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Ius Constituendum on the Doctrine of Unlawful Nature in the Law on the Eradication of Corruption After the Constitutional Court Decision Number 003/PUU-IV/2006

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Abstract

The unlawful teachings in the explanation of Article 2 paragraph (1) of the Law on the Eradication of Corruption have been considered by the Constitutional Court as a norm that is contrary to the Constitution of the Republic of Indonesia in 1945, and does not have binding legal force. This condition has legal implications for the meaning of unlawful elements in Article 2 paragraph (1) of the Law on the Eradication of Corruption, becoming vague (vague norm). The purpose of this study is to analyze the unlawful teachings in the Law on the Eradication of Corruption in *Ius Constituendum*. This research uses normative legal research, which formulates the aspired law *(ius constituendum)* on the meaning of the element against the law *(wederrechtelijkheid)* in the Corruption Eradication Law after the Constitutional Court Decision Number 003/PUU-IV/2006. The results of the discussion show that by assessing the basis of the Constitutional Court's legal considerations (ratio decidendi) Number 003/PUU-IV/2006. The cancellation of the explanation of Article 2 paragraph (1) of the Law on the Eradication of Corruption which adheres to the teachings of the nature of the act of violating formal and material laws, because it is considered that the concept of materiele wederechtelijk, which refers to unwritten law, is an uncertain measure. The unlawful element in Article 2 paragraph (1) of the Law on the Eradication of Corruption Crimes is still interpreted as against formiele wedderechtelijkeheid and against materiele wedderecjhtelijkeheid in its negative function. As for its positive function, it must be considered contrary to the principle of protection and fair legal certainty regulated in Article 28D of the 1945 Constitution.

1. Introduction

The element of unlawfulness is an absolute element for all criminal offenses, including for all corruption offenses regulated in the Corruption Eradication Law. [1] This doctrine is a central element in criminal law to determine whether a person's actions violate a legal provision or not.[2] In another explanation, that unlawful conduct or unlawful nature *(wederrechtelijk)* is essential to assess the wrongfulness of a person's actions. It is also a collection of legal principles that aim to control or regulate harmful behavior, to provide responsibility for harm arising from social interaction, and to provide compensation to victims with an appropriate claim.[3]

The condition of every criminal offense is that the act occurs unlawfully. The absence of the unlawful element is considered as a basis for the abolition of punishment.[4] This means that the fulfillment of all the elements of a criminal offense does not immediately prove the existence of a criminal offense, in addition to the unlawful element must also be proven.[5] Against the law is an element of a criminal offense that is attached to the actions of the perpetrator.[6] In criminal law theory, unlawfulness is divided into two (2) forms, namely formal unlawfulness and material unlawfulness. Against formal law means an act that violates / contradicts the Law. While against material law means that even though the act is not regulated in the Legislation, it is still against the law if the act is considered reprehensible because it is not in accordance with a sense of justice or the norms of social life in society, such as contrary to customs, morals, religious values and so on, then the act can be punished.[7]

In the context of criminal law (in Indonesia), the nature of formal criminal law is reflected in the adoption of the principle of formal legality regulated in the provisions of Article 1 paragraph (1) of the Criminal Code,[8] which states that: *"No act can be punished, except on the basis of the strength of the Criminal provisions according to the Law that already existed before the act was committed"*. From this principle of legality, an act cannot be considered unlawful if the act is only detrimental to society. The measure to determine whether an act is unlawful or not is the law. Meanwhile, the material unlawfulness is not only based on the Law or written law, but also the principles of unwritten law.

Against material law there are two (2) functions, namely against material law in its positive function and in its negative function. In the positive function Materiil gives the meaning of despicable according to the values of decency in the community,[9] which provides a view that an act is still considered a criminal offense

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[1] Budi Prastowo, "Delik Formil/ Materiil, Sifat Melawan Hukum Formil/ Materiil Dan Pertanggungjawaban Pidana Dalam Tindak Pidana Korupsi Kajian Teori Hukum Pidana Terhadap Putusan Mahkamah Konstitusi RI Perkara No. 003/PUU-IV/2006," Jurnal Hukum Pro Justitita 24, no. 3 (2006).
[2] Marwan Effendy, Teori Hukum (Ciputat : Referensi: Gaung Persada Press Group, 2014).
[3] Munir Fuady, Perbuatan Melawan Hukum (Bandung: PT. Citra Aditya Bakti, 2013).
[4] M. van Bemmelen, Hukum Pidana 1 (Jakarta: Bina Cipta, 1984).
[5] Jan Remmelink, Hukum Pidana Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia (Jakarta: Gramedia Pustaka Utama, 2003).
[6] Ulhaq, "Penerapan Sifat Melawan Hukum Materiil Dalam Putusan Hakim Di Pengadilan Tipikor Jakarta," Pandecta Jurnal Penelitian Ilmu Hukum 5, no. 2 (2010).
[7] Darwin Prinst, Pemberantasan Tindak Pidana Korupsi (Bandung: PT. Citra Aditya Bakti, 2002).
[8] Apriyanto Nusa & Darmawati, Pokok-Pokok Hukum Pidana (Malang: Setara Press, 2022).
[9] Adami Chazawi, Hukum Pidan Korupsi Di Indonesia (Jakarta: Rajawali Press, 2016).

even though the act is not explicitly formulated and threatened with punishment in the Law. This means that an act is not positively formulated (in the Legislation) as a criminal offense, but if it is contrary to the values that live in society, it can be positively formulated as an act or criminal offense. Meanwhile, the unlawful nature in its negative function provides a view that things or values that are outside the Law are only recognized as possibilities that can remove or negate the unlawful nature of acts that meet the formulation of the Law.

The crime of corruption as an act regulated in the Legislation, namely Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption, also adheres to the doctrine of unlawful nature as stated in the explanation of Article 2 paragraph (1) which states that:

> *"What is meant by unlawfully in this article includes unlawful acts in the formal sense as well as in the material sense, that is, even though the act is not regulated in the Legislation, but if the act is considered reprehensible because it is not in accordance with the sense of justice or the norms of social life in society, then the act can be punished."*

The regulation of the doctrine of unlawfulness in the provisions of Article 2 paragraph (1) of Law Number 31 Year 1999 on the Eradication of the Crime of Corruption has changed after the Constitutional Court Decision Number 003/PUU-IV/2006, where in the Constitutional Court's decision it was emphasized that the Explanation of Article 2 paragraph (1) of Law of the Republic of Indonesia Number 31 Year 1999 on the Eradication of the Crime of Corruption as amended by Law Number 20 Year 2001 on the Amendment to Law Number 31 Year 1999 on the Eradication of the Crime of Corruption along the phrase that reads, "What is meant by 'unlawfully' in this article includes unlawful acts in the formal sense as well as in the material sense, namely even though the act is not regulated in the legislation, but if the act is considered reprehensible because it is not in accordance with the sense of justice or the norms of social life in society, then the act can be punished", is considered contrary to the 1945 Constitution of the Republic of Indonesia, and has no binding legal force.

With the decision of the Constitutional Court, which has canceled the explanation of the element against the law in the provisions of Article 2 paragraph 1 of the Corruption Eradication Law, both formal and material, the meaning of against the law in Article 2 paragraph (1) of the Corruption Eradication Law has become unclear / vague (vague norm). This vagueness is especially true for the doctrine of material lawlessness. The Constitutional Court's decision does not explain or mention which of the two functions of the doctrine or concept of against material law is declared to have no binding legal force.[10]

There is a legal problem (legal issue) in the form of the emergence of unclear/vague norms (vague norms) regarding the explanation of elements against the law (*wederrechtelijke*) in Article 2 paragraph (1) of the Law on the Eradication of Corruption Crimes Post the Decision of the Constitutional Court Number 003/PUU-IV/ 2006, is the reason for the need to conduct research on this problem, namely: What is the teaching of Against the Law in the Interpretation of Constitutional Court Decision Number 003/PUU-IV/2006 and How does *Ius constituendum* teach against the law in the Corruption Eradication Law.

[10] Abdul Latif, "No Title," Jurnal Konstitusi 7, no. 3 (2010).

With the above problems, this research aims to analyze the teachings of Against the Law in the Interpretation of Constitutional Court Decision Number 003/PUU-IV/2006. As well as reformulating how *Ius constituendum* teaches against the law in the Corruption Eradication Law.

2. Method

In this research, using normative legal research. The conceptual approach method needs to refer to legal principles. These principles can be found in the views of scholars or legal doctrines.[11] The approach used in this research is a conceptual approach where this approach uses views or doctrines of criminal law regarding the existence of the doctrine of the nature against material law in criminal law. In addition to the conceptual *approach, the* researcher also uses a *case approach,* namely by describing several cases decided by the Supreme Court relating to the doctrine of the nature against material law.

3. Analysis or Discussion

3.1. Against the Law in The Interpretation of The Constitutional Court

Decision of the Constitutional Court Number 003/PUU-IV/2006, which in its decision stated that it was contrary to the 1945 Constitution of the Republic of Indonesia and did not have binding legal force, on the meaning of the element *"against the law"* in Article 2 paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption.

The decision of the Constitutional Court which canceled the explanation of the element against the law in Article 2 paragraph (1) was based on several legal considerations *(ratio decidendi)* , one of which was by quoting the opinion of Prof. Andi Hamzah, who in the trial said that the concept of against material law *(materiele wederechtelijk)* , which refers to unwritten law in the measure of *decency*, *prudence* and accuracy that lives in society, is a violation of the law. Andi Hamzah who in the trial said that the concept of against material law (*materiele wederechtelijk*), which refers to unwritten law in the measure of decency, prudence and care that lives in society, as a norm of justice, is an uncertain measure, and varies from one particular community environment to another, so that what is against the law in one place may in another place be accepted and recognized as something legitimate and not against the law, according to the measure known in local community life.

The use of the doctrine of the material nature of the law in its positive function in Law Number 20 of 2001 concerning the Amendment to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, does not reflect legal certainty.[12] Referring to the legal considerations above, the Constitutional Court considers that the form of uncertainty from the concept of teaching against material law *(materiele wederechtelijk)* because it is contrary to the principle of legality in the provisions of

[11] Peter Mahmud Marzuki, Penelitian Hukum (Jakarta: Kencana, 2014).
[12] Ratna Nurhayati Seno Wibowo, "Perbedaan Pandangan Ajaran Sifat Melawan Hukum Materiil Tindak Pidana Korupsi," Padjajaran Journal Ilmu Hukum 2, no. 2 (2015).

Article 1 paragraph (1) of the Criminal Code. Lieven Dupont said that the principle of legality is the most important principle in criminal law,[13] this consideration shows that it is a concretization of the form of protection and guarantee of fair legal certainty contained in Article 28D paragraph (1) of the 1945 Constitution. The nature of material law does not provide protection and guarantees of fair legal certainty, because the measures of propriety, prudence and accuracy that live in society vary from one community to another. This is because against material law originates from unwritten law.

The principle of legality in Article 1 paragraph (1) of the Criminal Code, which was taken into legal consideration by the Constitutional Court above, has a long history in which it contains the principle of protection as a reaction to the arbitrariness of the rulers in the Ancien Regime era as well as the answer to the functional need for legal certainty which was a must in a liberal law country at that time. Even now, the attachment of modern legal states to this principle reflects the fact that there is no unlimited state power over its people and state power is subject to established legal rules.[14] Groenhuijsen said that the principle of legality contains four meanings, namely: First, that the lawmaker should not impose a criminal provision retroactively. Second, that all prohibited acts must be contained in the clearest formulation of the deliberations. Third, the judge is prohibited from stating that the defendant committed a criminal act based on unwritten law or customary law. Fourth, it is forbidden to apply analogy to criminal law regulations.[15]

3.2. *Ius Constituendum* Of The Doctrine Of Unlawful Activities In The Law on Corruption Eradication

The basis for the legal considerations that form the Law includes elements of unlawfulness in both formal and material senses in the explanation of Article 2 paragraph (1) of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, is as follows:[16]

a. Considering that corruption occurs systematically and widely, not only harming the country's finances and economy, but also a violation of the social and economic rights of the community at large, so that it is classified as an extraordinary crime, its eradication must be carried out in an extraordinary way.
b. The impact of corruption crimes so far, in addition to harming the country's finances and economy, also hinders the growth and continuity of national development that demands high efficiency.
c. In an effort to respond to the development of legal needs in society, in order to make it easier to prove, so that it can reach various modus operandi of financial irregularities or the country's economy that is increasingly sophisticated and complicated.

The intention of its inclusion against formal and material laws in the Law on the Eradication of Corruption Crimes is not only mentioned in Law Number 31 of 1999 jo. Law Number 20 of 2001. But in the previous Law as well, namely Law No. 3 of

[13] Komariah Emong Saparadjaja, *Ajaran Sifat Melawan Hukum Materiil Dalam Hukum Pidana Indonesia* (Bandung: Alumni, 2013).
[14] Saparadjaja.
[15] Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana* (Yogyakarta: Chaya Atma Pustaka, 2014).
[16] "Undang-Undang Nomor 20 Tahun 2001 Tentang Pemberantasan Tindak Pidana Korupsi" (n.d.).

1971, the affirmation against formal and material law is mentioned in the general explanation, which states that:

> "By proposing unlawful means, which contain formal and material meanings, it is intended to make it easier to obtain proof of punishable acts, namely enriching oneself or other people or an entity".

The legal implications of adhering to the two unlawful teachings in the Law on the Eradication of Corruption, both against the law in a formal and material sense, have resulted in practical inconsistencies in the application of unlawful teachings. There are court decisions that apply the doctrine of formal unlawfulness and there are also court decisions that apply the doctrine of material unlawfulness. Regarding the teachings of the nature of material lawlessness, there are decisions that use material laws in a positive function, there are also decisions that use the law in a negative function. The inconsistency of elements against material law (materiele wederrechtelijk) refers to unwritten law in the form of reprehensible acts, namely violations of propriety, prudence and prudence that live in society. The measure of reprehensible acts is one that is contrary to morality and a sense of justice in society. In fact, the size of the despicable act is uncertain and varies from one particular community environment to another.[17]

Some of the Court's decisions that apply the doctrine of material unlawfulness (*materiele wederrechtelijkeheid*) in corruption cases, include the following:

a. Supreme Court Decision Number 275 K/Pid/1983 dated December 15.
   One of the legal considerations of the Supreme Court in this decision states that:
   "..... It is inappropriate if the violation of the law is only connected with violating the regulations for which there are criminal sanctions, but in accordance with the existing opinion that has developed in the science of hukun, it should be measured based on general principles according to propriety in society".
b. Supreme Court Decision Number 24 K/Pid/1984 dated June 6, 1985.
   The Supreme Court's considerations in this decision, one of which states that:
   ".....that the definition of unlawful formal law is an act that is contrary to the applicable legislation, while the nature of unlawful material law, refers to all acts that are contrary to the feeling of justice in society which specifically in the criminal act of corruption is included in the definition of unlawful nature in the material sense of all acts that are corrupt, both those committed with acts that are contrary to regulations Legislation and those carried out with sufficient actions are an act that is quite reprehensible, or not in accordance with the sense of justice contained in people's lives".
c. Supreme Court Decision No. 241 K/Pid 1987 dated January 21, 1989.
   The Supreme Court's legal considerations in this decision state that:

   "The general purpose and explanation of Law Number 3 of 1971, among others, regarding unlawful means, is an unlawful act in a broad sense, that is, it

[17] Sudharmawatiningsih, "Sifat Melawan Hukum Materiil Dalam Tindak Pidana Korupsi (Respon Terhadap Putusan Mahkamah Konstitusi)," Jurnal Ilmiah Hukum Dan Dinamika Masyarakat 5, no. 1 (2007).

> *includes unlawful acts not only as acts that directly violate legal acts (which are written), but also include unlawful acts that violate unwritten legal regulations, namely in the form of regulations in the field of morality, religion, manners, in other words, the teachings against the law in this article, which the Supreme Court adheres to are teachings that are materially unlawful, both negatively and positively".*

The unlawfulness (*wederrechtelijkheid*) is widely embraced in the Law on the Eradication of Corruption, especially the teaching of material unlawfulness. At the practical level, it can be accepted as a consequence of corruption crimes as extra ordinary. However, on the other hand, it is not possible to immediately deny the principle of legality as a consequence of the state of law (*rechtstaat*) whose existence aims to protect human rights from unnatural and unfair treatment by rulers and judges.[18] The use of power by the state through law enforcement officials must be based on the applicable legal provisions. Article 1 paragraph (1) of the Criminal Code concerning the principle of legality which states that "An act cannot be punished, except based on the force of existing criminal legislation". With this arrangement, a person can be sentenced to a crime if his act is regulated in the pre-existing criminal laws and regulations. This is what distinguishes it from the use of the doctrine of anti-material nature, especially in its positive function, which means that criminal punishment can be carried out even if there is no criminal law that regulates the act as long as the act is considered to be an act that is contrary to the legal values that live in society.

In other words, the essence against material law in a positive function is to use unwritten laws, namely values that live in society as the basis for a person's conviction. Meanwhile, the essence of the principle of legality is to use written law, namely criminal legislation, as the basis for a person's conviction. The conflict between the concept of the principle of legality and the nature of material illegality in criminal law, especially the crime of corruption mentioned above, must be solved in the future criminal law policy (*ius constituendum*), so that the nobility of law enforcement can be achieved and legal certainty that limits the deviant use of power by the ruler can be avoided, thus giving birth to legal protection for human rights.

The form of policy as the ideal of criminal law in the future (*ius constituendum*), especially regarding the ideal concept in interpreting the teachings against the law (*wederrechtelijke*) in the Law on the Eradication of Corruption. If we continue to maintain the teachings of the nature of violating material law, and on the one hand, we also maintain the principle of legality as the basis for criminal punishment. Therefore, the meaning of unlawfulness in the Law on the Eradication of Corruption Crimes must be interpreted in the sense of violating formal law and against material law in its negative function.

The restriction of material unlawfulness in this negative function is also as stated by Vos which states: "Unlawful nature of material only plays a negative role (Als de materiele wederrechtelijheid een rol zal spelen zat het slechts een negatieve."[19]

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[18] Indriyanto Seno Adji, Pergeseran Hukum Pidana (Jakarta: Diadit Media, 2011).
[19] Hiariej, Prinsip-Prinsip Hukum Pidana.

As for its positive function, it must be eliminated because in essence it is only a positive function of teachings against material law, which is contrary to the principle of legality which requires criminalization based on unwritten law. Meanwhile, the spirit in the teachings against material law in its negative function is not contrary to the principle of legality, because the intention of this teaching is not for the purpose of punishment/punishment which if applied must first clarify the principle of legality. The negative function of the teachings against material law is as the basis for the loss of the unlawful nature of the act because the community judges that the act done is not a reprehensible act.

This is as stated by Adami Chazawi who stated that violating the material law in a negative function is the basis for the elimination of a crime, in the sense of seeking the absence of unlawful elements outside the Law not to criminalize an act committed by a person, and not looking for an unlawful element outside the Law in order to criminalize a certain perpetrator.[20] As for the restriction on the use of the doctrine of material unlawfulness in a negative function in corruption cases, it can refer to the Supreme Court jurisprudence that has been applied in the handling of corruption cases, namely as the Supreme Court decision No. 42 K/Kr/1965 dated January 8, 1966, which in its legal consideration the Supreme Court stated that: "*An act in general can lose its character as unlawful not only based on a provisions in the legislation but also based on the principles of justice or legal principles that are unwritten and general, in this case, for example, the state is not harmed, the public interest is served and the defendant does not benefit*".

With the explanation that in principle what is contrary to the principle of legality is the teaching of the nature of going against material law in its positive function. So with these considerations in mind, the form of formulation as *Ius constituendum* Teachings Against the Law in the Corruption Eradication Act in the future can be formulated with the following regulatory restrictions:

> "*What is meant by against the law in this article includes acts against the law in the formal sense and in the material sense which have a negative function, namely using the law and a sense of justice or the norms of social life in society as a basis for committing acts against the law. eliminate criminal charges*."

4. Conclusion

The regulation of Article 2 paragraph (1) in the Law on the Eradication of Corruption Crimes, especially regarding the explanation of the Article regarding elements of unlawfulness, both formal and material, according to the consideration of the Constitutional Court in its Decision Number 003/PUU-IV/2006 does not provide aspects of legal protection and certainty which is fair in Article 28D of the 1945 Constitution, so it is considered to be contrary to the principle of legality, namely that no act can be punished except based on the strength of pre-existing criminal legislation (nullum delictum, nulla poena sine lege praevia poenali). Thus, as *ius constituendum* for changes in the regulation of the explanation of elements against the law so that they reflect aspects of legal certainty, it can be formulated in the form

[20] Adami Chazawi, Pelajaran Hukum Pidana Bagian 2 (Penafsiran Hukum Pidana, Dasar Peniadaan, Pemberatan & Peringanan, Kejahatan Aduan, Perbarengan & Ajaran Kausalitas) (Jakarta: Rajawali Press, 2011).

of the formula: "What is meant by unlawfully in this article includes acts against the law in the formal sense as well as in the material sense in their negative function, namely using the law and a sense of justice or the norms of social life in society as a basis for eliminating crime.

References

Adji, Indriyanto Seno. *Pergeseran Hukum Pidana*. Jakarta: Diadit Media, 2011.

Bemmelen, M. van. *Hukum Pidana 1*. Jakarta: Bina Cipta, 1984.

Chazawi, Adami. *Hukum Pidan Korupsi Di Indonesia*. Jakarta: Rajawali Press, 2016.

———. *Pelajaran Hukum Pidana Bagian 2 (Penafsiran Hukum Pidana, Dasar Peniadaan, Pemberatan & Peringanan, Kejahatan Aduan, Perbarengan & Ajaran Kausalitas)*. Jakarta: Rajawali Press, 2011.

Darmawati, Apriyanto Nusa &. *Pokok-Pokok Hukum Pidana*. Malang: Setara Press, 2022.

Effendy, Marwan. *Teori Hukum*. Ciputat : Referensi: Gaung Persada Press Group, 2014.

Fuady, Munir. *Perbuatan Melawan Hukum*. Bandung: PT. Citra Aditya Bakti, 2013.

Hiariej, Eddy O.S. *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Chaya Atma Pustaka, 2014.

Latif, Abdul. "No Title." *Jurnal Konstitusi* 7, no. 3 (2010).

Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2014.

Prastowo, Budi. "Delik Formil/ Materiil, Sifat Melawan Hukum Formil/ Materiil Dan Pertanggungjawaban Pidana Dalam Tindak Pidana Korupsi Kajian Teori Hukum Pidana Terhadap Putusan Mahkamah Konstitusi RI Perkara No. 003/PUU-IV/2006." *Jurnal Hukum Pro Justitita* 24, no. 3 (2006).

Prinst, Darwin. *Pemberantasan Tindak Pidana Korupsi*. Bandung: PT. Citra Aditya Bakti, 2002.

Remmelink, Jan. *Hukum Pidana Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*. Jakarta: Gramedia Pustaka Utama, 2003.

Saparadjaja, Komariah Emong. *Ajaran Sifat Melawan Hukum Materiil Dalam Hukum Pidana Indonesia*. Bandung: Alumni, 2013.

Seno Wibowo, Ratna Nurhayati. "Perbedaan Pandangan Ajaran Sifat Melawan Hukum Materiil Tindak Pidana Korupsi." *Padjajaran Journal Ilmu Hukum* 2, no. 2 (2015).

Sudharmawatiningsih. "Sifat Melawan Hukum Materiil Dalam Tindak Pidana Korupsi (Respon Terhadap Putusan Mahkamah Konstitusi)." *Jurnal Ilmiah Hukum Dan Dinamika Masyarakat* 5, no. 1 (2007).

Ulhaq. "Penerapan Sifat Melawan Hukum Materiil Dalam Putusan Hakim Di Pengadilan Tipikor Jakarta." *Pandecta Jurnal Penelitian Ilmu Hukum* 5, no. 2

(2010).

Undang-undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi (n.d.).