



CRIMINAL LAW REFORM RELATED TO IMPLEMENTATION OF CRIMINAL SANCTIONS IN CASE OF CORRUPTION PROCUREMENT OF GOODS FOR JUSTICE-BASED INFRASTRUCTURE DEVELOPMENT

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Abstract: National development is the true goal of the country, development national could achieved onethrough development clean infrastructure from practice Corruption, Collusion, and Nepotism. Problem development mature country infrastructure this many touch with act criminal corruption. This thing also affect the owner service procurement designated goods and services as executor field. state thus Becomes the more critical with no arranged threat criminal in regulation service construction building. Implementation penalty criminal corruption procurement goods To use development infrastructure not yet based on politics law procurement goods, so penalty criminal position still sumir, because problem procurement goods should no could by direct worn penalty criminal as ultimate remidium, remember procurement goods set with law administration no law criminal, as for threat criminal only as drug final when violation in the realm procurement goods in development infrastructure no under control. So that need added provision in Law no. 1 of 2004, namely paragraph (25) in Article 1 of Law no. 1 of 2004 which states act criminal procurement goods is action profitable self alone in maintenance procurement goods and services that can be detrimental to the state and/ or individuals and/ or legal entities. Then Article 64A of Law no. 1 of 2004 which states that as for type threat criminal as meant in Article 64 consists of from criminal imprisonment for a minimum of 4 years and a maximum of 20 years with criminal fine of Rp. 10,000,000,000.00.

Keywords : Construction Building; Corruption; Crime; Reform.

1. INTRODUCTION :

The State of Indonesia is a state of law, this give birth consequence that all action every party in this country must based on applicable law, view this To use ensure realization the ideal state order with based on respect and protection Right basic Human. In maintenance life nation, government sued for advance well-being fair public social for whole Indonesian people. Then for realize Thing that, the government obliged provide need people in various shape in the form of goods, service, and development infrastructure. On the other hand, the government also needs goods and services that in carry out activity government. Fulfillment need goods and services is important part in maintenance government (Sogar Simamora, 2013) ¹ As a state based on Pancasila as well as a developed country, Indonesia has obligation for run the law at a time ensure realization even distribution development, so that at one side procurement goods To use development development - oriented infrastructure centric, but on the other hand this country must also capable ensure law through mechanism procurement such thing complicated can also be realized.

¹Sogar Simamora, *Contract Law, Contracts Procurement Government Goods and Services in Indonesia*, Wins & Partners Law Firm and LbJ, Surabaya. 2013, p. 1.



So that clear that procurement goods to use development infrastructure no capable inseparable with the rules law related. birth system law and system mechanism procurement more and more stuff tight , basically caused height act criminal corruption in procurement goods To use development infrastructure in the country . The electronic mass media, nasinal.kontan.co.id, noted that that in 2017 it has been there is state losses of 1.5 trillion Rupiah due to existence corruption in procurement goods o use development infrastructure (nasinal.kontan.co.id, 2020)²

Then in 2019 the number case corruption procurement goods to use development infrastructure of 174 cases with total perpetrator of 389 people with total loss caused of Rp. 957, 34 Billion Rupiah (<https://anticorrupsi.org/sites/default/files/documents>, 2020).³ This thing clear showing that line procurement goods and services related development infrastructure in this country is very line strategic for the perpetrators corruption in operate the crime that. So that political law criminal corruption procurement goods To use development infrastructure own pending position . This thing Becomes base that political law criminal corruption procurement goods to use development infrastructure need tightened up again. Could is known together that Settings related with penalty criminal to perpetrator criminal corruption procurement goods in development infrastructure still many own gap and have enough sumirity high. View this could seen in Settings criminal procurement goods related construction infrastructure in Constitution Number 1 Year 2004 Related State Treasury. In Article 62 and Article 64 no explained type criminal in problem procurement goods and services, on explanation Constitution neither is this explained with clear regarding type penalty punishable crime. Besides law Number 1 of 2004, then in Constitution neither is this formulated with clear the subject in question with criminal procurement goods and services, obscurity Settings crime is also visible in regulation executor related. That thing could seen in the form of no arranged provision penalty clear crime to perpetrator crime corruption procurement goods To use development infrastructure in Article 78, Article 79, and Article 80 to Article 81 Regulation President Number 16 of 2018 About Procurement Government goods/services. So that part big case procurement goods and services often charged provision Constitution eradication corruption . This thing clear result in not justice for public especially the affected parties noose case procurement goods and services related development infrastructure . remember party second as provider service often become a victim of punishment although has follow existing mechanism.

2. LITERATURE REVIEW :

Failure to build offenses differ from other criminal offenses including corruption offenses, the difference is that they are carried out by parties related to building construction activities, losses are related to the issue of failure to build losses both in the context of the building and the development budget. The act of failing to wake up must be contrary to the technical provisions that have been set. Done on purpose. These elements clearly provide limits on failure to wake up that can be criminalized and can only be resolved through civil and administrative efforts. In fact, this provision was abolished in Law Number 2 of 2017 so that it resulted in a criminal sumirity of failing to build in the policy of building construction services. This article intends to discuss this issue.

3. MATERIALS :

The data source in this article is information obtained directly through research in the field. Primary data is done by conducting in-depth interviews, which is a way to obtain information by asking directly to the interviewees. This interview was conducted to obtain information or information related to the problem under study. In addition, this article is also sourced from laws and regulations related to the issue of failed building construction.

4. METHOD:

The approach used in this article is approach normative where studies carried out related with abomination rules and norms law.

5. DISCUSSION:

Based on the principle ultimate remedy, then pattern eradication corruption with make it easy penalty criminal only as long this applied not enough effective because no stop deed corruption by others. Punish perpetrator just stop deed corruption committed by the convicted person course. deed corruption by others continues walk. Although punish perpetrator with penalty serious crimes and even until with punishment dead as determined in Article 2 paragraph (2) of Law Number 31 of 1999 as has changed with Law Number 20 of 2001, no will effective for prevent deed corruption.

²nasinal.kontan.co.id, Accessed December 12 , 2020.

³ <https://anticorrupsi.org/sites/default/files/documents> . Retrieved December 12 , 2020.



Commission Eradication Corruption (KPK) is a special agency formed for eradicate corruption, it turns out still not able stop rate corruption. The problem because eradication only put forward aspect criminal that is punishment course. From the corner theory scare / effect deterrent, indeed severe punishment _ could slow down rate corruption, but no could stop deed corruption. Implication from prioritize and rely on pattern eradication corruption with law criminal just make officials _ reluctant Becomes office in procurement goods and services good as PPK or Service Unit Procurement (ULP)/ Committee Procurement. Implication from Thing the is in the absorption of the APBN / APBD. This thing impact on inhibition development consequence existence problems in the procurement process goods and services. Obstacles this caused dilemma in implementation the most common punishment no appropriate target (<https://media.neliti.com>, 2020)

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This thing because a lot gap between the parties do corruption or as means drop party opponent political power or as means kill character a office. Existence fact that case procurement goods often Becomes means someone in political power could seen with existence fact that post birth system surveillance to procurement goods To use development tight infrastructure _ with involve Commission Eradication Corruption in this country , resulted in part office reluctant Becomes office Maker Commitment or PPK.

Handling case deviation procurement goods and services , should be started with identify and classify is deviation the including in realm law administration or law civil or law criminal . Steps of identification and classification this important for know rule which law (rechtsregel) will applied to the in - concreto case . Characteristics Follow criminal corruption no could equated with crime conventional other . Corruption always given white collar crime label because his deed always experience dynamic mode of operation from all side so that said as a very invisible crime difficult detected . because of that , pattern eradication no could only done with severe punishment _ or punishment dead only , punishment criminal just ultimate remedy .⁵

6. ANALYSIS :

Weakness Legal Regulation

In development provision criminal procurement goods in Constitution Number 1 of 2004 concerning State treasury is regulated in :

Article 62

If in inspection state/ regional loss as meant paragraph (1) found element Criminal Investigation Agency State Finance follow up in accordance with regulation applicable legislation . _

Article 64

Treasurer , civil servant isn't it treasurer , and other officials who have set for country/ region could charged penalty administrative and/ or penalty criminal .

Decision criminal no free from demands change loss .

On both terms above seen clear that in the Act Number 1 of 2004 concerning The State Treasury does not arrange by clear elements criminal procurement goods as no criminal law special and also not arrange with clear related type punishment that can be imposed. Besides Constitution Number 1 of 2004 concerning State Treasury, regarding criminal procurement goods in development infrastructure is also in or in Regulation President Number 16 of 2018 About Procurement Goods /Services, Article 8 Regulation President Number 16 of 2018 About Procurement Goods /Services stated that "in" Thing occur violation as meant in Article 78 paragraph (1) letter a to letter c and Article 80 paragraph (1) letter a to letter c, UKPBJ reports by criminal." On terms neither is this set with clear regarding type punishable crime. Then inside reality often cases corruption procurement goods only put on the perpetrators from element existence abuse power for look for profit economical from existence organizing procurement goods and services in development infrastructure . So that proof only focused on there or whether or not abuse authority and boundaries through administration that is corrupt , collusive , and also based on nepotism so that result in state losses in development infrastructure . However deepening correct or whether or not the procurement process goods as meant Constitution Number 1 of 2004 and Regulations President Number 16 of 2018 which special discuss related procurement goods no touchable , thing this because Constitution

⁴ <https://media.neliti.com/media/publications/113690-ID-berantasan-korupsi-dalam-pengadaan-ba.pdf> , accessed on 12 December 2020.

⁵ *Loc, cit.*



Number 31 of 1999 Jo. Constitution Number 20 of 2001 is intended special for act criminal corruption. No for procurement goods and services .

This thing could impact on parties organizer only service apply as partner government in Thing implementation development infrastructure on the ground . remember party partner often follow entangled case corruption even though party partner no holder authority and not could said capable by authoritative harm the country. state thus clear far from hope Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia . The above explanation showing that system in the rules about penalty sentencing in case corruption procurement goods To use development infrastructure experience problem . In development obscurity Settings related criminal in Constitution Procurement Goods could caused implementation criminal in case corruption procurement goods To use construction infrastructure no appropriate target. and can caused not justice for organizer service construction designated partner _ in project procurement goods To use development infrastructure . This thing clear result in contradiction between Pancasila, the 1945 Constitution of the Republic of Indonesia as *Staatsfundamentalnorm* (State Fundamental Norms) with political law penalty criminal procurement goods in development infrastructure as *Formell Gezets* (Formal Law).

Weakness Law Enforcement

Due to no existence clear arrangement related element actions and types penalty criminal procurement goods , execution enforcement law in case corruption procurement goods in development neither infrastructure own certainty in Thing looking at position party administrator service procurement goods and services in development infrastructure in Indonesia. Besides that enforcement law in case procurement goods and services in development infrastructure often use Constitution Number 31 of 1999 Jo. Constitution Number 20 of 2001 is intended special for act criminal which corruption only focus on punishment office with base existence abuse state authority and losses , while aspect procurement goods and services often not _ once Becomes balance and basis law in demand nor cut in front court .

This thing seen in Decision Number : 06 / Pid . Sus. K / 2017 / PN. Mdn . In decision the Brother Denny Emil Pakpahan as convict case corruption procurement goods in development infrastructure Health Department in Batu Bara District was sentenced with base Article 2, Article 3 and Article 18 of the Law Number 31 of 1999 Jo. Constitution Number 20 of 2001, can is known together that Denny Emil Pakpahan is Commissioner CV. ANTOR PRAJA should be no worn criminal case corruption , because findings by BPK exist state loss of Rp. 231,072,354.50 (two hundred three twenty one million seven twenty two thousand three hundred and fifty four rupiah fifty cents), no solely caused by the convict but also from from existence disability bureaucracy government , so party convict should punished based on political law procurement goods and services that is staged first before penalty criminal is penalty administrative , remember criminal to procurement goods for party organizer service procurement goods and services character ultimate remidium no character main like for perpetrator act criminal corruption pure (www.pn-medankota.go.id , 2020).⁶ Due to CV. ANTOR PRAJA take action with law civil agreement partners and not own authority in To do actions that are detrimental to the state due to no is institution state property .

This thing the more increase quaint remember moment this procurement goods often based on Digitization , Weaknesses means or facility supporter covers device software and devices hard , According Soerjono Soekanto that the enforcers law no could work with ok , if no be equipped with vehicles and tools proportional communication . because of that , means or facility have very important role important inside enforcement law . Without existence means or facility that , no will possible enforcer law harmonize the role that should be with actual role . The lack of supporting instruments enforcement law will impact on enforcement law too (Soerjono Soekanto, 2007)⁷

This thing the more increase quaint with existence the problem of KKN in the stronghold enforcement law so that funnel laws that have weakness Becomes the more damaged and caused not justice . Anis stated that something damage state system including part the smallest that is procurement goods To use development infrastructure the more mushrooming because crisis enforcement law . Anis with firm state that (Anis Mashdurohatun, 2011) :⁸

⁶ www.pn-medankota.go.id , Accessed December 12 , 2020.

⁷ Soerjono Soekanto , *Affecting Weaknesses _ Law Enforcement* , PT. King of Grafindo Persada , Jakarta, 2007, p . 5.

⁸ Anis Mashdurohatun , *Enforcement of Criminal Law in the Field of Illegal Logging for Sustainability Environment Life And Effort Countermeasures* , Journal of Law Vol XXVI, No. 2, August 2011.



destruction system law the more mushrooming with existence intertwined corruption , collusion and nepotism _ with interest moment apparatus enforcer law (even office bureaucracy) throughout level judiciary , start police , prosecutors and judges .

The Problem as has explained he above also contradicts with thinking law progressive who wants existence effort real for change by hurry up, do fundamental reversal _ in theory and practice law, as well as to do various breakthrough. Liberation is based on the principle that law is for human and not otherwise and law that no there is for herself alone, but for something more _ large that is for price self human, happiness, prosperity, and glory human (Satjipto Rahardjo, 2004)⁹

Definition as put forward by Satjipto Rahardjo the means law progressive is series radical action, with change system law (including change the rules law when necessary) so that the law more useful, especially in lift price self as well as ensure happiness and well- being human. by more simple law progressive is the law that does liberation, fine in method think nor Act in law, so capable let law that flow just for finish his job subserve to man and humanity. So no there is engineering or partiality in enforce law. Because According to him, law aim for create justice and prosperity for all people.

Satjipto Rahardjo try highlight above conditions _ to in situation sciences social , including knowledge law , though no as dramatic in knowledge physics , but basically _ happen phenomenal change _ about the law that is formulated with sentence from simple _ Becomes complicated and from the compartmentalized Becomes one unity . This is what it 's called as view holistic in science (law). View holistic the give awareness visionary that something in arrangement certain own interlocking parts _ related good with part other or with the whole . So that clear political law procurement goods related enforcement case corruption moment this not yet reflect mark justice and humanity and can Becomes tool To use realize objective political , so the law aimed at for realize justice and happiness man no capable materialized .

Objective law according to Islam basically set in principle *maqsid al-Sharia*, on the principle of *maqsid al-Shariah* explained that law should capable protect five things , as for five things the are :¹⁰

- 1) Religion;
- 2) Intellect;
- 3) Soul;
- 4) Treasure objects ;
- 5) Descendants .

Then realize justice, justice according to Islam in Thing this is liken something with other things good by mark nor by size so that no heavy adjacent or siding between one with the others . Next fair also has mean siding to truth .¹¹

Basically Allah SWT is called as "The Most Just and Wise " to His servant , meaning that all deed man no will influence justice of Allah SWT, good and bad deed man precisely will accept balance individually . This thing could seen in the Quran Chapter 41 Verse 46 which states that " whoever does " pious charity so the reward for himself and stuff who does deed evil , then the sin for herself alone , and not once in a while your Lord persecutes His servants (Tohaputra Ahmad , 2000).¹² Temporary that *Jumhur Ulama* agree state that whole The companions of the Prophet SAW are fair and not need discussed justice of the companions of the Prophet SAW who can seen in narration Hadith .¹³

Based on various type the explanation above look clear that occur something linkages close Among objective law according to Islam, the goal law lan, and goals law in context destination country as listed in the Fourth Paragraph Preamble of the 1945 Constitution of the Republic of Indonesia. linkages that that is linkages in Thing semblance in existence mandate good on purpose law according to Islam, according to law land , and law national that religious and human values as well as justice need absorbed in political law national , in other words that political law national need based on Pancasila which is a crystallization from mandates that is born from culture and values public by dynamic . not explanation settings regarding sentencing procurement goods in case corruption development infrastructure has result in vulnerable party organizer service caught consequence from corruption committed office authorized , thing this

⁹ Satjipto Rahardjo , *Legal Studies ; The Search , Liberation and Enlightenment* , Surakarta: Muhammadiyah Press University, 2004, p . 43.

¹⁰ *Ibid*, p . 48.

¹¹ *Ibid*, p . 51.

¹² Tohaputra Ahmad, *Al-Qur'an and its Translation* , CV. As Syifa , Semarang, 2000, p . 185.

¹³ *Ibid*, p . 1072



clear no fair including in Islamic perspective , because with not explanation law will result in wrong application law and will harmful the party who doesn't guilty good in aspect soul nor aspect treasure the thing .

Basically _ political law is direction development system - based law law national for reach destination country or the ideals of the state and nation. ¹⁴As for the destination of the departing country from ambition public nation has summed up inside fifth please Pancasila. So that in other words maintenance political law based on fifth please Pancasila is Almighty God One, Just and Civilized Humanity, Indonesian Unity. Democracy led by wisdom wisdom in deliberation/representation, and Justice Social For All Indonesian people. Political value - based law Almighty God One it means political law should based on divine moral values . Political law based _ mark Just and Civilized Humanity it means political existing law should capable ensure respect and protection for rights basic man in a non- discriminatory manner . Political law should based on mark Indonesian Unity means political law should capable unite whole element nation with all bond primordial each . Political law based mark Democracy led by wisdom _ wisdom in deliberation / representation it means political law should capable create state power under power people or in other words politics law should capable create a democratic country where power biggest in hand people (democracy) citizenship). Then the last one that political law should based on mark Justice Social For All Indonesian people means political law should capable create just society capable social create justice for circles public weak good in sector social as well as in the sector economy , so no occur oppression Among circles public *full power* with public marginal .¹⁵

So that it is also clear that political law must based on fourth the principles contained in the Fourth Paragraph opening Constitution of the Unitary State Republic of Indonesia Year 1945. Related with Thing Mahfud MD stated that : that :¹⁶

In context political law clear that law is a " tool " that works In " system " " certain " law for achieve the " goals " of the state or the " ideals " of the Indonesian people . because _ that discussion about political law national should preceded with affirmation about country destination .

According to Padmo Wahyono , the legal state of Pancasila is a state of law that is rooted in from principle where is the family interest the most important social but still _ appreciate and acknowledge as well as protect right humanity individual . in line with view Wahyono that's Muhammad Tahir Azhary add return principle harmony in thinking related to the state of Pancasila law which is rooted in the principle of kinship . So that life nation and state will permanent respect tall mark togetherness and family which are the things that make life nation and state Becomes one a unit that doesn't inseparable , so in operate life nation and state will capable come true effort in maintain unity nation and territorial integrity of the Republic of Indonesia (Bachelor's Degree, 2016)¹⁷

So that clear that the state of law in Indonesia is a state based on Pancasila law which apart from based on law as well as based on norms highest namely Pancasila. Including inside it law land should be national based on Pancasila which aims to nothing but create things as stated in the Fourth Paragraph Preamble to the 1945 Constitution of the Republic of Indonesia. Regarding with Pancasila as source from all source Kaelan's law states that :¹⁸

Pancasila values as _ base Indonesian state philosophy in essence is something source from all source law in the Indonesian state. As something source from all source law by objective is something view life , consciousness , ideals law , as well as sublime moral ideals that include atmosphere psychology , as well as character Indonesian nation .

Then related with objective law , Sri Endah Wahyuningsih, (2013) :¹⁹

If what the law aspires to national is system Pancasila law , then should be studied and developed law that contains Pancasila values mean value - oriented law _ Almighty God _ One , value - oriented law _ Just and Civilized Humanity , law based on values Unity , and law inspired by values Democracy Led by Wisdom _ Wisdom In Deliberation / Representative and value Justice Social For All Indonesian people.

¹⁴Basically _ almost no there is difference Among the ideals of the country and the goals of the country, however in context political Mahfud MD's law distinguishes two Thing According to Mahfud MD , the ideals is the spirit that resides within liver society , while the country 's goal is statement must be constitutive made direction or orientation state administration . See : Moh . Mahfud MD, *op, cit* , hlm . 17.

¹⁵ *Ibid*, p . 16.

¹⁶ *Ibid*, p . 17.

¹⁷ Bachelor's Degree , *State of Law Theory and Practice* , Thafamedia , Yogyakarta, 2016, p . 67-68.

¹⁸Kaelan, *op, cit* , p . 77.

¹⁹Sri Endah Wahyuningsih , *Principles Individualization Criminal In Islamic Law and Indonesian Legal Reform* , UNDIP , Semarang, 2013, p . 68.



in line with view from Sri Endah above , Notonagoro _ state that (Sri Endah Wahyuningsih, 2013) :²⁰
benchmark measuring philosophy practical law national Indonesia is Pancasila which is abstraction from values sublime Indonesian people in it contained ambition nation that is just and prosperous society _ good by material nor spiritual , and life Indonesian society as a whole .

Barda Nawawi Arief state that (Barda Nawari Arief,1984) :²¹

Legal development is effort awaken return values that live in society , for then studied by deep as ingredients composing law national , obviously is academic obligations . _ Really something very thing _ ironic if most graduate of faculty law more many understand and master values living law _ among his people alone . more again if he feel foreign even by no aware has hostile even kill him .

More carry on Barda Nawawi Arief stated (Barda Nawawi Arief, 2013):²²

That update law in essence is effort reorientation and reevaluation from values socio-political , socio - philosophical , socio -cultural that underlies and gives contents to loads normative and substantive desired law .

Barda Nawawi Arief stated (Barda Nawawi Arief, 1998):²³

System law national beside _ should could support development national and needs association international , must also sourced and not ignore values and aspirations that live and develop within _ society , the values that live within public that could sourced or dug up from values law custom or values religious law .

To use operate various type view above so need done reconstruction norm to political law criminal in implementation punishment in case corruption procurement goods To use development infrastructure. The mandatory provisions reconstructed are :

Table 1

Reconstructed political law criminal in implementation punishment in case corruption procurement goods

Provision Before Reconstructed	Weaknesses	Provisions After Reconstruction
Article 64 of Law no. 1 of 2004: Article 64 1) Treasurer , civil servant isn't it treasurer , and other officials who have set for country/ region could charged penalty administrative and/ or penalty criminal . 2) Decision criminal no free from demands change loss .	Provision this no load type threat penalty criminal and not load element deed act criminal procurement goods .	Input : Need existence provision related element act criminal procurement goods and types penalty criminal in Law no. 1 of 2004. Reconstruction : Article 1 of Law no. 1 of 2004: 1) The same 2) The same 3) The same 4) The same 5) The same 6) The same 7) The same 8) The same 9) The same 10) The same 11) The same 12) The same

²⁰ Ibid, p . 69.

²¹ Barda Nawari Arief , *Some Aspect Policy Law Enforcement and Development* , University Diponegoro , Semarang, 1984, p . 125.

²² Barda Nawawi Arief , *Potpourri _ Legal Policy* , University Diponegoro , Semarang, 2013, p . 32.

²³ Barda Nawawi Arief , *Some Aspect Policy Law Enforcement and Development* , Citra Aditya Bakti , Bandung, 1998, p . 117.



		<p>13) The same</p> <p>14) The same</p> <p>15) The same</p> <p>16) The same</p> <p>17) The same</p> <p>18) The same</p> <p>19) The same</p> <p>20) The same</p> <p>21) The same</p> <p>22) The same</p> <p>23) The same</p> <p>24) The same</p> <p>25) Follow criminal procurement goods is action profitable self alone in maintenance procurement goods and services that can be detrimental to the state and/ or individuals and/ or legal entities .</p> <p>Article 64A of Law no. 1 of 2004: As for the type threat criminal as meant in Article 64 consists of from criminal imprisonment for a minimum of 4 years and a maximum of 20 years with criminal fine of Rp. 10,000,000,000.00.</p>
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7. FINDING :

The findings in this article are in the form of legal facts that the abolition of criminal offenses in the Construction Services Act in Indonesia has resulted in a pluralism of legal interpretations which has resulted in the injury of legal protection for providers of goods and services procurement services in infrastructure development.

8. RESULT :

Failure to build offenses differ from other criminal offenses including corruption offenses, the difference is that they are carried out by parties related to building construction activities, losses are related to the issue of failure to build losses both in the context of the building and the development budget. The act of failing to wake up must be contrary to the technical provisions that have been set. Done on purpose. These elements clearly provide limits on failure to wake up that can be criminalized and can only be resolved through civil and administrative efforts. In fact, this provision was abolished in Law Number 2 of 2017 so that it resulted in a criminal sumirity of failing to build in the policy of building construction services. Weaknesses that result in injustice in criminal policy in the case of failure to build are caused by weaknesses in the form of 1. Substance weakness in the form of eliminating criminal threats in Law Number 2 of 2017 so that it results in a criminal sumirity of failure to build in building construction service policies, 2. Structural weaknesses in the form of partial major problems of failure to build in national infrastructure development projects are often subject to criminal sanctions for corruption, 3. Culturally, in the case of failure to build there is no clear criminal element resulting in many interpreters related to failure to build offenses which are subject to plural criminal provisions, this results in legal pluralism in efforts to determine the offense case failed.

9. RECOMMENDATION:

- It is necessary to regulate elements of criminal acts in building construction services related to building failure, especially in Law no. 1 of 2004.
- There needs to be a criminal law enforcement system in which there are law enforcement Human Resources who understand the problem of failing to wake up and are integrated with the infrastructure development audit team.



10. CONCLUSION:

Implementation penalty criminal corruption procurement goods To use development infrastructure not yet based on politics law procurement goods , so penalty criminal position still sumir , because problem procurement goods should no could by direct worn penalty criminal as ultimate remidium , remember procurement goods set with law administration no law criminal , as for threat criminal only as drug final when violation in the realm procurement goods in development infrastructure no under control . As for weakness in implementation penalty criminal corruption procurement goods To use development infrastructure in the form of obscurity Settings crime in politics law procurement goods and services , enforcement the law is also getting summary because regulation vague laws , and lack of facilities and equipment darana enforcer law as well as knowledge enforcer law will problem political law procurement goods by whole .

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