

LEGAL CHALLENGES IN ADDRESSING CORRUPTION IN INDONESIA'S BANKING SECTOR: A CRITICAL ANALYSIS OF JUDICIAL DECISIONS

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ABSTRACT

This article examines judicial decisions resulting in acquittals in corruption cases involving individuals in Indonesia's banking sector. Utilizing a normative juridical and empirical approach, the study analyzes both primary and secondary data to understand why defendants are acquitted despite the fulfillment of all elements of the charges. The findings reveal that actions, although meeting the technical criteria for corruption, are not deemed criminal offenses, leading to acquittals (Onslag Van Alle Rechtsvervolging). The study underscores the extraordinary nature of corruption as a crime that significantly harms the nation's economy and society. It highlights the necessity for legislative reforms in corruption and banking crime laws to effectively prevent and address these issues. The research also emphasizes the importance of respecting legally binding judicial decisions while balancing law enforcement efforts to achieve justice and protect the rights of the accused.

Keywords: Corruption; Banking Sector; Judicial Decisions; Legal Reforms; Indonesia

Introduction

Corruption remains a pervasive issue in Indonesia, particularly within the banking sector, where it poses significant threats to economic stability and public trust (Heath, 2000; Hidajat, 2020; Kosasih, 2021; Timonor, 2014; Wibisono, 2023). Despite numerous efforts to combat this menace, the legal system often encounters challenges in effectively prosecuting and convicting individuals involved in corrupt practices (Menon & Guan Siew, 2012; Simser, 2006). This study aims to explore the intricacies of legal decisions in corruption cases within the banking sector, focusing on instances where defendants are acquitted despite the fulfillment of all elements of the charges (Barusman, 2019). The objective is to understand the judicial rationale behind such decisions and to identify gaps in the existing legal framework that may hinder effective prosecution.

The significance of this research lies in its potential to inform policy reforms and enhance the legal mechanisms for tackling corruption. While previous studies have extensively documented the prevalence and impact of corruption in Indonesia, there is a paucity of research examining the judicial processes and decisions that lead to acquittals in corruption cases (Butt & Schütte, 2014; Hadi et al., 2021; Harun et al., 2015; Maroni et al., 2021; Prakoso & Setyaningati, 2018). This study seeks to fill this gap by providing a detailed analysis of court rulings and the legal reasoning employed, thereby contributing to a more nuanced understanding of the challenges faced in prosecuting corruption in the banking sector.

Methodology

This research employs a mixed-methods approach, combining normative juridical analysis with empirical investigation (Defrizal et al., 2021). The normative juridical analysis involves a comprehensive review of legal documents, including court rulings, statutes, and regulations related to corruption and banking offenses (Bahoo, 2020; Farianto et al., 2018; Hapsari et al., 2019). This approach allows for a critical examination of the legal principles and doctrines applied in judicial decisions.

The empirical component involves qualitative interviews with legal practitioners, including judges, prosecutors, and defense attorneys, to gain insights into the practical challenges and considerations in corruption cases (Alt &

Lassen, 2014; Voigt & Gutmann, 2015). Additionally, case studies of specific court decisions are analyzed to identify patterns and commonalities in judicial reasoning.

Data collection is conducted through a combination of primary and secondary sources. Primary data includes court documents and interview transcripts, while secondary data comprises academic articles, legal commentaries, and reports from anti-corruption agencies ((Aney et al., 2021; Kuvvet, 2021; Madeira & Geliski, 2021; Peerthum et al., 2020). The data is analyzed using thematic analysis to identify key themes and trends in judicial decision-making.

Result and Discussion

a. Results

The analysis reveals several critical findings regarding the judicial handling of corruption cases in Indonesia's banking sector. Despite the fulfillment of all elements of the charges, defendants are often acquitted due to various legal and procedural factors. One significant issue is the interpretation of intent and culpability. Courts may determine that the actions of the defendants, while meeting the technical criteria for corruption, do not constitute a criminal offense due to a lack of intent or other mitigating circumstances.

Additionally, the evidentiary standards applied in corruption cases present a considerable challenge. The requirement for concrete and incontrovertible evidence often makes it difficult to prove corruption, especially in complex financial transactions where evidence may be circumstantial or indirect. This high evidentiary threshold can lead to acquittals even when there is a strong suspicion of wrongdoing.

b. Discussion

The study reveals significant challenges within the judicial system that hinder effective prosecution of corruption cases in Indonesia's banking sector. Legal loopholes and ambiguities in the existing regulatory framework are often exploited by defendants to evade conviction, underscoring the need for clearer and more comprehensive legislation to combat corruption effectively (Butt & Schütte, 2014; Harun et al., 2015). Additionally, systemic issues such as limited resources, a lack of specialized training for judges and prosecutors, and potential external influences contribute to the complexity of these cases and affect judicial outcomes (Hadi et al., 2021; Prakoso & Setyaningati, 2018).

These challenges highlight the necessity for institutional reforms aimed at strengthening the capacity and independence of the judiciary in handling corruption cases (Maroni et al., 2021). The findings of this study contribute to a deeper understanding of the complexities involved in prosecuting corruption in Indonesia's banking sector. They emphasize the importance of balancing the pursuit of justice with the protection of defendants' rights, ensuring that legal processes are fair, transparent, and effective. This study provides valuable insights for policymakers seeking to reform legal mechanisms and enhance the judiciary's effectiveness in tackling corruption (Butt & Schütte, 2014; Menon & Guan Siew, 2012; Simser, 2006).

Conclusion

This study sheds light on the legal challenges and judicial considerations in corruption cases within Indonesia's banking sector. It reveals that despite the fulfillment of all elements of the charges, defendants may be acquitted due to various legal, procedural, and systemic factors. These findings underscore the need for comprehensive legal reforms to address the gaps and ambiguities in the existing framework, enhance evidentiary standards, and strengthen the capacity of the judiciary.

The research highlights the importance of a balanced approach to law enforcement, where the pursuit of justice is aligned with the protection of defendants' rights. It calls for greater transparency and accountability in judicial processes, as well as increased resources and training for legal practitioners to effectively handle complex corruption cases.

Future research should explore the impact of recent legal reforms and anti-corruption initiatives on judicial outcomes in corruption cases. Additionally, comparative studies with other jurisdictions may provide valuable insights into best practices and innovative approaches to combating corruption in the banking sector.

In conclusion, this study emphasizes the critical role of the legal system in addressing corruption and the need for continuous efforts to strengthen legal and institutional frameworks. By enhancing the effectiveness of judicial processes, Indonesia can make significant strides in combating corruption and fostering a more transparent and accountable banking sector.

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