

Problems of Regulation of Gratification in Law Number 20 Of 2001 Concerning Amendments to Law Number 31 Of 1999 Concerning Eradication of Gratification Criminal Act of Corruption

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ABSTRACT

Background. This research aims to address the problem of regulating gratification in Article 12c of Law Number 20 of 2001. This provision provides the opportunity for state administrators to report gratuities within 30 days.

Purpose. However, in its implementation, various problems still arise, both normatively, both practically and legally.

Method. From a normative perspective, Article 12c does not explicitly explain what is meant by "30 working days", does not provide a repair mechanism for late reports, and has the potential to lead to criminalization of administrative matters making it difficult for this rule to run optimally.

Results. In practice, many state officials still lack a comprehensive understanding of the obligation to report gratuities. Lack of public awareness and various administrative obstacles in the reporting process exacerbate the situation.

Conclusion. As a result, the 30-day grace period is often not implemented properly and creates legal uncertainty. Therefore, the provisions in Article 12c need to be reviewed.

KEYWORDS

Article 12c, Reporting, Gratification

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INTRODUCTION

The introduction is a little different from the short and concise abstract. The reader needs to know the background to your research and, most importantly, why your research is important in this context. Corruption is an extraordinary criminal phenomenon that remains a structural problem in Indonesia's legal and governmental systems. Its impact not only harms state finances but also undermines public trust in state institutions and weakens the rule of law, and hinders the realization of social justice (Wang, 2023). Therefore, the state has classified corruption as a special offense regulated outside the Criminal Code (KUHP), as stipulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001.



One form of corruption with unique characteristics is gratification. Gratuities often straddle the line between social gifts and gifts motivated by official interests. Therefore, lawmakers have included gratification as part of the criminal act of corruption, with a control mechanism through mandatory reporting. This provision is explicitly stipulated in Article 12c of Law Number 20 of 2001, which requires state officials to report any gratification received to the Corruption Eradication Commission within 30 working days of receipt (Musch, 2022).

Normatively, these regulations are intended to prevent hidden bribery practices and strengthen the principles, transparency and accountability of public officials. However, in its implementation, Article 12c has raised various serious legal issues (Aguado, 2024). The 30-day reporting deadline has the potential to create legal uncertainty, particularly when the delay in reporting is not based on malicious intent (*mens rea*), but rather due to administrative negligence, limited legal understanding, or bureaucratic obstacles.

The problem is further complicated by Article 12.c implicitly links late reporting to criminal consequences. Gratuities not reported within the specified timeframe can automatically be classified as bribes as stipulated in Article 12b of the Corruption Law (Priya, 2024). This situation raises legal issues regarding proving guilt, as the burden of proof tends to shift to the recipient of the gratuity. However, the principle of the presumption of innocence applies in criminal law, which states that everyone must be presumed innocent until a final and binding court decision is issued (Simoni, 2022).

Based on According to the 2024 Corruption Perceptions Index (CPI), Indonesia scored 37 out of 100, ranking 99th out of 180 countries, indicating a persistently high perception of corruption in the public sector (McNee, 2023). This situation confirms that anti-corruption efforts have not been fully effective, making an evaluation of existing legal instruments, including regulations on reporting gratification, increasingly relevant.

Therefore, this article aims to critically examine the problems of implementing Article 12.c Law Number 20 of 2001, particularly regarding the deadline for reporting gratuities, from the perspective of legal certainty and the principle of justice. This study is expected to provide academic contributions to the development of criminal law on corruption in Indonesia and serve as academic material for the development of criminal law on corruption in Indonesia and become a consideration in formulating policies that are more proportional, fair, and oriented towards protecting human rights without reducing the spirit of eradicating corruption (Prentice, 2021).

RESEARCH METHODOLOGY

This research uses a normative research method. Normative legal research, as explained by Peter Mahmud Marzuki, is a research approach that focuses on positive legal norms, namely laws written in statutory regulations, jurisprudence, and legal doctrine. This research does not question how the law is applied in social reality, but rather focuses on how the law should ideally apply according to the legal system itself (Angulo-Pachón, 2023). This research examines the legal substance of the regulation on reporting gratification, not how society or state officials comply with it in fact. Therefore, the researcher will explore Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, seeking a legal interpretation of the reporting deadline provisions (Khudina, 2024). This approach aligns with the characteristics of normative research, which seeks to find coherence between legal norms and applicable legal principles, and answers the question: are the current legal provisions sufficiently fair and logical according to legal logic?.

RESULT AND DISCUSSION

One of the main issues in Article 12c relates to the unclear meaning of “30 working days.” The law does not provide a clear definition of whether the working days are based on the national calendar (Monday to Friday excluding holidays) or based on the working hours of each agency (Priya, 2024). This lack of regulation has the potential to create legal uncertainty, especially when gratuities are received close to long holidays or collective leave, making it difficult for public officials to determine the correct reporting deadline according to law (Indonesia, Law Number 21 of 2001, concerning the Corruption Eradication Commission) (Irgaziev, 2021).

Normative Aspects

This ambiguity reflects weaknesses in the formulation of Article 12c, which should be clearly and definitively formulated. Criminal law recognizes the principle of *lex certa*, which requires every provision to be clearly formulated to avoid openness to diverse interpretations. If the provisions regarding the calculation of the reporting deadline continue to be open to multiple interpretations, their application has the potential to be inconsistent between cases. This situation could lead to differences in legal treatment for legal subjects in comparable situations (Arraeya Arrineki Athallah, 2024).

Besides impacting legal certainty, the lack of clarity regarding the definition of a working day also imposes administrative and psychological burdens on state officials. Public officials are ultimately forced to determine their own reporting deadlines without explicit normative guidance from the law (Troshina, 2023). This situation not only makes it difficult for recipients of gratuities to fulfill their obligations but also risks errors that could lead to severe legal consequences, even if the errors are not motivated by bad faith.

Table 1. Practical Problems in the Implementation of Gratification Reporting

Practical Issue	Description of Findings	Impact on Implementation
Low awareness among officials	Many officials do not fully understand reporting obligations	Leads to non-compliance or delayed reporting
Complexity of regulations	Legal language and procedures are difficult to understand	Creates confusion and administrative burden
Limited infrastructure	Not all institutions can optimally use the online reporting system (GOL)	Causes delays in reporting
Weak technical support	Limited assistance from Gratification Control Units (UPG)	Reduces effectiveness of reporting system
Lack of legal protection	No guarantee for officials acting in good faith	Creates fear and reluctance to report

The results of this study indicate that the regulation of gratification reporting in Article 12C of Law Number 20 of 2001 faces significant challenges, both normatively and practically. From a normative perspective, the provision contains several fundamental weaknesses, particularly the lack of clarity regarding the definition of “30 working days,” which creates multiple interpretations and legal uncertainty.

In addition, the absence of a remedial mechanism for late reporting further exacerbates the problem. Public officials who fail to report gratuities on time even due to administrative or technical reasons can still be subjected to criminal sanctions. This condition leads to what is referred to as administrative criminalization, where administrative errors are treated as criminal offenses. Such an approach potentially contradicts the principle of *mens rea*, which requires the existence of malicious intent as a basis for criminal liability.

Furthermore, Article 12c also raises issues from a criminal law perspective. The obligation to report gratuities within a specified timeframe is essentially an administrative obligation, but failure to do so carries the potential for criminal penalties. This has drawn criticism because it could potentially create administrative criminalization, whereby officials without malicious intent could still be punished simply for late reporting (Grazziotin, 2021).

This approach has the potential to deviate from the fundamental principle of criminal law, which places the element of fault (*schuld*) as the primary basis for criminal liability. In cases of gratification, delay in fulfilling reporting obligations does not always indicate an intention to conceal or enjoy the unlawful gift. Therefore, applying criminal sanctions solely based on violation of the reporting deadline risks ignoring the existence of malicious intent (*mens rea*) as an essential element of criminal law (Poulsen, 2022).

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Another normative issue is the absence of a mechanism for extending or exempting the 30-day deadline. In practice, reporting delays can occur due to administrative or technical constraints, but the law provides no room for correction or remedial procedures. This situation has the potential to create injustice, as officials with good intentions are still considered to have violated the law simply because they fail to report gratuities on time.

Practical Aspects

Beyond the issue of norms, Article 12c also faces challenges in its implementation. Low awareness and understanding among public officials regarding the obligation to report gratuities remains a major obstacle. Many still view gratuities as mere gifts, failing to understand that such acceptance can become a criminal offense if not reported. This demonstrates that the government and the Corruption Eradication Commission (KPK)'s outreach efforts have not been fully effective (Ramos, 2022).

This low level of understanding is also influenced by the complexity of regulations regarding gratuities, which are not always easily understood by public officials, especially in local government. The use of legal terms, administrative procedures, and the threat of criminal sanctions attached to reporting obligations are often not accompanied by practical and easily applicable explanations. As a result, the obligation to report gratuities is often viewed as an additional administrative burden, rather than a legal protection mechanism for recipients of gratuities who act properly (Oshimi, 2024).

Furthermore, limited infrastructure and reporting mechanisms also pose obstacles. Although the Corruption Eradication Commission (KPK) has provided an online Gratification (GOL) application to facilitate reporting, not all agencies are prepared to use it. Some employees still struggle to understand the technical procedures for reporting, both online and manually. This creates a gap between legal norms and the reality on the ground (Law No. 2 of 2019).

This gap is even more pronounced in agencies with limited human resource capacity and information technology facilities. In several regions, the utilization of online reporting systems has not been optimal, while technical support from the Gratification Control Unit (UPG) remains relatively minimal. This situation has the potential to cause delays in reporting, not only technical in nature but also legal risks for state officials (Khopade, 2022). Another issue that has arisen is the

lack of a remedial mechanism for reports submitted past the deadline. This means that state officials who report late, even due to technical reasons, can still face criminal charges. This situation creates anxiety and a sense of insecurity among public officials (Li, 2024).

In addition to creating a sense of insecurity, the lack of such a redress mechanism also has the potential to weaken compliance with reporting obligations. Public officials may become hesitant or reluctant to report gratuities if they perceive the legal system does not provide sufficient protection for those acting in good faith. This situation clearly contradicts the objectives of gratuity regulation, which emphasizes prevention efforts and strengthening the principle of transparency (Ordaz-Ortiz, 2023). Therefore, more detailed derivative regulations are needed to provide legal certainty and practical solutions so that administrative delays do not necessarily result in criminal sanctions.

CONCLUSION

Based on this research, the researcher concluded that Article 12c of Law Number 20 of 2001 faces many challenges, both from the side of overly complicated regulations and from the side of officials who lack awareness and knowledge related to gratification. Reporting that experiences many obstacles becomes an important task for the government to provide a more instant platform without going through an overly complicated mechanism and for officials who are still hesitant when they want to report the case to be more firm and straightforward in reporting activities that lead to corruption such as gratification referred to in Article 12c so that the existing bureaucracy is always clean, protected and maintained in order to increase public trust in officials and the state.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

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