamental mistakes from the above legislation policy. First, it is examined from the formulation of a criminal act (*materiale feit*) that these provisions lead to errors and ambiguity or dissonance of the norms of the principle of the reverse burden of proof. On the one hand, the principle of the inverse burden of proof will be applied to recipients of gratification based on Article 12B paragraph (1) letter a which reads, "the value of which is IDR 10,000,000.00 (ten million rupiah) or more, proof that the gratification is not a bribe is carried out by the recipient of the gratification", but on the other hand it is impossible to apply it to the recipient of the gratification because the provisions of the article expressly include editorial, "every gratification to civil servants or state administrators is considered to be giving bribes if it is related to their position and which is contrary to their obligations or duties", then the formulation of all the core elements of the offense is included in a complete and clear manner in an article which has juridical implications for the necessity and obligation of the Public Prosecutor to prove the formulation offense in the article in question.

The emphasis is, ***firstly***, the principle of the reverse burden of proof exists at the level of the provisions of the law and does not exist in the application policy as a result of the legislation policy formulating the offense of stacking wrong, because all the core parts of the offense are mentioned so that there is nothing left to prove otherwise. ***Second***, there are also errors and mistakes in formulating the norms of the provisions of Article 12B of Law Number 20 of 2001 as long as the editorial is "considered giving bribes". If a gratuity that has been received by a civil servant or state administrator, the gratification is not categorized as "...considered giving bribes" but includes the act of "bribery". The existence of the principle of the reverse burden of proof according to the norms of criminal law is not aimed at gratification with the editorial "..considered a bribe" but must be directed to two elements of the formulation as the core part of the offense in the form of a formulation related to their position (*in zijn bediening*) and those who do work that is contrary with obligations (*in stijd met zijn plicht*). ***Third***, it is examined from the perspective of the provisions of the special criminal law system related to the 2003 United Nations Anti-Corruption Convention which was ratified by Indonesia with Law Number 7 of 2006.

In essence, from this dimension the reverse burden of proof is prohibited against wrongdoing of people because it will potentially violate human rights, contrary to the principle *of presumption of innocence*, causing a shift in evidence to the principle *of presumption of guilt* or the principle *of presumption of corruption*.

In addition, it contradicts the provisions of the criminal procedure law which requires that the defendant is not charged with the obligation of proof as stipulated in Article 66 of the Criminal Procedure Code, Article 66 paragraph (1), (2) and Article 67 paragraph (1) letter (i) the Rome Statute of the International Criminal Court or ICC, Article 11 paragraph (1) of the Universal Declaration of Human Rights, Article 40 paragraph (2b) item (i) of the Convention on the Rights of the Child, Principle 36 paragraph (1) a collection of principles for the protection of all persons in the form of any detention or imprisonment, UN General Assembly Resolution 43/1739 December 1988 and International Conventions and Principles of Legality.

From what has been described above, the actual burden of proof is reversed in Indonesian legislation "exists" at the level of legislation policy, but "none" and "cannot" be implemented in its application policy. With the context benchmark above, the inverse burden of proof cannot be applied to the guilt of the perpetrators of corruption so that it uses a negative evidence system or the principle of *beyond reasonable doubt*. The logical consequence of this dimension is that the inverse burden of proof will not intersect with human rights, the provisions of criminal procedural law, especially regarding the principle of presumption of innocence, the principle of not blaming oneself (*non-self incrimination*), the principle of the *right to remain silent*, criminal law material and international legal instruments.

RECOMMENDATION

1. The government, together with the legislature, must immediately make improvements to the formulation of the reverse burden of proof as contained in the corruption law so that the provisions governing the system of the reverse burden of proof do not become "dead" articles and this system of the reverse burden of proof is still carried out during the process in court to avoid arbitrary acts of law enforcement in the application of this system so that the reverse burden of proof system can be applied optimally and transparently.

2. To avoid differences in perception between law enforcement regarding the concept of reverse burden of proof, an integrated training and education can be established for investigators and judges to explain and examine in depth the concept of the reverse burden of proof system in the corruption law. Increasing professional resources from law enforcement is also needed through trainings both nationally and internationally so that the goal of accommodating this system in the corruption law to overcome difficulties in resolving corruption cases can be achieved.

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Law of the Republic of Indonesia Number 30 of 2002 concerning the Corruption Eradication Commission;

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