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Legal and Moral Principles as Guidelines for Carrying Out Official Duties

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Abstract
Law and morals are related as an ideal value in the formation of law, because morals are considered universal values that should ideally characterize every legal formation, with the hope that morality in the law can produce good behavior for legal subjects and objects. These morals and laws are in our administrative law, in this case the executive. The problem that is difficult to solve is the problem of corruption, where the act is legally and morally not good or wrong. Anti-corruption regulations are in place and the establishment of the Corruption Eradication Commission reveals that the problem of corruption in our country is not resolved and is even more systematic. Ideally, with the advancement of civilization and the strengthening of moral values as the basis for rules, corruption will decrease to its lowest point from year to year as a government develops. Then, if this law represents a moral value, then the court decision, which is the law, can also contain moral values. As an example also regarding court decisions by state administration officials that are not implemented voluntarily, this can be equated with blatant disobedience to the law making state administration officials arrogant. Normative juridical analysis used in research includes legal and regulatory theory. Therefore, in order to achieve conformity regarding the morals and behavior of state officials in carrying out their duties, there is a close connection between the bad morals of state officials and behavior that violates the law. The good morals of state officials will make the behavior of state officials high and far from breaking the law.
Keywords: Law; Morale; State Officials; Corruption; Against the Law.

Introduction

The ancient proverb of the Roman Empire said *Quid leges sine moribus*, the law doesn't mean much if it's not imbued with morality. This proverb illustrates that the law can't be separated from morals, law must contain moral values. In

other languages, it's said that the law is the realization of moral values.[1] In terms of the history of the law, it began 1,200 years ago when refugees from Mysia settled in Asia Minor and founded the state of the Polis, Athena (Homerus, Pindar, Aeschylus, Sopochles, Plato, Aristoteles), Sparta, Romawi (Kaisar Iustinianus) and the codification called *Corpus Iuris Civilis*. Irnerius taught at the University of Bologna in Italy where law was taught separately from politics, societal customs and religion, The text of the codification by Iustinianus had four parts, its *Caudex* (rules or judgments made by emperors before Iustinianus, Novellae (rules of law promulgated by Emperor Iustinianus himself) *Instituti* (small textbooks), and Digesta (collection of Roman juristic prepositions/legal principles). The glossator and commentator interpreted the Corpus Iuris Civilis that it was ready to be put into practice to solve legal problems These interpretations are contained in the Glossa Ordinaria so that legal science is an applied science, a science that studies the rules set by the authorities, dispute decisions, and doctrine of jurists.[2] Therefore it can be said that the law is there to solve or at least provides guidance that the deepest human conscience will reflect universal nilai-nilai that must be taken care of and executed with. From history, we find that values that must be preserved, emerged as a law, stating that conscience is the will of the lord and is the beginning of morals.

Talking about the law, it cannot be separated from justice, which basically stems from human morals manifested a sense of love and an attitude of togetherness. The first to put forward morals as the basis of the rule of law was Thomas Aquinas who had Christianized Aristotle's views. According to Aristotle, humans are naturally oriented toward a specific goal. Man's goal is to gain happiness. It was in this respect that Aristotle proposed the existence of natural morality.[3] The terms moral (English), mores (Latin), moural (Dutch) linguistically mean character, decency and

[1] Miswardi, Nasfi and Antoni, 'Etika, Moralitas Dan Penegak Hukum' (2021) 15 Menara Ilmu.[150].

[2] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Prenada Media 2021).

[3] *ibid.*

customs. In *The Advanced Learners Dictionary of Current English* it says "*Moral is concerning principles of right and wrong, good and virtuous, able to understand the difference between right and wrong and teaching or illustrating good behaviour".*[4] More clearly, it is said that morality is something related to the good and bad of human character and disposition or something related to the difference between good and bad.[5] In Islam, the term moral is synonymous with akhlaq. The word akhlaq is the plural form of the word khulq which means character, respect, behavior and character.[6] In terms, as expressed by Iman al-Gazali, morals are the behavior of the soul which can easily give birth to actions without the need for thought and consideration.[7] Morals ultimately focus on good values that are universally accepted and become guidelines for human behavior that humans willingly carry out, and if they violate them there is a feeling of guilt in their hearts.

Regarding law and morals, in the previous paragraph we have discussed essentially that the relationship between law and morals itself is related, because if we understand that law is a word that is synonymous with something that regulates, binds, goodness and justice, stipulation, then the values in it are a fundamental question as to who created the idea of these values so that society must obey them. If you only obey the law, it can be said that this is submission through compulsion; this triggers a feeling of dissatisfaction and injustice. Moreover, there are opinions from groups of people who say that law is a rule made by the authorities, in the interests of the authorities in perpetuating their power and thoughts, giving the impression that the law is under the authority of an authoritarian state. Basically, this is often felt by small communities in our country who feel they are the object of legal regulations with many obligations and minimal rights that are reflected in fair values. In this modern era, the position of legal development is not the same in

[4] AS Hornby, EV Gatenby and H Wakefield, *The Advanced Learners Dictionary of Current English, London* (Oxford University Press, New York 1973).[634].

[5] John B Sykes, *The Concise Oxford Dictionary of Current English: Based on the Oxford English Dictionary and Its Supplements* (Clarendon Press 1982).[708].

[6] Luwis Maluf, *Al-Munjid Fi Al-Lughat* (al-Maktabah al-Kulliyyah 1928).

[7] Al-Imam Abu Hamid Al-Ghazali, 'Ihya', Ulum Al-Din', *Juz III* (Muassasah al-Halaby 1967).[68].

every country because there are different developments with different end results. The tendency of pragmatism began to color the law in a dogmatic sense through the rules it made. So morals themselves are not as important as positivist teachings (Hans Kelsen, John Austin). By not attaching morals to existing laws, the value of justice becomes subjective to a certain group of people and becomes only as a *tool of social engineering*.

Morals and laws for state administration officials are very basic because an official carries out duties outlined by regulations and is, therefore, fully bound. In their duties, officials have power in accordance with the rules that provide (attributive) or in the form of representation (mandate/delegation). In exercising this authority, the aim is to regulate society's life, which today is increasingly complex. In prospering society through development in various sectors and fulfilling the living needs of the small people, as well as the duty of protection for the community against government abuses, the government carries out the law and the aim of the law is to achieve justice, legal certainty and usefulness. Legal certainty is one of the elements in the objectives of law/law enforcement which include legal certainty, benefit and justice, which must work in harmony.

Morals without law are powerless and law without morals is worthless. Practical law as a moral-based priority provides justice, legal certainty, balance and benefits. Legal praxis is that law does not speak black and white but is able to make changes to society, has an ethical dimension, and contains legal values that live in society.[8] The normative meaning of legal certainty is when a regulation is created and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. It is clear in the sense that it forms a system of norms with other norms so that it does not clash or give rise to norm conflicts. Legal certainty refers to the application of law that is clear, permanent, and consistent, the implementation of which cannot be influenced by subjective circumstances. Certainty and justice are not merely moral

[8] Subiharta Subiharta, 'Moralitas Hukum Dalam Hukum Praksis Sebagai Suatu Keutamaan' (2015) 4 Jurnal Hukum dan Peradilan.[385].

demands, but factually characterize the law. A law that is uncertain and unwilling to be fair is not just a bad law that clashes or causes conflicts of norms. Legal certainty refers to the clear, fixed, consistent and consequent enactment of laws whose implementation cannot be influenced by subjective circumstances.[9] If a regulation is implemented by state administrative officials in accordance with its contents, then the official has carried out his duties in accordance with the rules, likewise if the regulation has moral value in it. Regarding the morals of state administration officials who commit corruption in Indonesia, it can be said that they have violated the moral values in these regulations. This occurs due to the personal subjective attitudes of officials which can give rise to legal uncertainty. The phenomenon of corruption is still occurring and has not decreased.

This research was carried out using normative legal research methods. Legal science is a prescriptive and applied science, so the results to be achieved in this research aim to provide a prescription regarding what should be the issue discussed. What factors are the causes, are they legal factors, or law enforcement factors, or are there other factors? Likewise, several court decisions were not implemented by the defeated state administrative officials, reflecting a conflict with the rule of law that underlies the founding of our country, namely the enforcement of administrative court decisions which still cannot be implemented because the regulations themselves do not support them. These are forms of unlawful acts which can be said to violate morals. Therefore, to explore the relationship between morals and law, the following problems can be formulated:

a. What is the legal and moral connection for state administration officials with corruption and non-compliance with court decisions?
b. What is the impact of legal uncertainty due to the unlawful behavior of state administration officials?

[9] CST Kansil and others, *Kamus Istilah Aneka Hukum* (Robert J Palandeng ed, Pertama, Jala Permata Aksara 2009).

Law and Morals for State Administrative Officials are Associated with Corruption and Non-Compliance with Court Decisions.

a. Legal and Moral Concepts

Law and morals are like two sides of a coin where one can justify the other. Morals can be the basis for law to establish and implement its rules, although there are also legal rules here and there that are not related or have very little connection with the moral sector.[10] Regarding why the law must be obeyed, John Stuart Mill provides a classical liberal answer in the form of the harm principle: the only end for which humanity is warranted, individually or collectively, in interfering with the freedom of action of any one of their number is self-protection. The only purpose for which power can legitimately be exercised over any member of a civilized society against his will is to prevent harm to others. His own good, whether physical or moral, is not a sufficient guarantee of his own, of his own body and mind, of the sovereign individual.

The basis of moral obligation is primarily found in the nature of human existence. In humans there are various things that must be done, such as the need to maintain life and to continue offspring. Besides that, considering that humans are rational, this need is also aimed at seeking the truth. The basic moral truth is the command to oneself about "do what is good and avoid what is evil." Then, it is necessary to question "what is good and what is evil?" What is the measure for determining good or evil? To answer this problem, Thomas Aquinas referred to natural law.[11] The existence of morals in the formation of law as a value accepted by society means that it can be hoped that the law can be implemented voluntarily.

The polemic about where morals come from goes hand in hand with the polemic about where law comes from. Many theories have been created to answer the question of where the origin or source of these morals comes from, among others:

[10] Iin Ratna Sumirat, 'Penegakan Hukum Dan Keadilan Dalam Bingkai Moralitas Hukum' (2021) 11 Al Qisthas Jurnal Hukum dan Politik.[86].

[11] Marzuki (n 2).

i. Theological theory says actually morals come from religious teachings (from God). Therefore, what is considered to be highly moral (recommended and even required to be done) must be taken into account for certainty in the rules contained in the holy books and/or in what was taught by the prophets sent by God to this world.
ii. The theory of reason teaches that what is considered a moral violation is actually determined by human reason and reason without the need for God's instructions or intervention.
iii. Sociological theory teaches that what is considered moral and what is considered to violate morals, is not an eternal thing, but always changes and varies from one place to another, from one region to another, in accordance with the development of thought that lives in that society.
iv. Historical theory teaches that which actions are considered immoral and which actions are considered immoral in a society's life all have long existed in society, which can be traced in its history.[12]

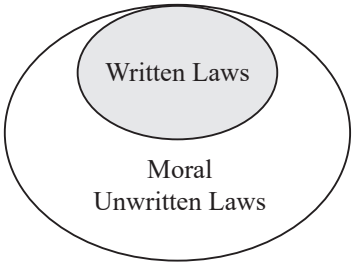
From what has been stated above, it turns out that there is still no answer to the certainty of the origin of morals because morals themselves are essentially good things that can be accepted by all humans in different and far-flung areas, even if you only rely on ratios, sociology and history to find and determine types of morals, you cannot guarantees that it will produce universal morals because it is limited to the level of maturity of ratios, culture and external factors that influence the formation of morals. One thing that can still be universally accepted is the theological theory where morals are derived from Allah the Almighty Creator, which means these values have universal truths that can be accepted by all humans and are permanent and do not change, or if there is an interpretation it will not be far from its original source.

If all law must be based on morals (Thomas Aquinas), then in the future it refers to the legal form and moral form, whether the moral form is smaller or greater or the same as the legal form, and vice versa. For example, if walking past an elderly person who is sitting on the floor without permission is a violation of good manners, it is a moral violation, then if the law is always written and there is a decree by the state, then it is related to this, in this case there is no written law that regulates politeness. So law is smaller in form than morals, meaning that there are

[12] Munir Fuady, *Teori Teori Besar (Grand Theory) Dalam Hukum* (Kencana 2013).[80].

morals that are not regulated and sanctioned (unwritten laws). So the legal ratio of laws that are not based on morals is not law, as illustrated in Figure 1 below:

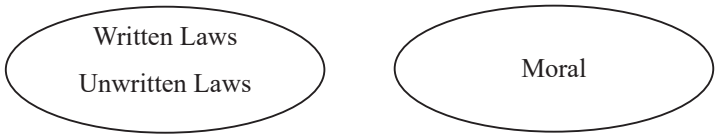
Figure 1. The Position of Written and Unwritten law



Source: illustration by the author

However, according to the positivist view, law and morals are not related or even intersect at all. This means that morals are a value that is not related to law, and vice versa, as illustrated in Figure 2 below:

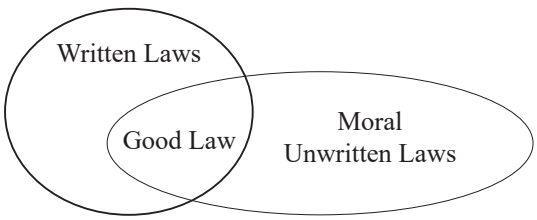
Figure 2. There Is No Connection Between Law And Morals



Source: illustration by the author

Regarding the positivist view which separates law and morals, this is an incorrect view because, even though they are pragmatic, the truth is only for a group of people as long as what is formed is not bad law; it is still said that the law is based on morals, that is, the law formulated is moral which is a concern to regulate in regulations. In such cases, the written law has a form that intersects with morals and becomes good law, as illustrated in Figure 3 below:

Figure 3. The Intersection Of Written Law And Unwritten Law Is Good Law



Source: illustration by the author

Then, next, how do these morals have benchmarks; the category of imperatives originating from Kant which is perhaps the most famous benchmark in all moral philosophy that has captured the public's attention. The imperative category is "actions only correspond to maxims (morals) in a way that you at the same time find that the action will become a universal law".[13] This means that an action is in line with morals if the action contains universal values.

Morals, in this case, are where people base their judgments on conscience; the weakness of conscience as a measure of morality lies in the relativity of conscience truth because it is subjective, depending on each person's awareness. The human conscience is like a mirror that functions to reflect. If the mirror is clean, then a person can reflect clearly on his or her existence, but if the mirror is full of stains or dirty, then a person cannot reflect properly. A clean conscience can clearly differentiate between good and bad actions, but a conscience full of blemishes will not be able to differentiate between good and bad actions.[14]

Morality from a religious perspective consists of moral doctrines according to Islam, Christianity, Catholicism, Judaism, and Buddhism, and so on. Morality benchmarks from a religious perspective have many similarities, but also differences. For example, differences in Islamic and Christian doctrine regarding the halalness of pork and the legality of polygamy. Morality can be seen from an ideological perspective, for example, morality according to the ideologies of utilitarianism, socialism and capitalism.[15]

Meanwhile, in Islam, law and morals are closely interconnected, cannot be separated and have no clear boundaries. This is because law and morals have the same goal; in terms of their sources (law = reason, morals = religion, according to the rational school) it is impossible to contradict them in Islam, in other words it is impossible for reason and revelation to be contradicted. Even the prophet

[13] Sam Harris, *The Moral Landscape How Science Can Determine Human Values* (Transworld Publisher 2010).[81].

[14] Salman Luthan, 'Dialektika Hukum Dan Moral Dalam Perspektif Filsafat Hukum' (2012) 19 Jurnal Hukum Ius Quia Iustum [506-510].

[15] Luthan (n 14).

Muhammad himself was sent to perfect morals and all perfection in life can only be achieved with the existence (upholding) of the law itself. That is why the law must remain in line with Islamic moral values (akhlak) and must not be separated.[16]

Table 1. of Differences in Law, Religion and Morals.[17]

Rule Based On	Laws	Moral	Religion
Sources	From The Community Represented By The Government	From Within Humans Themselves	From God to Scripture
Content	Regarding Birth Attitudes	Concerning Inner Attitude	Regarding physical and mental attitudes
Penalty	External in the form of criminal penalties and fines	Internal of the perpetrator himself	Internal, namely in the form of sin

Source: Eri Hendro Kusumo, *Journal of Pancasila and Citizenship Education*

The author does not agree with the absolute separation between legal and moral rules, because many regulations have criminal sanctions but these behaviors have moral values, meaning that there cannot be a strict separation between law and morals. Law is institutional, morality is controversial and personal. Law is authoritarian in nature, overcoming problems with authoritarian actions as well. Meanwhile, morality is different and independent, in the sense that morality is always open to argumentation to reach the same words. Law is heterogeneous in nature, which binds us without exception, while morality is autonomous in nature, which binds us to our own decisions and desires.[18] Morals are then positioned as a product of the divine ideal world, and law is positioned as the fruit of social life or the rational world of humans. Because law is considered realistic-rational, and morals idealistic-irrational, modern society only gives law a wider space for existence, compared to the opportunity to live up to morals. In this context, the dichotomy of law and morals is understood as an epistemological problem. The

[16] Nur Taufik, 'Syariah : Antara Hukum Dan Moral' (2020) 20 Jurnal Al Risalah.[79, 96].

[17] Eri Hendro Kusuma, 'Hubungan Antara Moral Dan Agama Dengan Hukum' (2015) 28 Jurnal Pendidikan Pancasila dan Kewarganegaraan.[96, 101].

[18] Kusnu Goesniadhie S., 'Perspektif Moral Penegakan Hukum Yang Baik' (2010) 17 Jurnal Hukum Ius Quia Iustum.[195].

dichotomy does not stop, because the influence of epistemology has implications for social and legal system phenomena on a hegemonic scale. On the other hand, awareness of moral truth is also not completely eliminated from people's lives. Meanwhile, legal truths that are accepted in the consciousness of the majority are gaining stronger influence in the modern life system.[19]

According to Immanuel Kant, legal rules are heteronomous, while moral rules are autonomous. The heteronomous nature of legal rules means that it is external power that imposes its will on humans, namely the power of society or the state. People obey the law because there is a power that forces them to obey unconditionally. Meanwhile, the autonomous nature of moral rules means that moral commands are based on a person's will for himself. Each person must determine according to his conscience what is morally required of himself. Moral rules are obeyed by humans because of the encouragement of their own will (awareness). Law and morals also have differences in their enforcement instruments. Morals are rooted in the voice of the human heart, from the inner strength contained within humans. Obedience to moral rules is voluntary. The only power that supports morals is the power of human conscience. On the other hand, obedience to the rule of law is not only supported by the inner strength of the human conscience, but is mainly enforced by external instruments of power in the form of institutions and law enforcement apparatus. Thus, a moral law will have two binding powers, namely external binding power and internal binding power. In this day and age, especially after the Second World War, there is increasing awareness that law must be linked to morals (justice) so that it can be seen as law. Or, in other words, people are increasingly convinced that positive law must comply with certain norms, namely the principles of justice. If a legal system that does not meet these requirements is still recognized as law, then law can no longer be differentiated from power.[20]

[19] Syafruddin Muhtamar and Muhammad Ashri, 'Dikotomi Moral Dan Hukum Sebagai Problem Epistemologis Dalam Konstitusi Modern' (2020) 30 Jurnal Filsafat.[123].

[20] Sukarno Aburaera, *Filsafat Hukum Teori & Praktis* (Kencana 2010).[33].

Contemporary positivism, for the most part, accepts the idea that positivism is inconsistent with an obligation to obey the law qua law (Himma, 1998), but holds that a norm's status as a mere law cannot give rise to a moral obligation to obey it. Although there may be a moral obligation to obey a particular law because of its moral content (e.g., a law prohibiting murder) or because it solves a coordination problem (e.g., a law requiring people to drive on the right side of the road), the fact is that is that the law does not provide a moral reason to do what the law requires. The separation of law and morals is influenced by the secularization of human life, which separates worldly life, which is state (political) affairs, and hereafter affairs which is the domain of morals and religion.[21]

In its development, legal positivism certainly cannot be maintained as it was when it was born because society is developing so quickly. The development of society cannot be separated from social reality, which experiences changes from time to time. The existence of law is expected to be a way to solve problems that arise in society. Laws that are separated from morals cannot reach the bottom of society, they are eroded by the dynamics that are increasingly developing in society which then gives rise to conflicts of interest between the state and society.[22]

b. Legal Concepts in Corruption Crime and the Obligation to Comply with Court Decisions.

a) Restrictions on the Freedom of State Apparatus

Restrictions on freedom use law as a tool. In principle, restrictions on state officials are that state officials always work based on existing rules, and are occasionally given discretionary authority. However, this excess of authority is prevented by administrative legal instruments and special public law which regulates the eradication of acts of criminal corruption. However, state officials are ordinary people who are inherent in the spirit of selfish

[21] Imam Ghozali, 'Dialektika Hukum Dan Moral Ditinjau Dari Perspektif Filsafat Hukum' (2019) 02 Murabbi:Jurnal Ilmiah dalam Bidang Pendidikan.[18].

[22] Cahya Wulandari, 'Kedudukan Moralitas Dalam Ilmu Hukum' (2020) 8 Jurnal Hukum Progresif.[1].

desires by using the power they have, so they can personally take action to enrich themselves and others from state assets recorded in the asset and financial balance sheet by officials with various methods and modus operandi. For example, public officials arrested by the KPK who are suspected of committing criminal acts of corruption in 2022 are:

a. The Mayor of Bekasi;
b. Supreme court judge;
c. Civil servant at the supreme court;
d. Ect.

Likewise, non-compliance by officials with court decisions is a violation of the principle of the rule of law, which requires administrative justice for officials who violate the law and the compliance of officials to implement court decisions. For example, things that officials do not carry out:

1. The judgment of a court case number 123/G/2012/PTUN. Sby 24 June 2013 jo case number: 70/B/2013/PT.TUN. Sby 21 February 2014, between the Head of Seketi Village, Balongbendo District, Sidoarjo Regency counter Solihin, where the Head of Seketi Village was unwilling to reappoint plaintiff Solihin as a village official;
2. The judgment of a court case number 139/Pdt.G/2018/PN SDA jo number 175/PDT/2019/PT SBY jo number 1019 K/Pdt/2020 between the Head of Gilang Village, Taman District, Sidoarjo Regency counter Heri Raharjo, where the Head of Gilang Village was unwilling to provide land history to the defendant regarding the land that the village claimed was village land, which was rejected by the court decision of the Gilang Village Head's lawsuit;
3. The judgment of a court case number 119/Pdt.G/2013/ PN. Sda dated 16 October 2013 jo Surabaya High Court decision number 279/PDT/2014/ PT.SBY tanggal 18 August 2014 jo Mahkamah Agung RI cassation decision number 623 K/Pdt/2015 dated 22 June 2015 Jo putusan perkara peninjauan kembali number 82 PK/Pdt/2017, between the Head of Krembung Village, Krembung District, Sidoarjo Regency counter H. Solichin/H. Solikin M. Soleh, where the Head of Krembung Village was unwilling to hand over the ex-gogol land controlled by the village to the actual owner, namely the plaintiff;
4. Administrative court decision Bandung number 41/G/2008/PTUN-BDG dated 4 September 2008 in conjunction with number 241/B/2008/ PT.PTUN.JKT on 11 February 2009 in conjunction with the review of the Supreme Court of the Republic of Indonesia number 127 PK/TUN/2009 on 09 December 2010, between the Head of the City Planning and Parks Service of Bogor City and the Indonesian Christian Church, which was

won by the plaintiff but the defendant still did not implement the decision of the Bandung State Administrative Court which has permanent legal force and was sentenced to revoke the suspension of the church's permit;

5. Administrative court decision number 58/G-TUN/2010/PTUN. Mks jo number 28/B.TUN/2011/PT.TUN.Mks. jo number 293 K/TUN/2011 between the Regent of the Selayar Islands and Muh. Arsad was won by the plaintiff but the Regent of Selayar was still unwilling to reappoint the plaintiff as a civil servant even though he had reported it to the President.
6. Administrative Court Decision number 20/G/2013/PTUN-KPG, between the Regent of Rote Ndao and the Head of the Rote Ndao Youth and Sports Education Service against Silvester Wangur The defendant, who lost, was unwilling to implement the decision and still did not pay the plaintiff's salary as ordered by the court decision.
7. Administrative court decision 9/G/2014/PTUN. Bna jo perkara number 05/B/2015/PT.TUN. Mdn, between the Mayor of Banda Aceh and MK. The Mayor of Banda Aceh was still unwilling to appoint MK to the acting position. of Technical Director of the Tirta Daroy Banda Aceh Regional Drinking Water Company, even though a court decision has ordered him to be reappointed.
8. Administrative court decision number 5/P/FP/2017/PTUN. Sby between Petitioner Rido Lelono and Gebang Village, Sidoarjo District, Sidoarjo Regency. The main dispute is that Rido Lelono feels he owns a plot of pond land covering an area of two hectares with proof of a photocopy of the Decree of the Head of the East Java Agrarian Inspection dated 19 September 1964, and asked the Gebang Village Head to issue a land history in the name of the Petitioner. The Gebang Village Head was not willing to issue a land history because it was on a plot. The land is being sentenced to Conservatory Beslag by the Sidoarjo Religious Court in an inheritance dispute between Djen and Ms. Azza et al. (who are brothers) in case number 3452/Pdt.G/2014/PA.Sda; however, the decision of the Surabaya PTUN Panel of Judges defeated the Gebang Village Head and ordered the Gebang Village Head to issue a Land History in the name of the petitioner. The Head of Gebang Subdistrict's considerations for not implementing the decision of the State Administrative Court if he releases the land history means that he will be personally responsible because the heirs of Ms. Will criminally report Azza, etc.

Here it is important that the law be drafted in such a way as to be in the interests of all parties so that there are no losses or actions that could harm others and oneself as per the view of legal paternalism. It is permissible for states to legislate against what Mill called "selfish acts" when necessary to prevent individuals from inflicting severe physical or emotional harm on themselves. As Gerald Dworkin explains, paternalist interference is "an

interference with a person's freedom of action that is justified by reasons that refer exclusively to the welfare, goodness, happiness, needs, interests, or values of the coerced person." So, for example, laws requiring the use of a helmet when riding a motorbike is a paternalistic intervention that is justified because it concerns the safety of the rider. Likewise, the state's restrictions on state officials not to commit corruption are actually so as not to harm the institution (the state). However, in reality this is not sufficient to prevent state officials from committing corruption and many do not even care about the losses to their institutions. This also happens to officials who do not carry out court decisions, which results in people's rights not being fulfilled, even though there are provisions in the procedural law at the PTUN and at the District Court for executions based on Article 116 of Law Number: 5 of 1986 concerning State Administrative Courts, which is known as hierarchical execution of superior officials.

Dworkin argues that Mill's view that a person "cannot be compelled to do or refrain for his own good," precludes paternalistic laws that a fully rational individual would agree to. According to Dworkin, there are things like health and education, which every rational person needs to pursue for his or her own good – no matter how that good is understood. Thus, Dworkin concludes that the achievement of these basic things can legally be prioritized in certain circumstances by using the power of state coercion.

In the formulation of regulations regarding acts of corruption by state officials, restrictions are given to prohibiting misappropriation of the state budget, because there is a priority interest, namely the implementation of correct government and providing prosperity to society in the concept of a welfare state. Regarding officials who do not carry out court decisions, there are obstacles because the hierarchical nature of execution really leaves it up to the volunteerism of officials and superior officials to oversee the implementation of decisions.

Dworkin offers a hypothetical consent justification for his limited legal

paternalism. In his view, there are a number of different situations in which fully rational adults would consent to paternalistic restrictions on freedom. For example, Dworkin believes that a fully rational adult would agree to paternalistic restrictions to protect him from making decisions that are "far-reaching, potentially dangerous, and irreversible." Nevertheless, he argues that there are limits to legitimate paternalism:

a) The state must show that the behavior regulated by restrictions through regulations explains the type of loss that, using rational thinking, is an undesirable loss;
b) In the judgment of a rational person, the potential harm outweighs the benefits of the prohibited behavior; And
c) The restrictions set are the least restrictive to protect against harm. In acts of corruption, the danger that arises is personal, namely that state officials commit immoral acts by taking state assets which are actually the rights of all the people in the country. Then the next danger is aimed at the state, which is no longer able to provide maximum welfare because its wealth is decreasing and it is busy taking care of its own officials who are like mice in the house. Furthermore, the most devastating danger is if corruption becomes commonplace and an obligation among the perpetrators. The danger of not implementing court decisions, which in principle are that court decisions are the law, is that officials violate the law and take away people's rights in decisions arbitrarily. Meanwhile, execution arrangements are only hierarchical, meaning there is a legal loophole for officials not to carry out decisions in the procedural law itself.

b) Moral Obligations of State Apparatus

The morale of state officials determines the sustainability of development in all aspects of society. Because, with good morals, even though the law does not contain moral values, it can be implemented with good foundation and good faith. The principles in administrative law and special criminal law/corruption crimes are for officers to carry out their duties within predetermined lines and guidelines.

The moral obligations of state officials are basically clear, namely carrying out their duties in accordance with the provisions that apply in state life; whether these provisions have universal moral values or only pragmatic values.

John Rawls (1964) argued that there is a moral obligation to obey the law qua law in a society where there is a mutually beneficial and just scheme of social cooperation. What gives rise to a moral obligation to obey the law qua law in such a society is a just duty. Justice requires the obedience of people who willingly accept the benefits available in a society organized around a just scheme of mutually beneficial cooperation. It seems that the essence of John Rawls' opinion still has no breath in our country.

The moral obligations of state officials are basically clear, namely carrying out their duties in accordance with the provisions that apply in state life, whether these provisions have universal moral values or only pragmatic values.

c) Providing Punishments for State Apparatus

Joel Feinberg believes that the tort principle does not provide adequate protection against the wrongful conduct of others, because it is inconsistent with many of the criminal prohibitions that we naturally regard as justified. If the only legitimate use of the state's coercive power is to protect people from harm caused by others, then laws prohibiting public sex are impermissible because public sex may offend but not cause harm (in Millian's sense) to others. Therefore, Feinberg argues that the harm principle should be supplemented by the offense principle, which he defines as follows: "It is always a good reason to support a proposed criminal prohibition that it is likely to be an effective means of preventing serious offenses (as opposed to injuring or harm) anyone other than the actor, and it may be a necessary means to that end." By "violation," Feinberg means both subjective and objective elements: the subjective element consisting of the experience of an unpleasant mental state (e.g., shame, disgust, anxiety, shame) the objective element consisting

of the presence of a false cause of such a mental state.

The justification for punishment for officials who commit corruption is clearly regulated in our country's regulations with the threat of fines, compensation and prison sentences and even the death penalty. This is to fulfill the retributive theory and restitution theory. The punishment instrument is ready and is related to the norms of prohibition and mourning regulated therein. However, acts of corruption are still carried out and there is no sense of deterrence for the perpetrators; this is very unfortunate because these punishment instruments do not achieve their ultimate goal, namely ending corruption. Likewise, officials who do not implement court decisions are regulated in Peraturan Pemerintah Government Regulation no. 48 of 2016 concerning Procedures for Imposing Administrative Sanctions on Government Officials.

Article 3:

(1) Government Officials have the obligation to:
L. Comply with the Court's decision which has legal force still
Article 7 letters (f):
moderate administrative sanctions as intended in Article 4 letter b are imposed on government officials if they do not:
f. Carry out valid decisions and/or actions and decisions that have been declared invalid or canceled by the Court or the relevant official or superior

Article 9 number 2:

Moderate Administrative Sanctions as intended in Article 4 letter b, are in the form of:
(a) payment of forced money and/or compensation
(b) temporary dismissal by obtaining office rights; or
(c) temporary dismissal without obtaining the rights of office.

That the mechanism for implementing TUN Court Decisions is subject to administrative sanctions in the form of payment of forced money and/or compensation, temporary dismissal while obtaining office rights or temporary dismissal without obtaining office rights is imposed cumulatively and alternatively. Regarding dwangsom and compensation for not implementing court decisions, there is no specific regulation regarding the mechanism and amount of value that

must be imposed in this regulation.

In explanation Article 9 number 2 letter a:

Letter a What is meant by "forced money" is a sum of money that is deposited as collateral for the Decision and/or Action to be implemented so that when the Decision and/or Action has been implemented the forced money is returned to the relevant government official.

Article 11

(2) Medium Administrative Sanctions or heavy Administrative Sanctions as intended in Article 9 paragraph (2) and paragraph (3) can only be imposed after going through an internal examination process.

In imposing administrative sanctions, processes and procedures are required to be carried out internally by the government through APIP, so that court intervention is no longer needed in imposing administrative sanctions. There will be problems if the government itself does not carry out an internal inspection process for its officials, then this arrangement will be in vain

The Impact of Legal Uncertainty Due to Unlawful Behavior of State Administrative Officials.

According to Kelsen, law is a system of norms. Norms are statements that emphasize the "should" or das sollen aspect, by including several rules about what should be done. Norms are the product of deliberative human action. Laws containing general rules serve as guidelines for individuals to behave in society, both in their relationships with fellow individuals and in their relationships with society. These rules become limits for society in burdening or taking action against individuals. The existence of these rules and the implementation of these rules give rise to legal certainty.[23] Likewise, state officials or officials in implementing these regulations are given a legal obligation to comply and obey, even though officials whose morals are not good will mean that these regulations are not implemented properly.

The good behavior of officials regarding corruption and not implementing court decisions creates legal uncertainty, because officials implement laws and

[23] Peter Mahmud Marzuki, (n.2).[158].

procedures that can exploit legal loopholes to enrich themselves. If left unchecked, corruption will become like an epidemic that will penetrate all aspects of national and state life. And it will be very difficult to control the perpetrators of corruption who are caught. This is just a tip of the iceberg phenomenon, where actually there are more corruption perpetrators than those who appear in the public news, which is excited about the arrests of state officials. Corruption of the state budget or forms of bribery will weaken state development so that state development becomes slow. Furthermore, if talking about morals becomes something that needs to be questioned again, is the moral prohibition of corruption still relevant as a prohibited act, even though almost everyone who has the opportunity does it. Furthermore, regarding administrative courts for officials, it does not guarantee that the officials will carry out decisions, giving the public confidence that the principle of the rule of law does not operate in that country, so that the sense of security of the people in our country can no longer be guaranteed because the officials are arrogant and arbitrary.

For officials, the basis for carrying out their duties is through administrative law, one of the concepts of which is Good and Clean Governance and Public Service Bureaucratic Performance. Public service or public services, is the provision of services either by the government, private parties on behalf of the government or private parties to the public, with or without payments to meet the needs and/or interests of the community. There are several reasons why public services are a strategic point to start development and implementation of *Good and Clean Governance* in Indonesia.

Obsorn and Gaebler (1992) convey the following 10 bureaucratic concepts:

a. *Catalytic Government: Steering rather than rowing.* The apparatus and bureaucracy act as catalysts, who do not have to carry out development themselves but simply control existing resources in society. Thus, the apparatus and bureaucracy must be able to optimize the use of funds and resources in accordance with the public interest.
b. *Community-owned government: empower communities to solve their own problems, rather than merely deliver service*. The apparatus and bureaucracy must empower the community in providing services. Community organizations such as cooperatives, NGOs and so on, need to be invited to solve their own problems, such as security, cleanliness, school needs, cheap housing and so on.

c. *Competitive government: promote and encourage competition, rather than monopolies*. Apparatus and bureaucracy must create competition in every service. With competition, the private and government business sectors compete and are forced to work more professionally and efficiently.
d. *Mission-driven government: be driven by mission rather than rules*. Apparatus and bureaucracy must carry out activities that emphasize achieving what is their "mission" rather than emphasizing regulations. Each organization is given leeway to produce something in accordance with its mission.
e. *Result-oriented government: result oriented by funding outcomes rather than inputs.* Apparatus and bureaucracy should be oriented toward good performance. Such agencies must be given greater opportunities than agencies whose performance is less.
f. *Customer-driver government: meet the needs of the customer rather than the bureaucracy*. The apparatus and bureaucracy must prioritize meeting the needs of the community, not their own needs.
g. *The prising government: concentrate on earning money rather than just spending it.* The bureaucratic apparatus must have officers who know the right way to make money for their organization, as well as being good at saving costs. In this way, employees will get used to living frugally
h. *Anticipatory government: invest in preventing problems rather than curing crises*. It is better to prevent than to extinguish fires. It is better to prevent an epidemic than to treat a disease. In this way, a "mental switch" will occur within regional officials.
i. *Decentralized government: decentralized authority rather than building hierarchy*. Decentralization is needed in government management, from being hierarchically oriented to being participatory with the development of teamwork. In this way, subordinate organizations will have more freedom to be creative and take the necessary initiatives
j. *Market-oriented government: solve problems by influencing market forces rather than by treating public programs.* Apparatus and bureaucracy must pay attention to market forces. Supply is based on market needs or demand and not vice versa. For this reason, policies must be based on market needs

Good and clean governance and social control is needed to realize good and clean government based on the basic principles of good and clean governance. This can at least be done through program priorities:

a. Strengthening the function and roles of representative institutions,
b. Independence of judicial in institutions,
c. Professionalism and integrity of government officials,
d. Strengthening civil society participation, and
e. Increasing people's welfare within the framework of regional autonomy. By implementing regional autonomy, achieving a level of prosperity can be realized more precisely which will ultimately encourage community independence.

Corruption is a big problem that damages the success of national development. Corruption is the behavior of individuals who use authority and position to achieve personal gain, harming the public and state interests specifically. Corruption causes the economy to become unstable, politics are unhealthy, and the nation's morals continue to decline. Jeremy Pope stated that corruption occurs when opportunity and desire exist at the same time. Opportunities can be reduced by making changes systematically. Meanwhile, desire can be reduced by reversing the "high profit, low risk" strategy to "low profit, high risk," by enforcing laws and threats effectively, and establishing accountability mechanisms.

Why does corruption persist on a wide scale in our country? Humans are basically individuals who have the desire to prosper to be able to support themselves and their families properly despite feelings of fear and neglect. In order to become a human being who can compete with the progress of the times, to get the best life in his life, people realize that, to achieve this, they have to make efforts by working to produce substitute wages for other needs. The concept of humans with primary, secondary and tertiary needs has been included in the state agenda in the welfare state; this provision of welfare should also be given to officials with adequate salaries and allowances evenly with different scales according to their duties and responsibilities. In our country, salaries and allowances are different for each central and regional institution, there is no clear remuneration yet, as the state's commitment to ensure that corruption does not occur within its officials. And the average welfare of officers is below appropriate standards when compared with other countries. An employee with a low salary with great power will arise in him the impulse to use this opportunity to make ends meet by means of corruption. If these employees are allowed to rule, excessive greed will arise, so that efforts to regulate anti-corruption with the Anti-Corruption Law will be in vain if the officials experience deficiencies in meeting their primary needs for life. This relationship becomes a complex system and symbiosis that is difficult to repair. The state must realize that if there is a lot of corruption in its body then there are errors in the concept and management of its apparatus. Corruption is a sign of failure to implement the concept of a welfare state for its officials.

The moral position that underlies the regulation of corruption has been abandoned or even not adhered to because the authorities have been shackled by trying to meet primary and secondary needs, even because of their greed to fulfill excessive tertiary needs due to the high level of power they have. Law enforcement efforts will find it difficult to resolve this problem, because these authorities have become super powers and, with the large amount of wealth they own, no law enforcement agency can put them in prison. Improvement should start with providing appropriate welfare for officers and strict and tough law enforcement. Regarding court decisions that must be implemented by officials, superior officials need to be firm in punishing their subordinates who do not implement court decisions. If necessary, sanctions should be given to compensate the official's personal assets. And legal reform must be immediately carried out comprehensively by the President together with all the people.

Conclusions

Law and morals should not be separated because the initial aim of law is to implement moral values. To make morals and law a controlling force in a country, it is necessary to have existing state power from each holder of state power, namely: Judiciary, Legislative, and Executive, synergizing together in making laws, with good faith in their hearts and sincere morality to create a – form of law that is great and has noble value.

The implementation of moral lawmaking needs to be balanced by law implementers and law actors who have good moral intentions to implement the law for the sake of noble values. The actualization of the principles of good and clean governance at the strategic level is the guideline so that power holders, especially executives, can proceed according to the flow. Morality is important so that change can occur by fulfilling the officers' need to be moral because prison sanctions alone are not enough. A moral approach is not enough. Providing decent welfare and being able to meet primary, secondary and even tertiary needs lightly by the state to its officials is a form of respect for the heavy duty the state

carries in serving a complex society. Providing strict and severe punishments to its officials is a moral contract. Justification theory of punishment usually has five forms: (1) retributive; (2) prevention; (3) prevention; (4) rehabilitative; and (5) restitution, but in this case the most appropriate is to use the justification theory of retributive law and restitution. There is a close connection between the bad morals of state officials and behavior that violates the law. The good morals of state officials will make the behavior of state officials high and far from breaking the law.

According to retributive justification, what justifies punishing someone is that he committed an offense that deserves punishment. In this view, it is morally right that someone who has committed a wrongful act should suffer in proportion to the magnitude of his wrongdoing. For example, a minimum sentence of life imprisonment and a maximum sentence of death are stipulated for the perpetrator. The justification for restitution focuses on the effect of the perpetrator's actions on the victim. While other theories of punishment conceptualize wrongdoing as a violation against society, restitution theories view wrongdoing as a violation against the victim. Thus, according to this view, the main aim of punishment should be to make the victim whole as far as this can be done: "The point is not that the perpetrator deserves to suffer; rather the offended party wants compensation" (Barnett, 1977, p. 289). This means that state losses must be recovered in full by confiscating the personal assets of the perpetrator and his family until the value of the loss is met.

Improvements are needed to procedural law in both administrative courts and district courts which regulate that, if officials do not implement court decisions, then confiscation of the official's personal assets is carried out to recover losses suffered by the community. And if an official's personal assets are insufficient, a prison sentence will be replaced.

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