

# WELFARE AND THE CRIME OF CORRUPTION IN THE RULE OF LAW

Nazaruddin<sup>1\*</sup>  
Amzar Ardiansyah<sup>2</sup>  
Umar Mahdi<sup>3</sup>

<sup>\*1, 2, 3</sup>Faculty Of Law, University of Jabal Ghafur, Indonesia

<sup>\*1</sup>email: [nazaruddin@unigha.ac.id](mailto:nazaruddin@unigha.ac.id)

<sup>2</sup>email: [ardiamzar@gmail.ac.id](mailto:ardiamzar@gmail.ac.id)

<sup>3</sup>email: [umarmahdi@unigha.ac.id](mailto:umarmahdi@unigha.ac.id)

**Abstract:** The crime of corruption has damaged the joints of the life of the nation and state. This disgraceful act is committed by government officials which results in development not running, the economy is low, education and health facilities are not optimal, and most importantly at this time the welfare of the community is still far from expectations because of corruption that occurs at all levels of government both horizontally and vertically. So the problem arises, namely whether corruption has an impact on people's welfare, what is the background of corruption, and how the efforts of the government and law enforcement agencies against corruptors. To obtain these answers, normative research is conducted by examining laws and regulations, books, journals, and other documents related to the research. Corruption that occurs in all sectors of government that causes state financial losses has an impact on the welfare of the community, because infrastructure development, low economy, not maximizing education and health facilities are caused by corruption. Corruption occurs due to political influence and power so that it is easy to commit corruption without being known by the public. efforts made by the government have been made in various ways, namely establishing regulations related to eradicating corruption, including involving the community and providing additional education in every university with anti-corruption education material.

**Keywords:** Welfare, Corruption, Rule of Law.

## Introduction

Corruption is a crime as well as a disease that is infecting the nation today. As a result of this crime, there are various problems and gaps that occur in society, namely far from prosperity. Corruption also occurred during the New Order era which was carried out massively where the practice of Corruption, Collusion and Nepotism (KKN) forced the New Order regime to dissolve and collapse.

Corrupt practices continue to reveal themselves openly with large amounts reaching trillions in the post-reform era, to deal with these practices and criminal acts of corruption, the government formulated and enacted legislation on criminal acts of corruption, namely Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Criminal Acts of Corruption (TPIKOR Law).

The birth of the TPIKOR Law is expected to be able to prevent and provide a deterrent effect to corruptors, but in reality the TPIKOR Law does not have the power to crack down on corruption that occurs in Indonesia. This can be seen from several major cases that occurred in Indonesia compiled from various media and institutions that are concerned with the issue and / or handling of corruption, including First, the case of land permits in Riau due to the misuse of these permits, the state is estimated to have suffered losses of up to 78 trillion. (Kompas.com. 2023).

Second, the case of PT Trans-Pacific Petrochemical Indotama (TPP) cost the state 37.8 trillion. Third, the case of PT Asabri is not inferior to the previous two cases which cost the state 22.7 trillion in losses related to transaction arrangements in the form of stock and mutual fund investments together with private parties so that as many as seven people have been convicted in the case. Fourth, the case of PT Jiwasraya committed a criminal act of corruption amounting to 16.8 trillion, this was revealed after the company failed to pay policies to customers related to saving plan investments so that the state suffered losses. Fifth, the Century Bank corruption case related to the provision of short-term funding facilities to Century Bank has caused state losses of Rp. 689,394 billion, then for the determination as a systematic impact bank has cost the state Rp. 6.742 trillion, based on the Calculation Report the state losses reached 7 trillion. (Kompas.com. 2023).

The sixth corruption case, the e-KTP corruption case, this case became a public concern due to the considerable value of state losses and a series of cases involving state officials and political parties, based on the calculation of the Financial Audit Agency (BPK) the state suffered a loss of Rp. 2.3 Trillion (Kompas.com. 2023).

Not to mention the recent corruption cases involving ministers, the value of the corruption reached tens of billions such as the case of the Minister of Social Affairs in 2020 related to corruption of Social Assistance funds (Bansos). Followed by the Minister of Youth and Sports who became a suspect in a corruption case in the KONI grant fund in 2019. Following these two ministers was the Minister of Maritime Affairs and Fisheries in 2021, the minister was charged with bribery for lobster seed export licenses (Nasional tempo.co, 2023).

The Minister of Communication and Information has been named a suspect in the case of BTS towers that will provide internet signals in many villages in Indonesia where the state suffered losses of up to 8 Trillion (CNBC Indonesia.com, 2023). The last stumble of corruption by the Minister of Agriculture, on September 28, 2023, a search of the minister's official residence was carried out, investigators found tens of billions of rupiah in rupiah and foreign currency. The investigating team also found a number of documents and financial records, which are now being investigated by the Corruption Eradication Commission (KPK) (BBC News Indonesia, 2023).

Corruption as mentioned above is part of the iceberg that occurs in Indonesia, not to mention corruption cases that occur at the regional level and coupled with corruption cases that are not touched or have not been touched by the law if analyzed, the state suffers losses every year due to corruptors.

Corruption occurs in all sectors and levels resulting in infrastructure development and human index development experiencing obstacles that have an impact on the welfare of the community. The existence of the KPK is expressly regulated in Law Number 30 of 2002 concerning the KPK which has the main task of preventing and eradicating corruption that occurs in Indonesia. During the establishment of the KPK, at least thousands of cases have been handled both at the national and regional levels, all of which have been tried with different prison sentences. However, corruption is increasingly coming to the public's attention without shame and guilt.

The constitutional mandate of the government has the duty and responsibility for the welfare of the community in the preamble of the 1945 Constitution in the fourth paragraph states that "..... promote public welfare, educate the nation's life, and participate in implementing world order ....." then emphasized in Article 33 paragraph (3) the earth and water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

The main task of the government is how welfare is felt by the community, but in reality today corruption is carried out on a large scale at all levels which results in inequality, poverty, crime and weak community economy caused by corruptors who should have used the budget as much as possible for welfare.

Seeing the phenomenon of corruption crimes, it must be dealt with firmly with proper law enforcement and provide a deterrent effect to corruptors, the law of imprisonment has not been able to provide changes and improvements to the state system, especially in the political sector that continues to be carried out to obtain personal, group and third party benefits. Therefore, researchers are interested in conducting this study in the form of a scientific study with the title of welfare and corruption crimes in a state of law.

## Literature Review

The author wants to explain that corruption has a major impact on public welfare, corruption occurs when there are public funds used for personal purposes and interests, or if private funds are used to influence decisions or policies that are public (Tim Garda Tipikor, 2016).

Corruption is carried out always with a systematic and organized plan, this behavior affects government sectors, especially hampered regional development, hampered economic growth of the community, high unemployment and not felt welfare by the community, due to corruption committed by "unscrupulous" to seek the interests of themselves and their groups.

Based on the explanation above, it raises various legal, political, inter-institutional and social debates among academics, practitioners and the public. Indonesia is a state of law, acts of corruption are specifically regulated in Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. The extent to which the law has an impact on perpetrators of corruption, whether corruption decreases or vice versa, this must be considered by the Government of Indonesia to provide firm laws.

Because perpetrators of corruption commit extraordinary crimes, the law must also be carried out extraordinarily, not enough with confinement alone but there are other additional penalties to have a major impact on perpetrators of corruption. The decline in corrupt behavior has great potential for welfare. Because the budget for regional development and community interests is realized on target and used effectively and efficiently.

The commitment to eradicate corruption must be carried out by the government by strengthening the authority of institutions that handle corruption, participating in the community, students and the press in eradicating corruption and strengthening the integrity of every law enforcement agency to eradicate corruption with certainty as stipulated in the provisions of laws and regulations

## Method

This research uses normative research, namely an approach based on legislation, journals, books and writings related to the research topic by conducting a study or review of theories, concepts and legal principles related to this research. Therefore, the collection of primary and secondary legal materials is carried out thoroughly and systematically, meaning that this research uses a qualitative approach to examine and analyze all primary and secondary materials (Mukti Fajar and Yulianto, 2010).

## Result and Discussion

### *Corruption Impacts Community Welfare*

The crime of corruption has damaged the life of the joints of the state and the order of people's lives. The acts of corruption committed by officials, politicians and government organizers are extraordinary crimes, these crimes are more dangerous than all existing crimes. Because of corruption committed by officials, politicians and government officials, state losses reach billions and even tens of trillions for one case, imagine if in a year the KPK and other law enforcement agencies can arrest dozens of corruptors, the state losses will reach trillions and the

community will suffer huge losses where people's rights are deprived, namely the right to enjoy development, the right to live properly, the right to education, economic rights, the right to obtain health, the right to justice, and the right to live prosperously.

Corruption that occurs in Indonesia today is beyond reason, entrenched corruption creates challenges in eradicating it. This is caused by the behavior of active perpetrators, demands, opportunities, lack of supervision and the saddest thing is that corruption has become commonplace and is understood (SPORA Team, 2015). Of course, this behavior is very dangerous if no one cares about the crime of corruption, then inequality will continue to occur in society.

Indonesia should be a prosperous country, even other countries recognize that Indonesia has abundant natural resources, has a strategic position and fertile land. However, corruption has taken away all these hopes. This potential can be described as follows (SPORA Team, 2015):

- a. Strategic position benefits Indonesia as an archipelago, bordering various countries both on land and sea, then located between two continents and two oceans. Based on this geographical location, one of the advantages obtained is that it can become the core route of world traffic trade to become a transportation route for other countries and become a source of foreign exchange in the economic sector.
- b. The potential of Indonesia's natural wealth, one of which is in the maritime sector, is estimated to generate thousands of trillions per year, this is only the potential of the sea, not to mention other potentials, namely forestry, gas and oil mining, plantations and others. If this potential is managed professionally and on target, the community will prosper.

Seeing the various potentials mentioned above, it is not impossible for this beloved Indonesian State to become a rich, prosperous and prosperous country as the ideals of the founding fathers as stated in the preamble of the constitution in the fourth paragraph and Article 33 paragraph (3) of the 1945 Constitution. However, because of the crime of corruption, everything is hampered. Many state officials have stumbled upon corruption cases under the pretext of public interest, abuse of office, lack of supervision, opportunity and other factors so that corruption occurs.

The real practices of corruption, which are increasingly moving away from the goals of the state, must be eradicated immediately. In an entity, the implementation of corruption eradication requires a path and path. This is so that the implementation has a strong line of coordination so that it is able to properly eradicate corruption that is so massive and structured (Garda Tipikor Team, 2016).

The enforcement of corruption in Indonesia refers to Law Number 30 of 1999 concerning Corruption Crimes (TIPIKOR Law), the meaning of corruption here in the provisions of Article 2 of the TIPIKOR Law is "every person who unlawfully enriches himself or another person or a corporation that can harm the state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000,000.00, (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00, (one billion rupiah)". 200,000,000.00, (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00, (one billion rupiah) ".

In essence, if there is a loss of state finances and the state economy caused by corrupt actors sentenced to life and a maximum of twenty years, the sentence has actually given an effect to the perpetrators, but the punishment is actually given to corruptors, especially life sentences and a maximum of twenty years, and whether these sanctions have a frightening impact on corrupt actors, of course this is a serious problem that must be dealt with.

In an effort to eradicate corruption, a strong and sturdy legal system is needed. With the existence of institutions that handle corruption cases and prevent corruption, namely the KPK, the Attorney General's Office and the Police, it shows that the development of state administration related to the structure has been good (Garda Tipikor Team, 2016). However, there are still weaknesses in the coordination of corruption eradication, but the goal is the same, namely enforcing the law against perpetrators who have harmed state finances and the country's economy.

Corruption is a serious problem in every country, especially Indonesia, not only contrary to legislation but also contrary to Islamic values, so that corruption will directly or indirectly interfere with the realization of the Indonesian state order towards prosperity.

Slow development due to corruption so that development that should be scheduled to be completed in the middle of the year and can be enjoyed by the public but has not been completed instead there is corruption of the budget for personal, family and group interests. In addition, there is also no investment coming in or hampering domestic and foreign investment due to corruption committed by authorized officials and misusing their positions to seek personal gain so that investors think twice about investing for fear of losses and stumbling over legal cases in the future which results in investors falling indirectly also affecting employment opportunities for the community.

### ***Background of Corruption***

Corruption eradication in Indonesia has been carried out in various ways, but until now there is still corruption in various ways carried out by various institutions. There are several dangers as a result of corruption, namely the dangers to society and individuals, the younger generation, politics, the nation's economy and bureaucracy.

Various legal bases and instruments have been established in Indonesia to suppress and eradicate corruption. Armed with laws and government regulations, corruption is tried to be prevented and the perpetrators are given appropriate punishment. Indonesia has legal foundations for the eradication of corruption that serve as guidelines and foundations for prevention and prosecution.

Along the way, various changes to the law were made to adjust to the current conditions of prosecuting corruption cases. Realizing that it cannot work alone, the government through Government Regulations also invites public participation to detect and report corruption crimes.

The condition of corruption at the end of 2023 seen from various local and national media, the issue of corruption is never ending, it illustrates the current condition of Indonesia is increasingly worrying. The crime occurs in all sectors of the executive, legislative and judicial government, then from various institutional levels there is also corruption.

Indications of corruption occur when viewed from the market theory developed by Jacob van Klaveren that a corrupt state servant considers his office / institution as a trading company, where his income is sought as much as possible ((Garda Tipikor Team, 2016). if it is related to government positions, it is closely related to this theory, where the act of bribery is related to the abuse of authority or power as a result of the consideration of those who hold positions for personal gain (Garda Tipikor Team, 2016).

The opinion of this theory in reality cannot be denied that corruption occurs because one of them abuses his position for personal gain, so the series of cases throughout the year occurred in Indonesia as the case that the researcher has stated earlier in the background is evidence of a state official abusing his position who is supposed to serve the community, develop the region both infrastructure and non-infrastructure and improve the economy of the community but in fact enrich themselves and their surroundings under the pretext of the interests of the wider community.



Corruption can also occur from a political background, various backgrounds can occur in the political world. according to Theodera M. Smith, in his article "corruption tradition and change Indonesia" said that "overall corruption in Indonesia appears more often as a political problem than an economic problem, it touches the legitimacy of the government in the eyes of the younger generation, the educated elite and employees in general. Corruption reduces support for the government from the (educated) elite" (Garda Tipikor Team, 2016).

Dishonest politics leads us to violate the provisions of the applicable law, this dishonesty is because from the first the system built in politics has been wrong because it wants to seek profit and power not for the benefit of society. Thus, the Indonesian system is damaged by the perpetrators of corruption, whatever happens easily because of the political impetus and power it has so that massive corruption occurs.

The domination of power or political repression is usually carried out by justifying certain politics and laws built as a means to legalize and politically legitimize the use of authority in a policy. It can take the form of claims to truth, cultural views, political ideologies, manipulation of power, or creating public lies, which in essence means that power is identical to the truth of everything it does to cover up its mistakes, especially in carrying out its corruption crimes.

Corruption that continues is like a cancer that is difficult to cure (Febri Diansyah, et al. 2011). Corruption not only causes losses to state finances but has an impact on the damage to the system of good governance, not only that, damage also occurs in judicial institutions and law enforcement institutions if you look at information through social media today there have been many cases of corruption ensnaring law enforcement and judicial institutions. System damage due to corruption occurs not only in the executive and legislative branches but has entered the judiciary and other state and regional institutions.

### ***Government and Law Enforcement Agencies' Efforts Against Corruptors***

The government's commitment to the corruption eradication and prevention agenda throughout 2022 has become a public concern, especially researchers and anti-corruption observers, where the consistent increase in corruption cases shows that the various efforts made by the government have not shown maximum results. This is illustrated in the latest release issued by Transparency International Indonesia (TII) on the Corruption Perception Index, the survey results show that in 2022 Indonesia experienced a very drastic decline in score from 38 to 34 (Diky Anandya and Lalola Easter, 2023). The decline in GPA points illustrates that anti-corruption law enforcement indicators have not proven effective in eradicating corruption.

The eradication and prevention of corruption requires joint efforts, the government involves the community, because the community's own participation in efforts to eradicate corruption has been guaranteed by international conventions and laws and regulations in Indonesia (Diky Anandya and Lalola Easter, 2023). As stipulated in the provisions of Article 13 number 1 of the United Convention Against Corruption (UNCAC), and Article 41 of the TIPIKOR Law, the government then developed technical regulations in 2018 by authorizing the implementation and procedures for community participation through Government Regulation Number 43 of 2018 concerning Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of TIPIKOR.

Through these regulations, the government must provide space for the community to participate and contribute to the fight against corruption, considering that the government cannot reach all joints of government to the regional level due to limited time, distance and other factors, the role of the community is needed.

In Indonesia's journey after independence, the new order and post-reform, there are at least several regulations and the formation of anti-corruption institutions related to the government's efforts to take action against corruption, including (ACLC.KPK.go.id, 2022):

- 1) Law No. 3 of 1971 on the Eradication of the Crime of Corruption  
This law was issued during the New Order era under the leadership of President Soeharto. Law No. 3 of 1971 stipulates a maximum sentence of life imprisonment and a maximum fine of IDR 30 million for all offenses categorized as corruption. The law has clearly outlined the definition of corruption, which is an act that harms state finances with the aim of benefiting oneself or others. Later on, Law No. 3 of 1971 was declared invalid after being replaced by Law No. 31 of 1999 on the Eradication of Corruption.
- 2) MPR Decree No. XI/MPR/1998 on Clean and KKN-Free State Administration  
After the New Order regime fell and was replaced by the Reformation period, MPR Decree No. XI/MPR/1998 on Clean and Corruption-Free State Administration emerged. In line with the MPR Decree, President Abdurrahman Wahid established state bodies to support corruption eradication efforts, including the Joint Team for Combating Corruption, the National Ombudsman Commission, the State Officials Wealth Examination Commission and several others. The TAP MPR emphasizes the demands of the people's conscience so that development reforms can succeed, one of which is by carrying out the functions and duties of state administrators properly and responsibly, without corruption. The MPR TAP also ordered the examination of the assets of state administrators, to create public trust.
- 3) Law No. 28/1999 on Clean and Corruption-Free State Administration.  
This law was formed in the era of President BJ Habibie in 1999 as a commitment to eradicate corruption after the fall of the New Order. Law No 28 of 1999 defines corruption, collusion and nepotism, all of which are despicable acts for state officials. The provision also stipulated the establishment of the Examination Commission, an independent institution tasked with examining the wealth of state officials and former state officials to prevent corrupt practices. At the same time, the Business Competition Supervisory Commission (KPPU) and the Ombudsman were established.
- 4) Law No. 20 Year 2001 on the Eradication of Corruption Crime  
This law explains that corruption is an unlawful act with the intention of enriching oneself, others, or that results in harm to the state or the state economy. This law is an amendment to Law No. 30 of 1999 to complete and cover the gaps that have not been filled. The definition of corruption is explained in 13 articles in this law. Based on these articles, corruption is mapped into 30 forms, which are further grouped into 7 types, namely embezzlement in office, extortion, gratification, bribery, conflict of interest in procurement, fraudulent acts, and state financial losses.
- 5) Government Regulation No. 43/2018 on Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption.  
Through this regulation, the government wants to invite the public to help eradicate corruption. The role of the public regulated in this regulation is to seek, obtain, provide

data or information about corruption crimes. The public is also encouraged to submit suggestions and opinions to prevent and eradicate corruption.

The rights of the community are protected and followed up in case investigations by law enforcement. For their participation, the community will also receive awards from the government which are also regulated in this PP.

- 6) Law No. 30 of 2002 on the Corruption Eradication Commission  
Law No. 30/2002 on the Corruption Eradication Commission (KPK) was initiated during the presidency of Megawati Soekarno Putri. At that time, the Attorney General's Office and the Police were considered ineffective in eradicating corruption, so it was deemed necessary to have a special institution to do so.  
As mandated by the law, KPK was established with the aim of increasing the effectiveness and results of efforts to eradicate corruption. KPK in carrying out its duties and authorities is independent and free from the influence of any power.  
This law was later enhanced by the revision of the KPK Law in 2019 with the issuance of Law No. 19/2019. The 2019 Law regulates the increased synergy between the KPK, the police and the prosecutor's office for handling corruption cases.
- 7) Undang-Undang No. 15 Tahun 2002 tentang Tindak Pidana Pencucian Uang  
Money laundering is one of the ways corruptors hide or eliminate evidence of corruption. This law regulates case handling and reporting of money laundering and suspicious financial transactions as one of the efforts to eradicate corruption.  
This law also introduced for the first time the institution of the Financial Transaction Reports and Analysis Center (PPATK), which coordinates the implementation of efforts to prevent and eradicate money laundering in Indonesia.
- 8) Presidential Regulation No. 54/2018 on the National Strategy for Corruption Prevention (Stranas PK)  
This Presidential Regulation is a replacement for Presidential Regulation No. 55/2012 on the National Strategy for the Prevention and Eradication of Corruption for the Long Term 2012-2025 and the Medium Term 2012-2014, which is considered no longer in accordance with the development of corruption prevention needs.  
Stranas PK stated in this Presidential Regulation is a national policy direction that contains the focus and objectives of corruption prevention which is used as a reference for Ministries, Institutions, Local Governments and other stakeholders in implementing corruption prevention actions in Indonesia. Meanwhile, Corruption Prevention Action (PK Action) is the elaboration of the focus and targets of Stranas PK in the form of programs and activities. There are three focuses in Stranas PK, namely Licensing and Administration, State Finance, and Law Enforcement and Bureaucratic Democracy.
- 9) Presidential Regulation No.102 of 2020 on the Implementation of Supervision of Corruption Eradication.  
Issued by President Joko Widodo, the Presidential Regulation regulates KPK's supervision of agencies authorized to eradicate corruption, namely the Indonesian National Police and the Indonesian Attorney General's Office.  
The Presidential Regulation also regulates the KPK's authority to take over corruption cases being handled by the National Police and the Attorney General's Office. This regulation is part of an effort to strengthen KPK's performance in eradicating corruption.



- 10) Minister of Research, Technology and Higher Education Regulation No. 33/2019 on the Obligation to Implement Anti-Corruption Education (PAK) in Higher Education  
Corruption eradication is not just about prosecution, but also education and prevention. Therefore, the Minister of Research, Technology and Higher Education issued a regulation to organize Anti-Corruption Education (PAK) in Higher Education. Through Permenristekdikti Number 33 of 2019 concerning the Obligation to Implement Anti-Corruption Education (PAK) in Higher Education, public and private universities must organize PAK courses at every level, both diploma and undergraduate. Apart from courses, PAK can also be realized in the form of student activities or studies, such as co-curricular, extracurricular, or in student units. As for Assessment Activities, it can be in the form of Study Centers and Study Centers.

Regulations have provided space for law enforcement agencies and the community to prevent and eradicate corruption, but the implementation is still hindered by various factors, one of which is in the form of political influence and power, and the corrupt atmosphere seems to have become commonplace in society.

Seeing these social conditions, a strong social commitment effort is needed in the mindset of the community, where social commitment is a choice of soul and calling of the heart to consciously take sides and defend against corruption problems that occur in society or among government institutions.

In essence, the misuse of state finances needs to be a serious concern of the government and the entire community. Because dishonesty in the management of state finances affects the development and welfare of society. should be managed professionally, on target, transparent and responsible.

## Conclusion

Corruption, without a doubt, has a damaging impact on the welfare of society. In the context of Indonesia, corruption by government officials and organizers has cost the state a huge amount of money, reaching trillions of rupiah. This loss not only affects state finances, but also deprives people of their rights to development, education, health and justice. As a result, Indonesia's potential as a rich country with abundant natural resources is constrained by this act of corruption.

Corruption has taken away the hope of becoming a prosperous country in accordance with the ideals of the founding fathers. This phenomenon is not only a legal issue, but also concerns social and religious values. Continued corrupt practices hinder development that should have been completed, reduce investment, and create instability that ultimately affects employment opportunities for the people.

The background to corruption can come from various aspects, including the abuse of office for personal gain, dishonest political situations, and the dominance of power that creates justification for corrupt acts. Corruption is not only a legal issue, but also affects social, economic and political life.

Although the government has created various regulations and institutions to deal with corruption, there are still weaknesses in their implementation. Law enforcement against corruptors is often constrained by various factors, including political and power influences that affect the effectiveness of prosecution.

The government's efforts to fight corruption require support from the community. Through the active participation of the community, the prevention and eradication of corruption can be more effective. Various regulations have provided space for law enforcement agencies and the

community to take preventive measures, but it takes strong social commitment to change the view that corruption is commonplace.

In order to fight corruption, there needs to be a joint commitment from the government and society to manage state finances in a transparent, professional and responsible manner. This will have a positive impact on development and community welfare.

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