

JURNAL SINTA

3+Reconstruction of cultural
views of 'reluctant' prevents
criminal acts

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Reconstruction of cultural views of 'reluctant' prevents criminal acts of gratification

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Abstract

This study aims to reconstruct the "reluctant" cultural view and minimize the level of gratification in the ULP employees of the Batu City Government. The method used is empirical research, with the research location being the Batu City Government Procurement Service Unit. The results of this study are activities carried out by making slogans for Batu City Government ULP employees who read the anti-Gratification slogan and categorize the culture of shame as positive and negative. Next, is the design of a blueprint for the Batu City Government ULP code of ethics, carried out through a Focus Group Discussion. The discussion in this study shows that 90% of ULP officials in the Batu City Government still do not understand gratification and do not yet have a draft code of ethics that regulates ULP in the Batu City Government, primarily through the education provided by the leadership. Therefore, it is essential that this research and should be carried out by implementing the above results can reduce the crime of gratification in Indonesia.

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1. Introduction

This cultural factor of reluctance also occurs in the Procurement Service Unit (UPL), which is a place where the culture of reluctance is still strong because there is a distribution of prizes from partners who won the tender to ULP employees. When this employee receives a gift from a partner who won the tender, it will create a feeling of reluctance to refuse a request from the company or break the company's cooperation relationship. From here, it finally made the criminal act of gratification, which has become a tradition without realizing it.

The head of the Batu City Government Procurement Service Unit 2017 was caught by the Corruption Eradication Commission (KPK) for allegedly being involved in corruption in accepting gifts or promises related to a furniture procurement project at the Batu City Government. The case of gratification in the procurement unit also occurred again in 2017. (Tribunnews, 2018) The KPK conducted an arrest operation against the Head of the Purbalingga Regency Government Procurement Service Unit, suspected of receiving bribes to help the company win the Islamic Center construction project auction. Based on data compiled by the Corruption Eradication Commission (Tribunnews, 2018), the number of corruption cases in the last 3 (three) years can be seen in the table below:

Table 1. The corruption case of the ULP section in Indonesia

Legal Proceedings	2015	2016	2017
Inquiry	87	96	123
Investigation	57	99	121
Prosecution	62	76	103
Decision	38	71	84
Execution	38	81	83

(Data processed from various sources)

The number of corruption cases at the Surabaya District Court in 2019 can be seen in the following table:

Indonesian law has regulated the meaning of the criminal act of gratification as regulated in Article 12 B of Law No. 20 of 2001 concerning the Eradication of Corruption Crimes. It is stated that gratification is a gift in a broad sense which includes the provision of money, goods, rebate (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. The gratuities are received domestically and abroad and carried out using or without electronic means.

The existence of gratification has been recognized and, at the same time, has very strong legality as stated in Law no. 31 of 1999 in conjunction with Law no. 20 of 2001 concerning the Eradication of Corruption Crimes. Law No. 28 of 1999 concerning implementing a Clean and Free State from Corruption, Collusion, and Nepotism. (Octa, 2022)

Based on the results of a study (Wibawa, 2021) entitled "Anti-Corruption Education as a Preventive Action for Corrupt Behavior. Muqoddima Journal of Sociological Thought and Research, 2(1), 1-18. As well as the results of a study entitled "Anti-corruption education from the perspective of critical pedagogues." (Subkhan, 2020) Anti-Corruption Education in Critical Pedagogical Perspective. Integrity: Journal of Anti-Corruption, 6(1), 15-30. And the results of the research entitled "Anti-corruption Education in Javanese Culture." (Eliezar, 2020) Anti-corruption education in Javanese culture. Scholaria: Journal of Education and Culture, 10(1), 66-72. In principle, it is still unable to build character and anti-corruption culture so that it has a good effect on dealing with corruption.

There are still many acts of corruption that occur in government agencies; therefore, conducted this research was to reconstruct the cul-

tural view of “reluctant” in the Batu city government agency employees in placing the use of “reluctant” culture by the designation by reinforcing the integrity of Civil Servants (PNS) when carrying out the goods procurement activities described above, will indirectly minimize the level of gratification in government agencies, to provide information about reconstructing the “reluctant” cultural view that exists within the employees of the

Procurement Service Unit and Batu City Government services to prevent criminal acts of gratification among the public.

2. Methods

The method used in this research is the empirical method. Empirical research focuses on examining a phenomenon or state of the object of

Table 2. The Decision of the Surabaya District Court for the Crime of Corruption

NO	DECISION	CONVICT	PRISON	FINE	FINE SUBSTITUTE
1.	Decision PN SURABAYA Nomor 4/Pid.Sus-TPK/2019/PN Sby	Sugiarto	Imprisonment for five years	IDR 200,000,000.00	Imprisonment for one month
2.	Decision PN SURABAYA Nomor 99/Pid.Sus-TPK/2019/PN Sby	Soeyono Hadi	Imprisonment for two years	IDR 50,000,000.00	Imprisonment for two month
3.	Decision PN SURABAYA Nomor 102/Pid.Sus-TPK/2019/PN Sby	Yohan Charles I Lengkey	Imprisonment for three and six years	IDR 50,000,000.00	Imprisonment for three month
4.	Decision PN SURABAYA Nomor 3/Pid.Sus-TPK/2019/PN Sby	Ribut Harianto	Imprisonment for four years	IDR 200,000,000.00	Imprisonment for one month
5.	Decision PN SURABAYA Nomor 103/Pid.Sus-TPK/2019/PN Sby	Alfiah	Four-month	IDR 50,000,000.00	Imprisonment for one month
6.	Decision PN SURABAYA Nomor 81/Pid.Sus-TPK/2019/PN Sby	Nur Aini	Imprisonment for one year	IDR 50,000,000.00	Imprisonment for one month
7.	Decision PN SURABAYA Nomor 39/Pid.Sus-TPK/2019/PN Sby	ESTI HANDAYA NI	Imprisonment for one year and six month	IDR 50,000,000.00	Imprisonment for three month

(Data processed from various sources)

study in detail by collecting the facts and developing existing concepts. (Fatoni, 2020) The research location chosen was the Batu City Government Procurement Service Unit. I researched the Head of Sub-Division of Administration and Planning, Head of Sub-Division of Guidance and Development, Head of Sub-Section for Procurement of Goods and Services, and seventeen civil servants staff. Primary data will be obtained using semi-guided interview techniques with respondents from the Goods and Services Procurement Service Unit.

Batu City government and implementation will be based on a mixture of questions that have been prepared. (Soekanto, 2001) Secondary data will be obtained using a literature study by studying the theories contained in books and readings of the problems. And Documentation Studies, namely by collecting data and analyzing written materials in the form of books, magazines, newspapers, laws, and regulations related to research and accessing the internet about problems, using descriptive data analysis techniques. Qualitative, namely describing and explaining the data found in the study, as well as revealing the facts in-depth based on the scientific characteristics of individu-

als or groups to understand and reveal the meaning behind existing phenomena, and analytical descriptive analysis, namely collecting data that has been collected initially. Start stacked, explained, and then analyzed.

3. Result and Discussion

Some of the facts obtained from the results of interviews, socialization, and FGD conducted by the author are: only 60% of ULP employees understand the category of acts of criminal acts of gratification, and only 10% of ULP employees understand actions that are included in the negative culture of shyness, only 10% of ULP employees who understand the steps that are included in the culture of being 'reluctant' to be positive, only 30% of ULP employees understand the efforts to prevent criminal acts of gratification. In addition, the Batu City Government ULP still does not have a draft code of ethics that can be used as guidelines to maintain work integrity within the ULP.

While the results obtained from the reconstruction carried out by the author can be seen in the following table:

Table 3. Change Project Success

No.	Condition Before The Project Changes	%	Conditions After The Project Change	%
1	There has never been an Enlightenment, a change in the mindset and culture of 'Reluctant' can harm Anti-Corruption.	0	Implementing the Enlightenment of Changes in Mindset and Culture, Reluctant to harm Anti-Corruption.	20
2	There is no draft of the Batu Mayor's Regulation on the Code of Ethics for the Procurement of Goods and Services.	0	Draft Code of Ethics for Procurement of Goods and Services	30
3	No Anti-Corruption Slogan yet	0	There is an Anti-Corruption Slogan	30
4	No use of the Anti-Corruption Banner yet	0	Use of Anti-Corruption banner	20
TOTAL				100

(Data processed from various sources)

Several exceptional potentials can be expected from the results of this study. Among them, the Batu City Government Procurement Service Unit will follow up seriously regarding preventing criminal acts of gratification by creating an Anti-Corruption Work Culture project which is carried out through: a). Making pins for employees of the Batu City Government ULP that read anti-corruption and gratification slogans so that it is hoped that in the future, these pins can be used when meeting clients to minimize bribery and other forms of corruption; b). Patent Slogans that prevent criminal acts of gratification: ULP Batu MANTU IDAMAN MASA KINI “MANUSIA

TULUS TIDAK MENERIMA KORUPSI”; c). Designing a Code of Ethics specifically for the Batu City Government Procurement Service Unit through a Mayor Regulation so that employees at the Batu City Government ULP can better understand their duties and functions in detail and not only the broad picture; d). Make a pocketbook on gratification and the laws and regulations concerning gratification so that it can be used as education for ULP PEMKOT BATU employees in carrying out their work; e). Categorize the reluctant culture so that people know the difference between a positive and a hostile culture of reluctant.

Picture 1. Goods Procurement Code of Conduct



Picture 2. Slogan



Criminal law functions as general and specific prevention, conflict resolution, and norm affirmation. (Suryawan, 2021) In criminal law, including criminal law for children, judges, in addition to providing criminal sanctions, can also order perpetrators to take specific actions (*maatregel*). Decisions in the form of such activities are, in principle, a tangible action or a treatment imposed by a judge through a verdict, together with a criminal sentence or as a substitute for a crime. Decisions in the form of these actions have more of a role as a particular preventive function.

Take specific actions, for example, through leadership and responsibility training, education, care, and, if necessary, by taking steps to overcome or eliminate the root causes of the emergence of criminal acts. These efforts are made to achieve the final result that cannot achieve by imposing ordinary sanctions, namely preventing the recurrence of crime and respecting legal norms. Arrangements that allow for criminal sanctions and actions are often framed as a double-track system, which Carl Stoos first introduced in 1893 in the Swiss Criminal Code. In this system, there are 2 (two) consequences that can impose on perpetrators, namely: (i) criminal sanctions, which are the embodiment of security measures, and (ii) action as a protective measure. This double-track system is a compromise in the discourse on the purpose of imposing criminal charges. (Fragoso, 1968)

Indonesia is a legal state as stated in the 1945 Constitution of the Republic of Indonesia Article 1 paragraph 3, which clearly states that "the State of Indonesia is the State of Law." According to Jimly Asshiddiqie, the meaning contained in the concept of the rule of law is:

"There is recognition of the supremacy of law and the constitution, the adoption of the principle of separation and limitation of power according to the constitutional system, the guarantees of Human Rights (HAM) in the 1945 Constitution, equality before the law, the power of an independent court and promises of justice for everyone. from abuse of authority by the authorities. (Asshiddiqie, 2005)

A.V. view. Dicey gives three characteristics of a country so that it can be said to be a state of the law: a. The absolute predominance of law (supremacy of law); b. Equality before the law (equality before the law); and c. According to the constitution, the concept results from the recognition right by judges. (Dicey, 1973)

In line with the view of A.V. Dicey, especially in point c, Indonesia, by the rule of law, the element of protection and recognition of human rights (HAM) wants to present that in the direction of law, human rights are an essential part of the state. The state guarantees the protection and recognition of all citizens' human rights (HAM). The constitution guarantees the safety of its citizens' human rights (HAM), in this context also against prisoners in prisons.

The principle of equality before the law or the same position in the face of the law, the rule of law, and human rights is a requirement of the concept of the rule of law. (Hasrul, 2017) Based on this concept, policies regarding government regulations and procedures must prioritize aspects of human rights. The rules regarding human rights inherent in every human being are regulated through a set of existing legal rules. With the guarantee of human rights (HAM), Indonesia has carried out the nation's mandate as a legal state that recognizes, protects, and guarantees the existence of human rights (HAM) for the Indonesian people regardless of status. Thus, as a legal state, the state must protect and provide welfare for its citizens.

The penal policy focuses more on repressive actions after a crime, while the non-penal approach focuses more on preventive measures before a crime. (Wibowo et al., 2021) Talking about the politics of criminal law cannot be separated from the discussion of legal politics because criminal law is one part of legal science. Therefore, it is essential to talk about legal politics.

According to Soedarto, legal politics is an attempt to create reasonable regulations under certain circumstances. In-depth, it also stated that legal politics is a state policy through its equip-

ment which is authorized to establish the desired rules and is expected to be used to express what is contained in society to achieve what is aspired to. (Fithri, 2018)

Soedarto further revealed that criminal law politics means holding elections to achieve the best results of criminal legislation by fulfilling the requirements of justice and efficiency. (Wibowo et al., 2021) Marc Ancel stated that the politics of criminal law is a science and art with a practical aim to enable favorable legal regulations to be formulated better and to provide guidance to legislators. These courts apply the law to the implementers of court decisions. (Subkhan, 2020) A. Mulder explained in detail the scope of criminal law politics; according to him, criminal law politics is the policy line to determine (Arif, 2008) 1). How far do the applicable criminal provisions need to be changed or updated; 2). What can be done to prevent crime from occurring; 3). How the investigation, prosecution, trial, and execution of a crime must be carried out.

Mulder's definition above departs from the notion of a "criminal law system" according to Marc Ancel, which states that every organized society has a criminal law system consisting of (a) criminal law regulations and sanctions, (b) a criminal law procedure, and (c) a criminal enforcement mechanism. Efforts and policies to make reasonable criminal law regulations cannot be separated from the purpose of crime prevention. So the policy or politics of criminal law is also part of criminal politics. In other words, from the point of view of criminal politics, the politics of criminal law is synonymous with the notion of "crime prevention policy with criminal law."

Crime prevention efforts with criminal law are essentially part of law enforcement efforts (especially criminal law enforcement). Politics or criminal law policies can be said to be part of law enforcement policies. In addition, efforts to combat crime through making criminal laws (laws) are essentially also an integral part of efforts to protect society (social welfare). Criminal law policy

becomes very natural if it is an essential part of social policy or policy. Social policy can be interpreted as all reasonable efforts to achieve public welfare while including community protection. This means that the notion of social policy has social welfare policy and social defense policy.

Based on the above dimensions, criminal law policy is essentially an attempt to realize criminal legislation by the circumstances at a particular time (*ius constitutum*) and in the future (*ius constituendum*). The logical consequence is that criminal law policy is identical to penal reform in a narrow sense because, as a system, law consists of culture (cultural), structure (structural), and substance (substantive) law. The law is part of the legal substance. In addition to updating the legislation, the renewal of criminal law also includes the renewal of fundamental ideas and knowledge of criminal law (Muladi, 2008). In essence, criminal law policy (penal, criminal, or *strafrechtspolitik*) is a comprehensive or total criminal law enforcement process.

According to Wisnubroto, criminal law policies are actions related to matters; 1). How are the government's efforts to tackle crime with criminal law; 2). How to formulate criminal law to be by the conditions of society; 3). How is government policy to regulate society with criminal law; 4). How to use criminal law to control society to achieve a larger goal.

Based on the political understanding of criminal law stated above, both by A. Mulder and others, the scope of this criminal law policy covers a fairly broad problem, which includes an evaluation of the substance of the criminal law currently in effect for the renewal of the importance of criminal law in future, and how to apply this criminal law through the components of the Criminal Justice System, and which is no less important is the prevention of crime.

Criminal law policy (penal policy) and non-criminal law policy (non-penal policy) are part of the criminal policy to overcome criminal acts in the community. Criminal law policy (penal policy)

can also be called criminal law politics. In foreign terms, criminal law politics is also called penal policy, criminal law policy, or strafrechtspolitik. The politics of criminal law is closely related to efforts to reform criminal law, especially material criminal law, which is still a Dutch heritage. Penal policy, according to Sudarto, contains the meaning as an effort to realize criminal statutes and regulations based on the circumstances and situations at a time and in the future (Sudarto, 198). In Sudarto's opinion, it can be seen that the parameters in determining the ideal criminal law are not only those that can apply today but also for the future.

The functionalization of criminal law politics/criminal law policies, according to Barda Nawawi Arief, quoting Bassiouni's opinion, can be carried out in three stages, namely the formulation, application, and execution stages. Still, according to Barda Nawawi, the formulation stage is the most strategic stage in criminal law policy. If there are weaknesses in the formulation stage, it will have an impact on preventing and preventing crime in the application and execution stages.

The formulation stage attempts to formulate regulations by the executive and the legislature outlined in law or the form of a draft law. The application stage can be interpreted as applying legislative/formulating policies by law enforcement officials. At the same time, the execution stage can be interpreted as the stage of carrying out criminal executions by the executor. This prevention effort means that criminal law must also be one of the instruments to prevent the possibility of crime. This also means that criminal law must effectively affect prevention before a crime occurs.

Efforts to combat corruption through statutory policies and criminal law enforcement have been carried out for a long time. However, one must admit that corruption still exists and is difficult to eradicate. This is because crime is related to various other complexities of problems such as problems of mental attitude, morals, patterns or attitudes of life in social life, issues of economic needs or demands, economic structures or sys-

tems, cultural or political structures, problems of opportunities that exist in development mechanisms and as well as weaknesses in bureaucratic or administrative procedures, including the financial system and public services. Given the complexity of the problem, the policy of overcoming corruption cannot be solved incompletely but must be carried out as a whole and integrally. The structural and substantive approach will not succeed if it is not followed by a cultural and ethical system of law enforcement, which is often contaminated with further corruption.

Gratification is a word that is quite popular and is not foreign to hear because this word has always been the theme of conversation among the public. The broad meaning of gratification is a gift that includes additional money (fees), cash prizes, goods, relates (discounts), interest-free loan commissions, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. Imposed quite heavy sanctions, but there are still people who accept and even look for ways to get gratification. Gratification can become a criminal act of bribery if the recipient of the gratification is a State Administrator or State Civil Apparatus (ASN) and the gift is related to his position or job. To prevent acts of gratification, the author will share tips to avoid the temptation of gratification.

If we intend every job as a form of worship to God, we will indeed work sincerely and according to the applicable rules and will not make mistakes or fraud that can harm others, including gratuities. Rest assured that God never sleeps. God will see and know our intentions or whatever we do. We pray and hope that what we do will be worth worship.

Family is the closest person who sincerely loves us. They are always there when we are happy or complicated, so when we work and are asked to do something that is not by the rules, we must remember our family because they are the first people to share and even bear our burdens or mistakes.

The neighbor's grass is greener than the grass itself. This expression means that others have usually looked better than what we have. This makes someone choose shortcuts by doing things not by the rules or receiving gratuities to achieve the desire to have something like someone else's or even more. Even though they don't know that if it's suitable for other people, it's not necessarily good for us, so to avoid that, we must be grateful for what we have. Gratitude is one of the keys to happiness because, with gratitude, our hearts feel calm.

Sometimes we can't tell the difference between needs and wants. Many prioritize wants over needs, so expenses are more significant than income. As the saying goes, the pegs are more potent than the poles. This group of people is easily influenced by the temptation to accept gratification. To avoid this, we need to understand our needs and wants, make a list of priorities, and continue applying a culture of frugal living and adjusting to income.

Don't hesitate to say no/reject gratification and report it. Giving a token of gratitude for a service that someone has rendered is a common practice in society. However, we must eliminate this habit because it can be a factor. If someone does things not by the rules, we will feel heavy or uncomfortable having received goods or money from service recipients. Don't hesitate to say no or refuse the gift/gratification to avoid this. If our position cannot decline, we can accept it but immediately report it to the authorities.

The environment is one of the most influential factors in our behavior. If our environment or association is good, our behavior will undoubtedly be the same as the friends around us, and vice versa. So when someone is in a less conducive environmental position, be wise to get along, lest we choose the wrong friends who can plunge us into negative things.

The State Civil Apparatus (ASN) is one of the parties prone to receiving gratification, especially those with positions or ASNs directly re-

lated to stakeholders in providing services. Sometimes service recipients/stakeholders feel our services have helped them, so they show gratitude in the form of money or goods. If this condition is repeated, it could be that the gift becomes mandatory, and every ASN finishes providing services, he will always expect to receive a reward, so his performance will be affected by whether there is a reward. To avoid this, we must instill the intention and commitment that the salary we receive every month is our reward/right after work, so we must carry out our obligations to work seriously in providing excellent service to stakeholders. At the same time, a position is a bonus or appreciation given to us who have worked hard. If we are unsure about our commitment not to accept gratuities or can still be tempted to accept prizes, we should avoid or minimize meetings with stakeholders.

Ignorance or misunderstanding can also make us accept gratuities because gratification is consistently identified as receiving money or goods from service users/stakeholders. At the same time, using inappropriate office facilities is also a gratification, for example, using official vehicles to a coffee shop. So to avoid gratification, we must understand what gratification is and what actions are included in gratification by reading the rules and participating in socialization, training, or webinars related to gratification.

The author hopes that the above methods can help us avoid the temptation of gratification because gratification is one type of corruption. Still, if the recipient of the gratification reports to the competent authority no later than 30 working days, he will be released from the threat of criminal gratification.

4. Conclusion

The gratification that occurred in the Procurement Service Unit of the Batu City Government occurred because of the lack of understanding of the employees regarding corruption and

gratification. This is in line with the lack of education about the negative and positive culture of reluctance leaders should give within the government. In addition, the thick culture of "reluctant" in the work environment makes the actions taken natural because it has become a tradition carried out continuously even though it is wrong. This prevention effort means that criminal law must also be one of the instruments to prevent the possibility of crime. This also means that the application of criminal law must have a practical effect on prevention before a crime occurs.

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