

Ideal management of social assistance funds as a prevention and mitigation effort corruption

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Abstract

Purpose: The purpose of this study is to determine the ideal legal arrangements for social assistance fund management to prevent corruption, and efforts to prevent and overcome corruption in social assistance funds.

Research Methodology: The method used is normative juridical research using a statutory approach, a conceptual approach, and a sociological juridical approach.

Results: The results showed that the ideal legal arrangement for the management of social assistance funds to prevent corruption is to apply some positive legal principles from John Austin such as being based on clear authorities such as legislative or government institutions, and the law must reflect state sovereignty, set clear rules and must be followed by all parties, Provide a foundation for strong and effective law enforcement, and the law can act as an instrument of control to prevent criminal acts of corruption. Efforts to prevent and overcome corruption of social assistance funds are through the application of Jeremy Bentham's theory of utilitarianism which has the main principle of maximizing overall social welfare or happiness, considering the distribution of benefits fairly, emphasizing transparency and accountability in decision making, and emphasizing transparency and accountability in decision making.

Keywords: *Social Assistance Fund, Prevention and Mitigation, Corruption.*

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1. Introduction

The culture of corruption of office holders has become part of Indonesian state life. When people occupying strategic posts are engaged in the management of state finances, the supposedly good image has become worse. Stakeholders have utilized social assistance funds that should have been distributed smoothly to meet people's needs during the COVID-19 pandemic that ravaged the country's economy to enrich themselves. Thus, the perpetrator must be held criminally responsible for his actions that caused the death of many people.

Indonesia is a country that respects the law and always asks its citizens to obey the law. In the fourth paragraph of the Preamble to the Constitution of the Republic of Indonesia in 1945 it is stated that the Indonesian state government must form an Indonesian state government that protects the entire Indonesian nation and all Indonesian blood to promote general welfare, educate the nation's life, and participate in implementing world order based on law, the law itself is the most important factor in maintaining peace and order in advancing the objectives country.

World civilization is advancing as part of the era of globalization. Change is always brought about by developments in every stage and moment of life. As a result, all types of crimes are always changing, even more than others, such as corruption against the APBN or APBD. Therefore, there are many types

of criminal acts of corruption that can be carried out, such as manipulation of the mode by carrying out false activities, making false accountability reports, embezzlement, and issuing Regional Regulations (Perda) to provide levied wages or honors. In addition, there is also an asset exchange mode, where government or SOE assets are marked up or added, and private assets are marked up. Corruption is one of the criminal offenses today that is very dangerous for the state and society. In fact, corruption is a symptom that can be found in all areas of people's lives, including economic, legal, socio-cultural, and political (Syahrin & Ginting, 2017); (Handoyo & Bayunitri, 2021); (Santi & Afif, 2021).

As the world progresses, corruption is also increasing. Although Indonesia has enacted a law on corruption, the perpetrators still have not felt the deterrent effect that keeps them away from corruption (Hamzah, 2005). It is related to the statement from Handoyo and Bayunitri (2021) that said that total of 154 respondents of Survey Fraud Indonesia (SFI) or 67% of the respondents chose corruption. The regulations governing the criminal act of corruption are Law Number 20 of 2001 concerning the Eradication of Not Criminal Corruption on amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

The occurrence of social assistance fund corruption cases involving officials may vary depending on the context and specific events. However, some common factors that can influence the possibility of corruption in this regard include Officials involved in the distribution of social assistance funds have direct access to financial resources. They have full control over the allocation and distribution of these funds. This opportunity can allow them to utilize it for their personal gain. In addition, a lack of transparency in the process of disbursing social assistance funds can create an environment that allows corruption to occur. If the process is not open and there are no adequate oversight mechanisms, officials can easily manipulate the system for personal gain. If the system of oversight and accountability is weak, corrupt officials can operate without fear of being exposed. If their actions are rarely detected or if the punishment applied is inadequate, they may feel confident that they will not be arrested or punished (Anayochukwu, Ani, & Nsah, 2022). Whereas corruption is one of the serious challenges, all three observers have only shown that corruption in local governments is a result of failure to provide accountability for public resources (Mwesigwa, 2021).

In addition to the above reasons, some officials may be tempted by power and greed. They can use their position to enrich themselves or their group. The impetus to utilize social assistance funds may arise from a desire to gain significant financial gain or to strengthen their power and social status.

Cases of corruption of social assistance funds can also occur if there is involvement of other actors in the chain of corruption involving officials. For example, fake contractors or third parties involved in the distribution of social assistance funds can also be a factor influencing corruption (Aminuddin & Rozak, 2010).

As for the laws and regulations of social assistance funds (BANSOS) there are several regulations that regulate it, first, Home Affairs Regulation Number 39 of 2012 concerning amendments to the Regulation of the Minister of Home Affairs Number 32 of 2012 concerning Guidelines for the Provision of Grants and Social Assistance Sourced from Regional Expenditure Revenue Budgets, second, Regulation of the Minister of Home Affairs (Permendagri) Number 21 of 2011 concerning the second amendment to the Regulation of the Minister of Home Affairs Number 13 of 2006 concerning Regional Financial Management Guidelines.

As a state of law, Indonesia is marked by the existence of corruption eradication institutions, especially the judiciary tasked with enforcing the rules of law in Indonesia in an effort to eradicate criminal acts of corruption, so in minimizing the occurrence of corruption, the Indonesian state established a government institution, namely the Prosecutor's Office, the Corruption Eradication Commission (KPK), the National Police of the Republic of Indonesia or Polri, the Supreme Court (MA) and the Financial Supervision Agency and Development (BPKP) (Abdullah, 2016).

In addition, to stop corruption, anti-corruption education is very important because it helps people understand and encourage the eradication of corruption from all its aspects. As corruption problems become more frequent, education also plays an important role in preventing corruption. (Kemenkumham, n.d.).

Therefore, for the occurrence of criminal acts of corruption of social assistance funds, based on the issuance of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption and Regulation of the Minister of Home Affairs Number 39 of 2012 concerning Guidelines for the Provision of Grants and Social Assistance sourced from regional budgets. In accordance with the regulation, the central government and local governments can provide social assistance funds to members/community groups in accordance with applicable regulations, so that there are no criminal acts of corruption.

Based on the above background, the author is interested in researching and writing the results in a scientific journal entitled "Ideal Management of Social Assistance Funds as an Effort to Prevent and Overcome Criminal Acts of Corruption". From the background of the problems described above, the problems to be discussed are as follows:

1. How is the ideal legal arrangement for social assistance fund management to prevent corruption?
2. How to prevent and overcome corruption in social assistance funds?

2. Literature Review

2.1 Social Assistance Fund

Social assistance funds are the provision of assistance that is not continuous and selective in the form of money / goods to the community aimed at improving community welfare (Edi Suharto, 2009). Social Assistance Fund during the pandemic is social assistance provided to people affected by COVID-19 to meet basic needs.

2.2 Corruption

Corruption is behavior that benefits one's own interests by harming others, by government officials who directly violate the legal boundaries of this behavior (Arsyad, 2017). Corruption is an act to enrich oneself or a group is an act that is very detrimental to others, the nation and the state (Rosikah & Listianingsih, 2016).

3. Research Methodology

Research methods are efforts made by a researcher to study, respond, and analyze a problem in an effort to find a solution or answer to the problem. Then it is combined into scientific data (Riduwan, 2011). The research used in writing this journal is normative juridical research is literature law research by examining literature materials (Dollar & Riza, 2022). The approach method used in this study is Normative Law (normative juridical) using a statutory approach, conceptual approach, and sociological juridical approach which is meant by normative legal research method is a legal research method carried out by examining library materials or secondary data only.

Research is a way of seeking truth through the scientific method, the scientific method is a procedure of obtaining knowledge called science (Suriasumantri, 2010). The scientific method is a way of searching for truth that is not only based on inductive or deductive reasoning, but is comprehensive or a combination of inductive thinking and deductive thinking (Muhammad & Djaali, 2003). In essence, research has the function of finding, developing or testing the truth of knowledge. Research is defined as a series of actions carried out systematically with various approaches aimed at studying, reviewing, or investigating a problem with the aim of obtaining theoretical knowledge that will be used to solve the problem. After getting the data, the next step is to analyze the data to arrive at a final conclusion (Riza, Lubis, & Suwalla, 2022).

The theoretical framework and methodology for analyzing the problems mentioned above and need to be clarified from the beginning about the theoretical framework that uses the theoretical framework as an analysis knife (Respationo & Idham, 2022). In this methodology section, one of the methods used

by the author is to apply the use of positive legal theory (positivism) from John Austin, and utilitarianism theory from Jeremy Bentham to the problems discussed in this study (Parameshwara & Riza, 2023).

4. Results and Discussions

4.1 Legal Arrangements for the Management of Ideal Social Assistance Funds to Prevent Corruption

Regulation of the Minister of Home Affairs (Permendagri) Number 32 of 2011, as amended by Permendagri Number 39 of 2012, regulates social assistance (BANSOS) from the Regional Budget (APBD). Social assistance, according to law, is defined as assistance in the form of money, goods, or services to individuals, families, groups or communities that are poor or vulnerable to social risks.

Social protection, social security, social empowerment, social rehabilitation, and basic services are poverty alleviation programs implemented by the Social Assistance Provision (BANSOS), regional apparatus work units and ministries or central government agencies (Febriyanti, Astara, & Arthanaya, 2021).

Social assistance funds (BANSOS) are provided by prioritizing the implementation of compulsory spending by taking into account the principles of fairness, fairness, and benefits for the community. Members, groups, or communities that can receive social assistance are:

1. Individuals, families, and communities facing unstable conditions due to social, economic, political, disaster, or natural phenomena to be able to meet the minimum living needs.
2. Non-governmental institutions in education, religion, and other fields whose role is to protect individuals, groups, and communities from possible social risks.

Social assistance can be in the form of money or goods given directly to beneficiaries, such as scholarships, elderly groups, or underprivileged communities. Social assistance in the form of money is the provision of money directly or in cash to recipients of assistance, such as food, clothing, or school vehicles.

To prevent corruption in the management of social assistance funds, an ideal legal arrangement that promotes transparency, accountability, and effective supervision is needed. Here are some principles that can form the basis of an ideal legal arrangement, namely:

1. Transparency and Access to Information

The law should require transparency in all aspects of social assistance fund management. Information on the allocation, distribution, and use of funds must be publicly available and easily accessible to the public. This can include the publication of financial statements, procurement documents, and other important information.

2. Open Procurement Process

The law should regulate the procurement process in the management of social assistance funds to be fair, open, and competitive. Contracts and tenders must go through clear and transparent procedures, with strict supervision to prevent nepotism or collusion.

3. Effective Monitoring Mechanisms

The law should provide a basis for the establishment and operation of an independent supervisory body that has sufficient powers and authority. These institutions should have the freedom to investigate, audit, and supervise the use of social assistance funds. Accessible grievance mechanisms and protections for whistleblowers should also be provided.

4. Strict Sanctions

The law must establish firm and adequate sanctions for perpetrators of corruption in the management of social assistance funds. These sanctions should include severe criminal penalties, significant fines,

and other legal consequences. The law must also ensure that perpetrators of corruption do not escape accountability and pay attention to the recovery of state losses.

5. Community Participation

The law should encourage active public participation in monitoring the management of social assistance funds. Civil society, NGOs, and the media should be given the freedom to monitor and report violations or irregularities that occur in the distribution and use of social assistance funds.

6. Training and Ethics

The law should require ethics and integrity training for officials involved in the management of social assistance funds. They must be provided with a good understanding of the standards and values necessary to carry out their duties with integrity.

The ideal legal arrangement should cover these aspects and be applied consistently and firmly. In addition, it is important to ensure effective and independent law enforcement and involve active community participation in preventing, detecting, and reporting criminal acts of corruption.

Recipients of social assistance funds have an obligation to account to local governments about their use of social assistance funds, so that those who receive social assistance in the form of money can report the provision of social assistance users to the regional head through the village financial management executive (PPKD) with a copy to the relevant regional apparatus work unit (SKPD). Based on the report of the social assistance user, the local government will record it as material for the accountability report for the distribution of social assistance funds.

Social assistance in the form of money is recorded as the realization of the type of social assistance expenditure on village financial management implementers during the relevant financial year. Meanwhile, social assistance in the form of goods is recorded as the realization of the object of social assistance spending on the type of spending on goods and services in activity programs and activities in regional apparatus work units.

Recipients of social assistance funds may include members of the community, including non-governmental institutions in the educational and religious sectors, but must be selectively selected who need to be protected and protected in times of social risk. The regional head determines the list of recipients and the amount of social assistance funds with the decision of the regional head on the elaboration of the regional budget (APBD).

Based on the explanation above, it can be understood that recipients of social assistance funds must have the obligation to account for the social assistance funds received. Similarly, the head of government must select selectively and must also be professional in distributing social assistance funds in areas both in cities and villages.

Article 35 Paragraph (2) of the Regulation of the Minister of Home Affairs Number 39 of 2012 Guidelines for the Provision of Grants and Social Assistance Sourced from the Regional Revenue and Expenditure Budget states that the accountability of local governments for the provision of social assistance funds includes from:

1. Written proposal or request from prospective recipients of social assistance or a certificate from an authorized official to the regional head, Decision of the regional head on determining the list of recipients of social assistance.
2. The fact of integrity of the recipient of social assistance stating that the social assistance received will be used in accordance with the proposal.
3. Proof of transfer or delivery of money for the provision of social assistance in the form of money or proof of handover of charcoal for the provision of social assistance in the form of goods.

An attempt at corruption committed by officials or civil servants that is planned together is a criminal act of corruption that has been planned beforehand. So that the criminal threat that can be given will be more severe when compared to other corruption cases.

Such as a corruption case committed by ordinary people without a position is regulated in Article 2 of Law Number 20 of 2001 concerning the Eradication of Corruption Criminal Acts where Article 2 is more severe and general than Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption Criminal Acts against corruption committed by officials or civil servants who have lighter sentences. Thus, corruption crimes committed by officials or civil servants can be punished with life imprisonment or imprisonment for a minimum of 1 year and a maximum time gap of 20 years (twenty years).

John Austin is a positive legal theorist who views law as an order from authorities and law enforcement as the use of force by the state (Huijbers, 2020). While Austin's positive legal theory may not directly relate to ideal legal arrangements in the management of social assistance funds, some positive legal principles can be applied to prevent criminal acts of corruption in that context.

Some aspects that can be attributed to Austin's positive law theory are that the ideal legal arrangement of social assistance fund management should be based on the clear authority of the authorities, such as the legislature or government. The law should reflect the sovereignty of the state and be issued with appropriate procedures.

The ideal law should establish clear rules and must be followed by all parties involved in the management of social assistance funds. Governments, officials, contractors, and third parties shall comply with the law and act in accordance with applicable legal orders. The law should provide a basis for strong and effective law enforcement to prevent corruption in the management of social assistance funds. Law enforcement must be carried out firmly and fairly to ensure that violations of the law are given appropriate sanctions.

In the context of managing social assistance funds, the law can act as a control instrument to prevent corruption. Laws can regulate open procurement processes, require transparency in the use of funds, and establish effective oversight mechanisms. Although Austin's positive legal theory does not specifically relate to legal arrangements in the management of social assistance funds, positive legal principles can provide a conceptual framework for understanding the importance of legal authority, compliance, and law enforcement in preventing criminal acts of corruption.

4.2. Prevention and Mitigation of Corruption in Social Assistance Funds

The widespread conduct in Indonesia is mainly related to the deviation of social assistance funds, where the elite, including government officials, city governments, and village governments, constantly pervert social assistance funds to the general public, which causes the Indonesian people to condemn badly those who do so.

Due to the many discrepancies in social assistance funds, it is important to indicate the existence of legal subjects before holding social assistance funds accountable. This is done to ensure that the relationship between criminal liability on the one hand and the subject of law on the other is clear (Oktarina & Sari Nilam Cayo, 2019). The form of criminal responsibility for social assistance funds can be regulated in Article 2, Article 3, Article 9, and Article 18 of Law Number 20 of 2001 concerning the Eradication of Corruption.

Thus, from the explanation above, it can be understood that Law Number 20 of 2001 concerning the Eradication of Corruption and Regulation of the Minister of Home Affairs (Permendagri) Number 32 of 2011 concerning Guidelines for Providing Social Assistance Fund Grants sourced from the regional budget (APBD) regulate accountability for criminal acts of corruption related to social assistance funds.

Providing evidence of its existence or liability report is very important before the liability of the legal subject itself.

Regarding the accountability of criminal acts of corruption, social assistance funds from the regional budget (APBD) are regulated in Article 35 paragraph (1) of Law Number 17 of 2003 concerning State Finance determines that every state official and civil servant is not a treasurer who violates the law or but his obligations, either directly or indirectly that harm state finances, are required to compensate for losses referred to in Article 59 of Law Number 1 of 2004 about the State Treasury (Dirdjosisworo, 2010).

In handling criminal acts of corruption in social assistance funds, regional budget (APBD). When the judge's decision is examined, what substance should be examined in the judgment while the examination of the judgment concerns the examination with existing institutions with appeals and cassation. Thus, there is no general standard for the award of a crime, because judges are free to determine the type of crime, the manner in which it was executed, and whether the crime was high or low.

Furthermore, in the context of managing social assistance funds, efforts to prevent and overcome corruption of social assistance funds can also be related to the theory of utilitarianism by Jeremy Bentham (Huijbers, 2020). The main principle in utilitarianism is the maximization of overall social well-being or happiness. In the management of social assistance funds, the main objective is to ensure that the funds are used effectively and efficiently to help those in need in a way that is most beneficial to society as a whole. This ensures that social assistance funds achieve their core goals, which are to reduce poverty and improve social welfare.

In utilitarianism, it is important to consider the fair distribution of profits. In the management of social assistance funds, the government must ensure that they are distributed in an equitable manner, based on the needs and socio-economic conditions of the people entitled to receive them. This involves careful evaluation to identify the groups most in need of assistance and ensure that the funds are allocated evenly and there is no misuse of profits by unentitled parties.

The principle of utilitarianism emphasizes transparency and accountability in decision making. In managing social assistance funds, the government must maintain a high level of transparency in the allocation and use of these funds. Information on the allocation of funds, their distribution, and use should be publicly available so that the public can monitor and verify their proper use. Accountability is also important, where officials responsible for the management of social assistance funds must account for their actions and avoid misuse of funds for personal gain.

Then, the principle of utilitarianism also encourages continuous evaluation and improvement in an effort to achieve the most beneficial results for society as a whole. In managing social assistance funds, the government must evaluate the effectiveness of programs and policies implemented. If there are indications of corruption or irregularities, remedial measures should be taken quickly to ensure social assistance funds achieve their objectives.

5. Conclusion

Based on discussions related to the problem, the following conclusions can be drawn:

1. The ideal legal arrangement for the management of social assistance funds to prevent corruption is to apply some positive legal principles from John Austin such as being based on clear authority such as legislative or government institutions, and the law must reflect state sovereignty, establish clear rules and must be followed by all parties, provide a basis for strong and effective law enforcement, and the law can act as an instrument of control to prevent criminal acts of corruption.
2. Efforts to prevent and overcome corruption of social assistance funds are through the application of Jeremy Bentham's theory of utilitarianism which has the main principle of maximizing overall social welfare or happiness, considering the distribution of benefits fairly, emphasizing

transparency and accountability in decision making, and emphasizing transparency and accountability in decision making.

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