

# Violations of Human Rights by Criminal Acts of Misappropriation of Social Assistance Funds

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## ABSTRACT

The Constitution guarantees the fulfillment of human rights, acts as a means of limiting power, and cannot be separated from the protection of human rights, a democratic state, and the rule of law. The role of the Constitution as a normative crystallization of the state's duty in providing protection of human rights and the administration of the government based on people's sovereignty is accompanied by legal boundaries of power that are directed at the interests and benefits of the people. In the midst of the COVID-19 pandemic, the role of the state is required to realize the welfare of its people. The spread of COVID-19, which is declared a pandemic, shows an increase from time to time and has caused many casualties, as well as material losses, which are increasing day by day and have implications for social, economic, and community welfare aspects. Thus, the interesting issue in this paper is the role of the state in human rights violations by perpetrators of criminal acts of misappropriation of social assistance funds. This research uses a normative juridical method or doctrinal research with a normative analysis method. The provision of social assistance funds that are not well-targeted and cannot be accounted for in the midst of force majeure conditions is a criminal act of corruption and is a dishonorable act, and an act that violates human rights. Therefore, a public service system is urgently needed, starting from data collection, mapping of needs, distribution, and accountability, to the evaluation of implementation in a transparent and accountable manner.

**Keywords:** *Constitution, corruption, covid-19, human rights, social assistance funds.*

## 1. INTRODUCTION

Constitutional rights cannot be separated from human rights. The Constitution guarantees the fulfillment of human rights. As a state of law [1], the government is obliged to guarantee the protection of human rights. Human rights, which are basic rights that are inherent in human beings, are universal and lasting; therefore, they must be protected, respected, maintained, and should not be ignored, reduced, or taken away by anyone [2], and enforced for the sake of increasing human dignity, welfare, happiness, intelligence, and justice [3]. Meanwhile, the Constitution acts as a means of limiting the power that cannot be separated from the protection of human rights, a democratic state, and a state of law. The relationship between the Constitution and human rights can be seen from historical developments [4]. The struggle for the protection of human rights is in accordance with the development of efforts to limit and regulate power which is the teaching of constitutionalism

[5]. The Constitution can be said to be a normative crystallization of the duty of the state in providing protection of human rights and the implementation of the government based on the sovereignty of the people accompanied by legal limits on power that are directed to the interests and benefit of the people as a whole without exception and without discrimination [6].

The ideals of the Indonesian people as regulated in the Fourth Paragraph of the Preamble to the 1945 Constitution are to promote public welfare. Welfare problems cannot be separated from the problem of poverty which is like two sides of a coin that cannot be separated [7]. The problem of poverty, apart from the economic condition and progress of the country, the factor of natural disasters and non-natural disasters is also one of the problems that can interfere with the welfare of the community. Indonesia's poverty rate in March 2020 increased by 0.56% compared to September 2019 [8]. The increase in the poverty rate in March 2020 occurred

due to the outbreak of Corona Virus Disease (COVID-19).

The Director-General of Taxes at the Ministry of Finance, Suryo Utomo, stated that the COVID-19 pandemic had a huge impact on the Indonesian economy, which led to crises in various sectors. According to him, the current pandemic has caused the collapse of household consumption or purchasing power which is the pillar of 60% of the national economy. Suryo Utomo's argument is supported by data released by the Central Statistics Agency, which shows that household consumption fell from 5.02% in the first quarter of 2019 to 2.84% in the first quarter of 2020 [9]. In addition, Vice President Ma'ruf Amin stated, due to the pandemic, the potential for an increase in the poverty rate to reach 11.5% by the end of 2020. According to Ma'ruf Amin, after the implementation of Large-Scale Social Restrictions in several areas aimed at stopping the spread of COVID-19, the number of poor people in Indonesia has increased by more than 1.6 million people from poverty data in September 2019 [10].

In the midst of the COVID-19 pandemic, as a state of law, the role of the state is required to realize the welfare of the community through various means. The spread of COVID-19, which is declared by the World Health Organization as a pandemic in most countries around the world, including in Indonesia, shows an increase from time to time and has caused many fatalities, as well as material losses that are increasing day by day so that it has implications for social aspects, economy, and social welfare [11]. The implications of COVID-19 include a slowdown in national economic growth, a decrease in state revenues, and an increase in state spending and financing, so the government needs to save health and the national economy, with a focus on spending on health, social safety nets, and economic recovery, including for the business world and affected communities [12].

## **2. FORMULATION OF THE PROBLEM**

With the economic conditions in which the poverty rate continues to grow, the government must immediately find ways to prevent and improve in overcoming the problem of the COVID-19 pandemic. It must also address the welfare problems of its people. For this reason, the government issued a policy of providing social assistance funds to citizens in need. The provision of social assistance funds is specifically for the poor, laid off, lost their jobs, vulnerable groups, and those affected by the COVID-19 pandemic. However, the management and distribution of social assistance funds can also cause its own problems, namely being vulnerable to corruption. So, the interesting problem in this paper is how the violation of constitutional rights in terms of human rights by perpetrators of criminal acts of social assistance funds.

This issue becomes interesting, considering that in the midst of non-natural disasters that are hitting almost all over the world, especially due to the outbreak of the covid-19 pandemic, there are still irresponsible individuals who have the heart to commit criminal acts of corruption of social assistance funds, such as that involving Former Minister of Social Affairs, Juliari Peter Batubara, who had the heart to accept bribes from social assistance contractors in the midst of the government's program in handling the COVID-19 pandemic, despite laws and regulations related to sanctions against parties who still want to enrich themselves in the midst of the force majeure conditions of the COVID-19 pandemic. How can the perpetrators of these violations be held accountable in regard to the human rights of others? This simple paper does not intend to justify that the provision of social assistance funds does not need to be carried out because it is prone to corruption but wants to give a choice of other perspectives, although it is unavoidable that thoughts may overlap with one another: that the handling the COVID-19 pandemic, in addition to requiring the cooperation of all parties, stakeholders, support providers, implementers, policymakers carry out support with integrity and responsibility, with the principle of justice so that no human rights are violated. In this paper, a study will be conducted to find out that the misappropriation of social assistance funds to enrich oneself and their groups is categorized as a criminal act of corruption and a violation of human rights. With the increasing number of studies on the problem, it can be used as input and reference for regulators as well as evaluation material for existing regulations related to the issues raised by the author.

## **3. METHOD**

This study uses a normative approach that with the outbreak of the COVID-19 pandemic, the sense of empathy and mutual cooperation should be even higher. The government has taken concrete steps through various policies in the situation of the outbreak of the COVID-19 pandemic with various policy steps being implemented, for example, by providing social assistance funds and by issuing various regulations related to handling the covid-19 pandemic outbreak. This study uses the normative juridical method [13] or, according to Wignjosoebroto, is doctrinal research [14], namely a study that uses positivist legis, which states that law is a set of written norms made and promulgated by authorized institutions or officials. In addition, in this conception, the law is seen as a normative system that is autonomous, closed, and detached from people's lives.

From the point of view of its objectives, this research is also a "problem solution" research [15]; in this case, it is a solution in the form of a legal remedy against the problem of human rights violations by perpetrators of criminal acts against social assistance funds. This,

hopefully, would lead to more strict evaluations and regulations from the government against these elements, that is, a person who commits a crime in the midst of a force majeure so that no other person's human rights are violated. The type of data used in this research is mainly secondary data consisting of legal materials, both primary, secondary, and tertiary legal materials. The primary legal materials referred to include the 1945 Constitution, Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, the Constitution and implementing regulations from the government, as well as circulars. Meanwhile, the secondary legal materials used in this research, among others, consist of literature, research results that are relevant to the problem being studied, writings or articles published in journals or other scientific publication media that are relevant to the problem, research papers, or papers submitted in scientific meetings (seminars, workshops, symposiums, and so on). The tertiary legal materials that provide explanations of primary and secondary legal materials in this study are in the form of dictionaries and encyclopedias [16].

#### 4. RESULT AND DISCUSSION

As a state of law, the rule of law must be enforced because the law must be the leading force in running the government in order to achieve the goals of the life of the nation and state [17]. The purpose of national and state life is to realize social justice, general welfare, and the greatest prosperity of the people [18]. The purpose of the state in the context of creating prosperity is not only in the matter of governance but must carry out social welfare in order to achieve the goals of the state through national development [19]. At the same time, the goal in any welfare policy is to address the social economy of society and, by extension, political challenges such as poverty, unemployment, and aging people [20]. Thus, welfare policy is very important to protect the community [21].

Meanwhile, in the concept of a state of law, the state guarantees the constitutional rights of everyone to obtain fair recognition, guarantees, protection, and legal certainty as well as an equal treatment before the law as a means of protecting human rights [22]. The state is also responsible for providing legal aid for the poor as a manifestation of access to justice [23]. Legal protection is essential in the formation of a state, which according to Satjipto Rahardjo, legal protection is an effort to protect a person's interests by allocating power to him to act in his interests [24]. Legal protection is aimed at creating legal certainty so as to create public order, as the principle of *fiat justitia et pereat mundus* (let there be justice though the world perish). In creating public order, the element of justice needs to be upheld [25].

Legal protection is a matter that protects legal subjects through applicable laws and regulations and the

need for an element of coercion in its implementation through the provision of sanctions [26]. Muchsin stated that legal protection could be divided into two, namely [27]:

1. Preventive legal protection is the protection provided by the government with the aim of preventing violations before they occur. This is contained in laws and regulations with the aim of preventing a violation and providing signs or limitations in carrying out an obligation.
2. Repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or a violation has been committed.

Legal protection in Indonesia is based on the principles of Pancasila as the ideology and philosophy of the state, while legal protection in the West is based on the concept of *rechstaat* and the rule of law [28]. The principle of legal protection against government actions rests and originates from the concept of recognition and protection of human rights because, according to Western history, the birth of concepts regarding the recognition and protection of human rights is directed at the limitations and laying down of community and government obligations [29]. Philipus M. Hadjon also stated that legal protection for the people by the government is directed at [30]:

1. Efforts to prevent disputes or as much as possible reduce the occurrence of disputes; in this connection, preventive legal protection facilities should be prioritized over repressive legal protection facilities;
2. Efforts to resolve disputes between the government and the people by means of deliberation;
3. Dispute resolution through the judiciary is the last resort; the judiciary should be an "ultimum remedium," and the judiciary is not a forum for a confrontation so that the judiciary must reflect a peaceful and calm atmosphere, especially through its procedural law.

#### Protection and Enforcement of Human Rights

Human rights are a set of rights that are inherent in the nature and existence of humans as creatures created by God Almighty and are His gifts that must be respected, upheld, and protected by the state, law, government, and everyone for the sake of honor and protection of dignity and human dignity [31]. Meanwhile, basic human obligations are a set of obligations that, if not implemented, will not allow the implementation and enforcement of human rights [32]. Therefore, it is everyone's duty to uphold human rights without exception and without discrimination [33]. Human rights must be upheld and should not be violated by anyone because they are fundamental rights. Violation of human

rights is every act of a person or group of people, including state apparatus, whether intentional or unintentional or constitutes negligence, that restricts and/or revokes the human rights of a person or group of people guaranteed by law and does not get, or is feared not to obtain a fair and correct legal settlement based on the applicable legal mechanism [34]. Thus, violations of human rights will be subject to sanctions in accordance with applicable legal provisions.

In the context of the state, the fulfillment of human rights still requires state intervention, so that the state has an obligation to fulfill them [35]. With the nature of human rights that cannot be reduced, it requires that their fulfillment be absolute by the state [36]. Therefore, the fulfillment by the state as regulated in Article 28I paragraph (4) of the 1945 Constitution shows the responsibility of the state, especially the government, in the protection, promotion, enforcement, and fulfillment of human rights. Meanwhile, Article 28I paragraph (5) of the 1945 Constitution emphasizes the enforcement and protection of human rights in accordance with the principles of a democratic rule of law. Rommy Patra, in his writing, explains that the obstacle in resolving cases of human rights violations is the problem of institutional relations between state institutions that are authorized to resolve cases of serious human rights violations [37].

The 1945 Constitution does not provide an understanding of constitutional rights. The term constitutional rights began to appear in Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316, hereinafter referred to as the Constitutional Court Law), stating "the rights regulated in -The 1945 Constitution of the Republic of Indonesia" [38]. According to Jimly Asshiddiqie, constitutional rights are rights guaranteed in and by the 1945 Constitution. The guarantee of these rights is stated explicitly or implicitly. This right is a form of legal protection from actions that may be carried out by the holder of the power of state administrators in the relationship between the state and citizens [39]. The protection and enforcement of constitutional rights are the same as human rights, which are the obligations of all parties, including citizens. Constitutional rights do not only cover rights but are also related to obligations, namely the obligation to respect and respect the constitutional rights of others.

The Constitution is a normative crystallization of the state's duty in providing protection of human rights and the implementation of government based on people's sovereignty with legal limits on power that are directed to the interests and benefit of the people as a whole [40]. The protection of the constitutional rights of citizens must be carried out in accordance with the conditions of various citizens [41]. The reality of the Indonesian people

shows that there are differences in the ability to access the protection of rights provided by the state [42]. The difference in ability is not based on the will of a particular group but because the social structure that develops tends to marginalize it. The protection of constitutional rights, carried out without paying attention to differences, will automatically maintain and even further the differences [43]. So that every citizen has the same ability and can get the same protection of constitutional rights, special treatment is needed. Such special treatment can only be achieved through equal treatment in the protection of the constitutional rights of every citizen [44]. Thus, the 1945 Constitution guarantees such special treatment as a right to obtain the same opportunities and benefits. Article 28H paragraph (2) of the 1945 Constitution states, "Everyone has the right to get special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice."

Violation of constitutional rights as stated in the 1945 Constitution stems from concrete actions of government bureaucratic apparatus; it shows that violations of constitutional rights are only limited to laws (judicial review), instead of allowing constitutional violations to continue without any party being able to stop them [45]. As long as there is no protection of constitutional rights, this can potentially create legal loopholes, namely in the form of a vacuum in the rule of law or legal mechanisms that can trigger violations of basic rights in the form of a product of laws and regulations or executive actions that injure the basic rights of citizens as referred to in paragraph (1). provided for in the Constitution [46].

### **Corruption Crimes of Social Assistance Funds**

The purpose of the state, as mandated by Pancasila and the 1945 Constitution, is to create a just and prosperous society. The justice in question can be achieved depending on the law itself, how the law is applied by state institutions, and the extent to which the results are in accordance with the ideas and sense of justice that live in society. If the law itself does not appear to be fair, it will appear to most Indonesians as a tool to defend the interests of the rich and powerful [47]. Meanwhile, in the context of criminal law, injustice and fraud often occur. People assume that there is injustice before the law conducted by the rulers (state). So that people assume, the state failed to apply a fair law in society [48]. For this reason, decisive action is needed and can create legal certainty in creating state life, especially against perpetrators of criminal acts of corruption.

An act/action is considered as an act/action of a criminal act of corruption if it fulfills the elements, namely:

1. Intention to commit corruption (desire to act): this element is in a person, formed for a long time starting from childhood. This is closely related to three kinds of theories about why someone becomes a criminal.



First, the born criminal. This is also called the theory of talent; that is, a person has an evil nature from birth. Second, criminals are formed by the environment. Children born in a good environment will grow to be evil if they are in a criminal environment, also called the tabula rasa theory, namely that a person is born clean slate into the world like a white paper, then it depends on the environment to give them a color. That is the reason, in some developed countries, why novice criminals are not put in prison so as not to give them the opportunity to get worse. Third, the mixed theory of talent and environment.

2. Ability to commit corruption: this factor can, in fact, be substituted through the use of other people who have the necessary abilities to commit evil. For example, by being hired, coerced, or promised something interesting if the person concerned is willing to do the job by using his expertise, ability, or authority.
3. Opportunity for corruption: people who have authority at every level of power have this. Opportunities will be great when:
  - a. The applicable provisions are very loose in the sense that they can provide opportunities for corruption;
  - b. Public positions are occupied by corrupt officials;
  - c. Something was corrupted;
  - d. People associated with power can accept the corrupt situation as a prerequisite for dealing with power (in the sense of not questioning it or even encouraging such conditions);
  - e. The low quality of internal and external supervision (social control).
4. Target that can be corrupted (suitable target): this element cannot be substituted but can be created by the holders of authority or power. This element can be carried out alone or together with other people, for example, the authority to determine the revenue and expenditure budget. In determining the program and budget amount, negotiations take place between the defense and investigators to determine the article violated by the perpetrator, the defense and the public prosecutor to determine the charges, between lawyers and judges in determining the decision, between the committee and the bidders for a project being tendered, between subordinates and superiors in order to get promotions, between permit seekers and permit issuers, or between candidates for office and voters, and so on.

Therefore, the criminal act of corruption as regulated in laws and regulations is an act that is very detrimental to state finances or the state economy and hinders national development [50]. A criminal act (*strafbaarfeit*)

is a series of actions committed by a person or persons that are contrary to existing legal provisions so that it will have legal consequences for the perpetrators, namely in the form of criminal sanctions [51]. The provisions of criminal law as positive law that applies throughout Indonesia state the types of punishments that can be imposed on perpetrators of criminal acts, including the main punishment consisting of the death penalty, imprisonment, confinement and fines, life imprisonment [52]. Criminal law provides threats to people who commit crimes [53]. In imposing a criminal sentence, the principle of *Geen straf zonder schuld* is known, *actus non facit reum nisi mens sit rea* (not punished if there are no mistakes) [54].

In the life of the state, the government must uphold the constitutional rights of every citizen, especially those related to the perpetrators of corruption [55]. In the condition of the country in the midst of the covid-19 pandemic, with a completely limited situation, activities and economic growth are experiencing problems, resulting in the government issuing a policy of social assistance funds [56]. Social assistance is assistance in the form of money, goods, or services to a person, family, group, or community who are poor, underprivileged, and/or vulnerable to social risks [57]. Social assistance programs that are carried out to the community are carried out efficiently [58] so that they can be received on target, in the right amount, at the right time, in the right quality, and in the right administration [59]. Social Assistance Providers are carried out by Work Units in Ministries/Institutions at the Central Government and/or Regional Apparatus Work Units in Regional Governments whose duties and functions are to carry out poverty reduction programs which include social protection, social security, social empowerment, social rehabilitation, and basic services [60]. Meanwhile, Social Assistance Recipients are individuals, families, groups, or communities who are poor, underprivileged, and/or vulnerable to social risks [61].

The year 2020, as the year in which the world experiences the COVID-19 pandemic, the spread of which carries risks to the health of infected people in various parts of the world, including Indonesia. The COVID-19 pandemic has significantly disrupted economic activity and has had major implications for the economies of most countries around the world. During the COVID-19 pandemic, the government made budget savings taken from the State Revenue and Expenditure Budget to provide social assistance to the community [62]. In the context of providing social assistance to the community, the government has also issued a policy against perpetrators of the crime of misappropriation of the social assistance being disbursed, especially in the midst of the global crisis, the outbreak of the COVID-19 virus, which will be subject to capital punishment as stipulated in Article 2, paragraph (2) of Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption (State Gazette of the Republic of Indonesia of 1999 Number 140, Supplement to the State Gazette of the

Republic of Indonesia Number 3874, hereinafter referred to as Law 31/1999). The provisions of Article 2, paragraph (2) expressly stipulate sanctions against perpetrators of criminal acts in 'certain circumstances.' The COVID-19 pandemic is also referred to as 'certain circumstances' as referred to in Article 2, paragraph (2) of Law 31/1999.

The phrase 'certain circumstances' can also be referred to as 'force majeure' because it is a forced situation that occurs beyond the human ability or an event that no party can be held accountable, that results in unavoidable losses. So, it requires serious handling from all parties, especially the government. The phrase 'certain circumstances' in Article 2 paragraph (2) of Law 31/1999 is intended as a burden for perpetrators of criminal acts of corruption committed when the state is in an emergency, during a national natural disaster, as a repetition of a criminal act of corruption, or when the state in economic and monetary crisis. President Joko Widodo has declared the COVID-19 pandemic period as a non-natural national disaster through Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) as a National Disaster [63].

The provision of social assistance funds in disaster situations is generally vulnerable to opening up opportunities for corruption [64]. This can be seen from the rise of criminal cases of corruption in social assistance funds and generally related to the very large amount of funds budgeted by the government [65]. The central government and local governments have budgeted funds for the implementation of social assistance as part of the Social Safety Net [66]. The budget disbursed by the Central Government was Rp. 405.1 Trillion, which included social assistance funds of Rp. 110 Trillion. While the Regional Government poured a budget of Rp. 67.32 Trillion, which includes social assistance funds of Rp. 25 Trillion, which will be given to the community [67]. The vulnerability of social assistance for handling COVID-19 to misappropriation can be proven by data released by the Corruption Eradication Commission. On July 3, 2020, there were a total of 621 public complaints regarding the distribution of social assistance funds, including 268 reports of people not receiving assistance even though they were registered, 66 reports of aid not being distributed by the authorities to beneficiaries, 47 reports of receiving social assistance funds that were less than they should have been, 31 reports of fictitious recipients (names on the aid list did not exist), 6 reports of poor quality of aid received, 5 reports of people receiving aid when they should not have, and 191 of various other reports. In addition, according to the BBC report, in general, the mode of corruption that appears in the distribution of social assistance funds is reducing the allocation per recipient or cross people's names from the aid list. The perpetrators made a list of fictitious beneficiaries, people who did not exist, but the funds were still issued [68].

According to a report by the Head of the Public Information Section of the Police Public Relations Division, amid the COVID-19 pandemic, there were cases of alleged corruption in social assistance funds in several regions in Indonesia that were being handled by the police, including 38 cases by the North Sumatra Police, 12 cases by the Java Police, West Nusa Tenggara, 8 cases by the West Nusa Tenggara Police, 7 cases by the Riau Police, 4 cases by the South Sulawesi Police, and 3 cases each by the Banten Police, West Java Police, Central Sulawesi Police, and East Nusa Tenggara Police [69]. Meanwhile, the concrete cases related to the alleged corruption of social assistance funds are as follows:

1. The case of Mark-up of the Covid-19 social assistance fund, carried out by the Head of the Social Welfare Bureau of the Lampung Provincial Government, who misused social assistance funds in the form of basic necessities for people affected by the COVID-19 pandemic in the Lampung region. The mode used is to mark up the budget for each item of goods to be distributed and condition third parties as providers of goods [70].
2. The corruption case of social assistance in West Java involving the sub-district head, village head, village officials to the head of the neighborhood association with the mode of cutting off funds that should be the rights of the people in need and by replacing the contents of the social assistance boxes in the form of basic needs with lower quality products, and misrepresented its value [71].
3. The case of corruption in social assistance carried out by the Hamlet Head and Members of the Village Consultative Body in the Presidential Assistance Village, Tuah Negeri District, Musiwaras Regency, South Sumatra with the mode of cutting direct cash assistance funds belonging to residents affected by the COVID-19 pandemic.

In addition, the ongoing corruption case related to the handling of the COVID-19 pandemic, namely the one that involved the Minister of Social Affairs, Juliari Peter Batubara, who was named a suspect for the alleged bribery case of social assistance funds handling the COVID-19 pandemic for the Jakarta, Bogor, Depok, Tangerang, and Bekasi (Jabodetabek) area. He is suspected of receiving bribes of Rp. 17 billion from partner companies working on procurement projects and distribution of social assistance funds [72]. The Minister of Social Affairs is suspected of violating Article 12, letter b in conjunction with Article 18 of Law 31/1999 as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes (State Gazette of the Republic of Indonesia of 2001 Number 134 Supplement to the State Gazette of the Republic of Indonesia Number 4150, hereinafter referred to as Law 20/2001) in conjunction with Article 55, paragraph (1) of the Criminal Code in conjunction with Article 64, paragraph (1) of the Criminal Code. The legal process regarding the

abuse of the Minister of Social's authority is currently underway.

In addition, according to the Coordinator of the Political Corruption Division, Indonesia Corruption Watch (ICW) stated that the cause of the misappropriation of social assistance funds was caused by several things: first, the database was chaotic where this happened due to confusing data on recipients of social assistance, there were always multiple recipients and fictitious data. Second, weak supervision and audit to minimize misappropriation of social assistance funds. This is because the government has not made a serious scheme to oversee social assistance funds from distribution to reporting [73]. According to the Ombudsman, as a public service institution, the opening for corruption is maladministration, so that providing public services by preventing maladministration will automatically prevent corruption [74]. Maladministration, which is an act or behavior against the law and ethics in the administrative process of providing public services, both in the case of procedural deviations, abuse of authority, negligence, neglect of legal obligations, discriminatory actions, requests for compensation, and so on.

In terms of handling the covid-19 pandemic, with maladministration behavior carried out by the former Minister of Social Affairs and others, who abuse their responsibilities and authority, commit procedural deviations, abuse of authority, and other legal actions that result in criminal acts of corruption, resulting, in this case, the community suffers a loss, that social assistance funds do not arrive as determined by the government or are not on target for providing social assistance funds. This has resulted in the violation of human rights in terms of maintaining life and livelihood as mandated by Article 28A of the 1945 Constitution. For this reason, in order to prevent corruption of the Covid-19 social assistance fund so that its allocation is right on target, a public service system is needed starting from data collection, mapping needs, distribution, accountability, and evaluation of implementation in a transparent and accountable manner. In addition, a strict monitoring system is needed for the distribution of social assistance funds to prevent corrupt practices by irresponsible parties, as well as an integrated and coordinated system between institutions so that the provision of social assistance funds is right on target and can be accounted for.

In the distribution of social assistance funds, policies are needed, among others: first, the principles of openness [75] and accountability [76] as regulated in Law Number 28 of 1999 concerning State Administration that is Clean and Free from Corruption, Collusion, and Nepotism (State Gazette of the Republic of Indonesia Year 1999 Number 75, Supplement to the State Gazette of the Republic of Indonesia Number 3851). With the principles of openness and accountability, there will be transparency in the use of the state budget intended for handling the COVID-19 pandemic, and all parties and the public can access and carry out supervision. Second, an

information system related to the disclosure of data on the distribution of social assistance funds and their accountability. Third, the social control mechanism is intended so that the provision of social assistance funds is truly on target. Fourth, a structured, systematic, and integrated monitoring system as a solution to prevent corruption in social assistance funds.

According to the Corruption Eradication Commission, there are at least four corruption-prone points in handling the COVID-19 pandemic, namely:

[77] first, procurement of goods/services, there is the potential for collusion, price mark-ups, kickbacks, conflicts of interest, and fraud. To prevent this, the Corruption Eradication Commission has issued a Circular Letter of the Corruption Eradication Commission Number 8 of 2020 concerning the Use of the Budget for the Implementation of the Procurement of Goods/Services in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19) Related to the Prevention of Corruption Crimes (Circular of the Commission). Corruption Eradication Number 8 of 2020, as guidelines for implementers, dated April 2, 2020 [78].

Second, grants to the Covid-19 Task Force or local governments. The Corruption Eradication Commission has identified potential vulnerabilities in recording receipts, distribution of aid, and misappropriation of aid or grants from the public or private sector given to the Task Force and all ministries/institutions/local governments. As an anticipatory measure, the Corruption Eradication Commission has issued the Corruption Eradication Commission Letter Number B/1939/GAH.00/0 1-10/04/2020 concerning Acceptance of Donations/Grants from the Community, dated April 14, 2020 [79]. Third, allocation of sources of funds and expenditures and the use of the budget in the process of refocusing and reallocating the covid-19 budget to the State Budget and Regional Revenue and Expenditure Budgets. The Corruption Eradication Commission has identified vulnerable points in recipient data collection, data clarification and validation, goods shopping, aid distribution, and supervision. For this reason, the Corruption Eradication Commission has issued Circular Letter Number 11 of 2020 concerning the Use of Integrated Social Welfare Data and Integrated Social Welfare Non-Data Data in Providing Social Assistance to the community, dated April 21, 2020.

Fourth, data collection of recipients, clarification, and validation of data, shopping for goods, distribution of aid, and supervision. Corruption-prone points in handling the COVID-19 pandemic can be minimized or even eliminated if the distribution of social assistance funds is carried out with the planners and policies as mentioned above, namely: the principles of openness and accountability, information systems related to the disclosure of data on the distribution of aid funds, social assistance and accountability, social control mechanisms, a structured, systematic, and integrated supervision system as a solution to prevent corruption of social

assistance funds. With continued efforts by the government, in this case, the Corruption Eradication Commission, through preventing and terminating corruption-prone points in handling the COVID-19 pandemic, human rights are maintained and enforced. Because the crime of corruption is part of or qualified as a crime against human rights and the impact of the criminal act of corruption causes denial, abandonment, and deprivation of 'human dignity.'

Meanwhile, according to the Indonesian National Police, there are at least 102 cases of alleged misappropriation of social assistance funds throughout Indonesia. The perpetrators of the abuse, which are currently under investigation, come from public officials from the highest to the lowest levels. The National Police concluded that there were several *modus operandi* used by the alleged perpetrators, namely: [80] (1) withholding social assistance funds and their unequal distribution, either intentionally or unintentionally; (2) the pretext of 'sweat money,' so that part of the existing budget is set aside; (3) reduction in the scale of basic food packages. In this case, the alleged perpetrators are suspected of committing criminal acts as regulated in Law 20/2001. Thus, the Corruption Eradication Commission (KPK), in handling the COVID-19 pandemic, is tasked with preventing corruption, playing an active role in overseeing the allocation and use of COVID-19 social assistance funds in various regions. The role of the Corruption Eradication Commission during the pandemic is crucial, considering that the funds allocated for social assistance for the affected communities are very large [81].

## 5. CONCLUSION

In the situation and condition of the Covid-19 outbreak, the community really needs government policies, including social assistance funds. In order for the provision of social assistance funds to be right on target and accountable, and to prevent corruption of the covid-19 social assistance funds, a public service system is urgently needed, starting from data collection, mapping of needs, distribution, accountability, to evaluation of implementation in a transparent and accountable manner, through prevention and termination of corruption-prone points in handling the COVID-19 pandemic. Thus, human rights are maintained and enforced because corruption is part of or qualified as a crime against human rights, and the impact of corruption causes denial, abandonment, and deprivation of human dignity.

In addition, strict supervision is needed in the process of distributing social assistance funds to the community, as well as an integrated and coordinated system between institutions from the central government to regional governments. The policymakers also need to change their mindset over the provision of social assistance funds in order to provide assistance to the community, not to enrich themselves or their groups. Thus, the misuse/abuse

of social assistance funds carried out by actors or officials who are given the authority to accommodate or distribute social assistance funds, arbitrarily and not on target, is a criminal act of corruption and is a violation of the constitutional rights of citizens. Therefore, for the perpetrators of the criminal act of corruption, social assistance, irrespective of who and how must be severely punished to give a deterrent effect because this act has violated the human rights of others. The perpetrators of the misuse of social assistance funds carried out in the midst of force majeure conditions is an act that is not commendable and violates human rights.

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