



ISSN 0249-4655

INTERNATIONAL JOURNAL OF CREATIVE RESEARCH AND STUDIES

Volume 5 Issue 12, December - 2021



Published By
KNOWLEDGE RIDGE PUBLISHERS



Volume 5 Issue 12, December-2021

Title: CONJUGAL VISIT POLICY IN CORRECTIONAL INSTITUTIONS OF INDONESIA AS A FORM OF SOCIAL JUSTICE FOR INMATES



Author: Dio Akbar Pratama

Title: Research on the path of constructing a modern industrial system with international competitiveness in Guangdong-Hong Kong-Macao Greater Bay Area from the perspective of Double Circulation



Author: Zhou Nan

Title: Assessment by the National Narcotics Agency in the Settlement of Narcotics Cases Based on the Perspective of Criminal Law Policy



Author: Fakhur Rozy, I Gede Widhiana Suarda & Ainul Azizah

Title: Family Legal Responsibility for The Rehabilitation of Narcotic Abuse Victims



Author: Yudi Ivan Vibrianto, M. Arief Amrullah & Fendi Setyawan

Title: Criminalization of Sexual Gratification: Criminal Law Policy Perspective in Indonesia



Author: Suryaantara Adi Pratama, I Gede Widhiana Suarda & Ainul Azizah

Title: On the Application of Auxiliary Function in Middle School Mathematics Teaching



Author: Zhou Yan, Huang Jie & Shen Li

Title: DELEGATION OF THE AUTHORITY OF THE ESTABLISHMENT OF ACT BY ACT



Author: Lovika Augusta Purwaningtyas, Bayu Dwi Anggono & A'an Efendi

**INTERNATIONAL JOURNAL OF
CREATIVE RESEARCH AND STUDIES**

www.ijcrs.org

ISSN-0249-4655

**Research on the path of constructing a modern industrial system
with international competitiveness in Guangdong-Hong Kong-
Macao Greater Bay Area from the perspective of
Double Circulation**

Zhou Nan

Post-doctor, School of Economics
Central University of Finance and Economics, Beijing, China

Abstract

This paper analyzes the current situation of industrial development, technological innovation and financial resource endowment of the Guangdong-Hong Kong-Macao Greater Bay Area from the perspective of double circulation, and analyzes the practical problems faced by the modern industrial system of the Greater Bay Area. Under the guidance of the idea of dual circulation development pattern, the paper puts forward several ways to construct a modern industrial system in the Guangdong-Hong Kong-Macao Greater Bay Area: Speed up the digitalization and intelligent transformation of traditional industries, and to shape emerging industrial clusters; Strengthen international cooperation in industrial technology, speed up cooperation and innovation with foreign-funded enterprises, attract talents and talents, and explore diversified cooperation models in the Science and technology corridor of Guangdong, Shenzhen, Hong Kong and Macao; build an international technology trade platform, make full use of domestic and international factors and resources such as market, technology, finance and human resources, and shape the Greater Bay Area as a resource hub; use digital elements to enhance the comprehensive influence of trade economy and build a world-class logistics network.

Keywords: modern industrial system; dual circulation; path selection; Greater Bay Area

Introduction

According to the report of the 19th CPC National Congress, "China's economy has shifted from a stage of high-speed growth to a stage of high-quality development" and "we will accelerate the building of an industrial system featuring coordinated development of the real economy, scientific and technological innovation, modern finance

and human resources". "Accelerate the development of a modern industrial system and promote the optimization and upgrading of the economic system," said the outline of the 14th Five-Year Plan. The urgent need for China to build a modern industrial system comes from two aspects. On the one hand, it is the realistic requirement for China to transform the mode of economic development, adjust the economic structure, improve the total factor productivity and solve the problem of "stuck neck, off the chain". Since China joined the WTO, the export-oriented economic prosperity, good economic and trade relations with developed countries cover problem, a lot of manufacturing industry is big but not strong with weak foundation, "stuck neck" fields began to emerge, manufacturing technical difficulties make developed countries to kill good situation of China's economic development, to a great extent it restricts the rapid economic growth and affects industrial security. Therefore, building a modern industrial system is the inevitable choice to adapt to the new normal of economic development, implement the new development concept, build a modernized economic system, and finally achieve high-quality economic development. On the other hand, Pattern of world science and technology industry rapidly changes, in the perspective of the global catching the historical opportunity of a new round of technological revolution and industrial revolution, implementing the international economy and the industrial competitiveness ascension need to speed up the upgrading in a traditional industry in China, expand advantage in the field of emerging industries, narrow the gap, to realize independently controllable advantage industry, promote the industry in the global value chain towards the high-end. To realize the benign interaction and high integration of the international and domestic markets, and create a good situation for the high-quality development of the modern industrial system.

In 2019, the CPC Central Committee and The State Council issued the Outline of the Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area, making the development of the Area a national strategy. The Guangdong-Hong Kong-Macao Greater Bay Area is an important space carrier for China to face global competition, and has been entrusted with a high mission by the state. According to the Outline, the Greater Bay Area should be built into an international scientific and technological innovation center and a modern industrial system with international competitiveness. The formulation of the Outline is not only to serve regional economic development, but also to realize the great rejuvenation of China, the implementation of innovation-driven development strategy to the Greater Bay Area. After more than 40 years of reform and opening-up, the Guangdong-Hong Kong-Macao Greater Bay Area has developed a complete industrial system, with rapid development in advanced manufacturing, modern service industry, strategic emerging industries and other fields. Affected by the fourth global industrial transfer, the return of manufacturing in developed countries, trade protectionism and other factors, the economic development of the Guangdong-Hong Kong-Macao Greater Bay Area, which is dominated by export-oriented economy, has been negatively affected. It is imperative for the Guangdong-Hong Kong-Macao Greater Bay Area to implement the innovation-driven development strategy, accelerate the transformation and upgrading of its economic structure, build a modern industrial system with international competitiveness, achieve high-quality economic development, and provide support for China's overall economic development.

To achieve high-quality economic development, we need to focus on supply-side structural reform and improve and strengthen the real economy. Building a modern industrial system with international competitiveness is an important point to achieve high-quality economic development. 《Guangdong province decision to accelerate the construction of the modern industry system》, points out that the modern industry system has the high-tech content, high added value, low energy consumption, low pollution, strong capacity for independent innovation. A new industrial system with innovative, open, integrated, concentrated and sustainable characteristics is supported by an industrial development environment with beautiful environment, complete infrastructure, strong social security and good market order. Realizing the coordinated development of real economy, scientific and technological innovation, modern finance and human resources has become an inevitable choice to build a modern industrial system.

Development status of traditional and emerging industries in Greater Bay Area

Traditional industry and emerging industry are the organic components of modern industrial system. The Guangdong-Hong Kong-Macao Greater Bay Area has made significant progress in the construction of a modern industrial system. It has accumulated rich talents and resources in traditional pillar industries and strategic industries, and thousands of high-tech enterprises.

The construction of modern industrial system in the Greater Bay Area includes two aspects: the technological progress of traditional pillar industries and the shaping of emerging industrial clusters. 《The Opinions of Guangdong Provincial People's Government on Cultivating and Developing Strategic Pillar Industry Clusters and Strategic Emerging Industry Clusters》 released in May 2020, ten strategic pillar industries and ten strategic emerging industries that Guangdong province focuses on developing are defined (see Table 1). In 2019, the ten strategic pillar industries achieved revenue of 15 trillion yuan, and the ten strategic emerging industries achieved revenue of 1.5 trillion yuan. Guangdong province has initially formed the prototype of 20 strategic industrial clusters. Among the strategic pillar industries, new-generation electronic information, modern light industry and textile, advanced materials, green petrochemical, smart home appliances, modern agriculture and food, software and information services have all exceeded one trillion yuan in output value. Among strategic emerging industries, new energy, digital creativity, safety emergency response and environmental protection, high-end equipment manufacturing, precision instruments and equipment, semiconductors and integrated circuits have all exceeded 100 billion yuan in output value.

Table 1: Operating income of strategic pillar industry cluster and strategic emerging industry cluster in Guangdong Province

Strategic pillar industry	Operating income	emerging sectors of strategic importance	Operating income
A new generation of electronic information	4.3 trillion	New energy	410 billion
Modern light industrial textile	2.6trillion	Digital creative	420 billion
Advanced materials	2.1 trillion	Safety emergency and environmental protection	250 billion
Green petrochemical	1.46trillion	High-end equipment manufacturing	180 billion
Intelligent home appliances	1.3 trillion	Precision instrument and equipment	132.3 billion
Modern agriculture and food	1.3 trillion	Semiconductors and integrated circuits	120 billion
Software and information services	1.1 trillion	Laser and additive manufacturing	90 billion
The car industry	840.4billion	Cutting-edge new materials	50 billion
Ultra high definition video display	600 billion	Intelligent robot	32.5 billion
Biomedical and health	500 billion	Blockchain and quantum information	

Source: Compiled according to the Opinions of Guangdong Provincial People's Government on Cultivating and developing strategic Pillar Industry Clusters and Strategic emerging industry clusters in 2020

As the core manufacturing cities of the Guangdong-Hong Kong-Macao Greater Bay Area, Guangzhou and Shenzhen have established a solid position in shaping new generation of electronic information, intelligent home appliances, automobile industry, advanced materials, modern light industry and textile, software and information services, biomedicine and health and other pillar industry clusters (see Table 2). Under the influence of the spillover

effect of industrial core cities, the new generation of electronic information industry has formed an information and communication equipment industrial cluster in Zhuhai, Huizhou, Dongguan and Zhongshan as the supporting cities. In the field of smart home appliances, it has formed innovation, R&D and operation bases with Guangzhou, Shenzhen and Foshan as the core, and manufacturing bases with Zhuhai, Huizhou and Zhongshan as supporting bases. In the field of automobile industry, it has formed an industrial layout with Guangzhou, Shenzhen, Zhuhai, Foshan and Zhaoqing as the core, new energy vehicle enterprises such as BYD, Xiaopeng Automobile, Tengze Automobile have developed rapidly. In the field of advanced materials, it has formed industrial clusters with Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan and Zhaoqing as the core. In the field of biomedicine and health industry, within the greater Bay Area, there are Guangzhou International Biological Island, Shenzhen Pingshan National Biological Industry Base, Zhuhai Jinwan Biomedical Industrial Park, Zhongshan National Health Science and Technology Industry Base and other industrial clusters and Foshan, Zhuhai, Zhongshan high-end medical equipment industry base.

Table 2: Layout of strategic pillar industries and strategic emerging industries in the Guangdong-Hong Kong-Macao Greater Bay Area

city	Distribution of strategic pillar industries	Distribution of strategic emerging industries
Guangzhou	New generation electronic information, green petrochemical, intelligent household appliances, automobile industry, advanced materials, modern light industry and textile, software and information services, biomedicine and health	Semiconductor and integrated circuits, high-end equipment manufacturing, intelligent robots, blockchain and quantum information, cutting-edge new materials, new energy, laser and additive manufacturing, digital creativity
Shenzhen	New generation electronic information, software and information services, intelligent home appliance industry, automobile industry, advanced materials, modern light industry and textile, biomedicine and health	Semiconductor and integrated circuit industry, high-end equipment manufacturing industry, intelligent robot industry, blockchain and quantum information industry, cutting-edge new materials industry, new energy industry, laser and additive manufacturing industry, digital creative industry, precision instrument and equipment industry
Zhuhai	Intelligent home appliances, automotive industry, advanced materials, software and information services, biomedicine and health	Semiconductor and integrated Circuits, high-end equipment manufacturing, intelligent robots, blockchain and quantum information, cutting-edge new materials, Laser and additive Manufacturing, Digital Creativity,
Foshan	Intelligent home appliances, automotive industry, advanced materials, software and information services, biomedicine and health	High-end equipment manufacturing, intelligent robots, blockchain and quantum information, cutting-edge new materials, new energy, laser and additive manufacturing, digital creativity
Huizhou	Green petrochemical, intelligent home appliances, advanced materials, software and information services, biomedicine and health	Laser and additive manufacturing industry
Dongguan	Advanced materials, software and information services, biomedicine and health	Semiconductor and integrated circuits, high-end equipment manufacturing, intelligent robots, blockchain and quantum information, cutting-edge new materials, laser and additive manufacturing, digital creativity

Zhongshan	Smart home appliances, biomedicine and health	High-end equipment manufacturing, intelligent robots, blockchain and quantum information, laser and additive manufacturing, digital creativity
Jiangmen	Advanced materials, modern agriculture and food	High-end equipment manufacturing, laser and additive manufacturing
Zhaoqing	Automotive industry, advanced materials	Cutting-edge new materials
Hong Kong	Finance, trade and logistics, professional services and other production tourism	Biomedicine, artificial intelligence, fintech, robotics, new materials
Macau	Gaming, tourism, export processing, Traditional Chinese medicine	Biological medicine and Traditional Chinese medicine health, modern Marine industry, new energy, new materials

Data source: According to the Opinions of Guangdong Provincial People's Government on Cultivating and Developing Strategic Pillar Industry Clusters and Strategic Emerging Industry Clusters in 2020, data collected on the website of Hong Kong Census and Statistics Department and Statistics and Census Bureau of Macao Government.

Guangdong province has also made great progress in strategic emerging industrial clusters. In the field of semiconductor and integrated circuit industry, an industrial pattern has been basically formed with Guangzhou, Shenzhen and Zhuhai as the core, driving the coordinated development of Foshan, Dongguan, Zhongshan and Huizhou, etc. Shenzhen, Zhuhai and Dongguan have arranged the development of the third-generation semiconductor. In terms of high-end equipment manufacturing industry, industrial agglomeration has initially formed in Guangzhou, Shenzhen, Dongguan, Zhuhai, Foshan, Zhongshan, Jiangmen and other places, with Guangzhou, Zhongshan, Shenzhen, Huizhou satellite equipment industry base, and Guangzhou, Shenzhen, Foshan, Dongguan photovoltaic equipment industry base. In the field of intelligent robots, Guangzhou, Shenzhen and other cities carry out robot research and innovation, with Zhuhai, Foshan, Dongguan, Zhongshan and other cities supporting robot production base. In the field of frontier new materials, the industrial technology level and comprehensive strength rank among the top in China, forming the cluster of frontier new materials in Guangzhou, Shenzhen, Zhuhai, Foshan, Dongguan and so on. In the field of precision instruments and equipment, there are nearly 20 specialized and new "little Giants", "Single champion" and "unicorn" enterprises.

The Pearl River Delta region has initially formed the trend of cluster development. For example, advanced materials industry is distributed in Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Zhaoqing and other cities. The semiconductor and high-end equipment manufacturing industry of strategic emerging industries are planned in many cities. Industrial homogeneity is the result of cluster development, but we should pay attention to the problem of industrial decentralization and homogeneity development under the promotion of policy.

Since the 1980s, Hong Kong has entered into the process of industrialization, the proportion of manufacturing industry gradually decline, the proportion of service industry is rising, the industrial added value of GDP in 2019 in Hong Kong is only 6.26%, the added value of service industry in Hong Kong as a share of GDP is 89.98%, Hong Kong pillar industry have warehousing logistics, financial and professional services and other modern producer services. Hong Kong is strong in scientific and technological innovation. Emerging industries such as artificial intelligence, robotics and new materials are speeding up. In 2019, the added value of Macao's industry accounted for only 4.23% of its GDP, while the added value of Macao's service sector accounted for 94.04% of its GDP, among which the gaming industry was the dominant industry. Thanks to Macao's inclusion in the Belt and Road Initiative and sound economic and trade exchanges with Portuguese-speaking countries, the total value of imports

and exports between China and Portuguese-speaking countries reached US \$147.354 billion in 2018, up 25.31 percent year on year. Hong Kong and Macao have a high proportion of tertiary industry and a low degree of industrial diversification. Their import and export trade industries are also negatively impacted by the international trade environment. Hong Kong and Macao are rich in human resources. They need to develop manufacturing and strategic emerging industries through re-industrialization, get deeply involved in the development of the Guangdong-Hong Kong-Macao Greater Bay Area, and achieve appropriate industrial diversification.

Technological innovation and financial resource endowment of Greater Bay Area

1. Technological innovation resource endowment of Greater Bay Area

Innovation is the key to construct modern industrial system. On 2 September 2020, the World Intellectual Property Organization (WIPO) released "Who Pays for Innovation?" Global Innovation Index 2020 (GII 2020), which evaluates technology clusters around the world based on PCT patent filings and scientific publications, China has 17 of the world's leading technology clusters in the list. Shenzhen-Hong Kong-Guangzhou technology cluster ranked second, ranking higher than international technology clusters such as San Jose, San Francisco, Boston, New York and Seoul, and higher than domestic technology clusters such as Beijing, Shanghai, Nanjing and Wuhan.

In 2019, the nine PRD cities invested 296.235 billion Yuan in R&D, accounting for 2.5% of GDP on average. Guangdong, Shenzhen, Zhuhai, Foshan, Huizhou and Dongguan topped the national level of 2.19%. Among them, Shenzhen's R&D investment reached 132.828 billion Yuan, accounting for 4.93% of GDP (see Figure 1), far exceeding the national level.

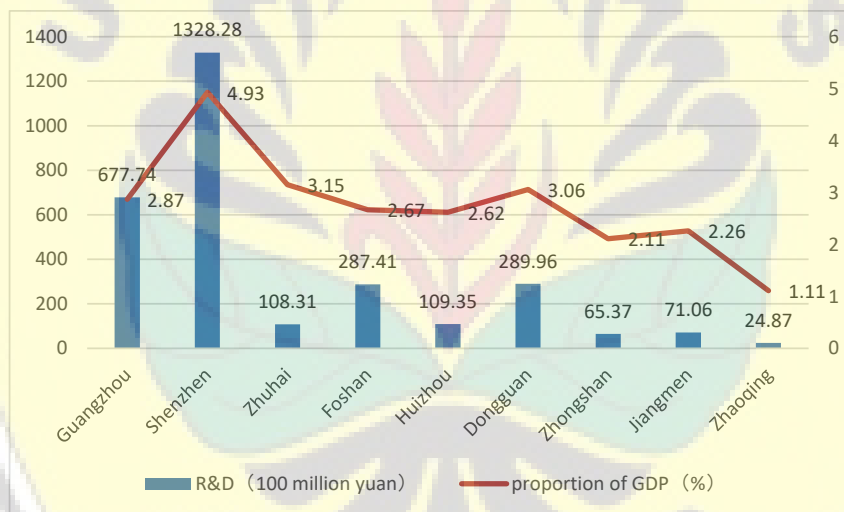


Figure 1: R&D investment and its proportion of GDP of the nine Pearl River Delta cities in Greater Bay Area in 2019

Source: Guangdong Science and technology Innovation Dynamic Data [2020], Guangdong Science and Technology statistics in 2020

In 2019, 729,000 patent applications were accepted and 475,000 patents were granted in the Guangdong-Hong Kong-Macao Greater Bay Area (See Figure 2), with the number of invention patents 2.38 times that of Tokyo bay Area, 5.72 times that of San Francisco Bay Area and 8.16 times that of New York Bay Area respectively.

In 2019, the number of PCT international patent applications in nine PRD cities was 24,500. According to the 2020 PCT Yearbook released by the World Intellectual Property Organization (WIPO), Huawei topped the list of PCT international patent applicants in 2019 with 4,411 PCT international patent applications published. OPPO Mobile Communications and Ping An Technology ranked fifth and eighth respectively. Shenzhen University and South China University of Technology ranked third and fifth respectively in the global PCT list of international patent applicants. In 2019, the turnover of technology contracts in nine cities in the Pearl River Delta reached 264.782 billion Yuan, with Guangzhou, Shenzhen and Dongguan ranking the top three in terms of technology turnover.

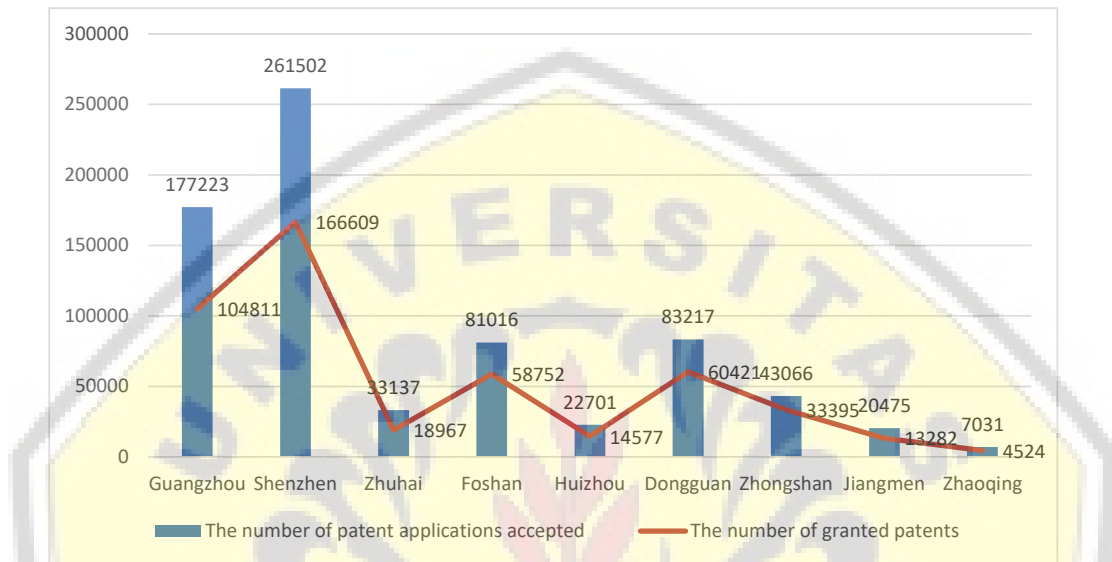


Figure 2: Number of patent Applications and number of patents granted in 9 PRD cities in 2019

Source: Guangdong Science and technology Innovation Dynamic Data [2020] phase I, Guangdong Science and Technology statistics in 2020

There were more than 40,000 high-tech enterprises in the nine PRD cities, and the output value of high-tech products was 7.11 trillion yuan, accounting for 52.6% of the total industrial output value on average. The output value of high-tech products in Shenzhen is far ahead, reaching 2.62 trillion yuan, accounting for more than 70.4% of the total industrial output value (see Figure 3). The output value of high-tech products in Shenzhen, Zhuhai, Huizhou, Dongguan, Zhongshan and Jiangmen all accounts for more than 50% of the total industrial output value.

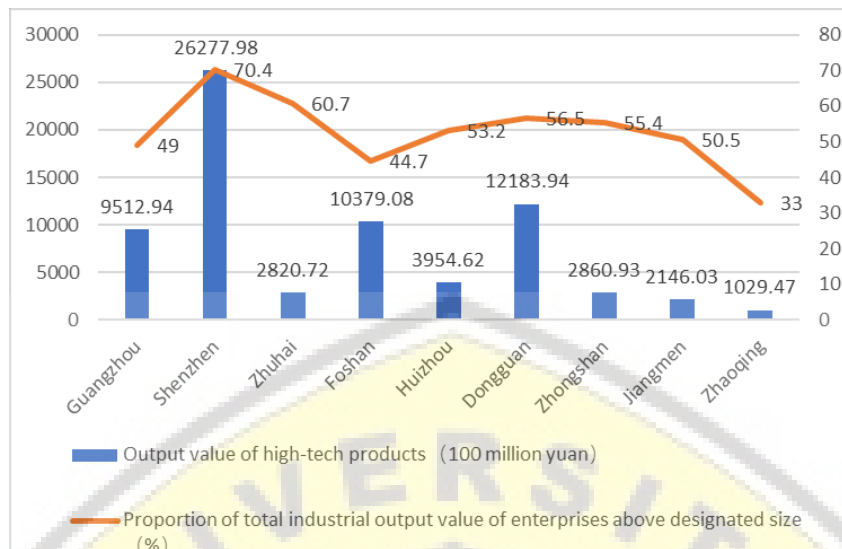


Figure 3: Output value of high-tech products and proportion of total industrial output value in the nine Pearl River Delta cities in 2019

Source: Guangdong Science and technology Innovation Dynamic Data [2020] phase I, Guangdong Science and Technology statistics in 2020

In 2018, Hong Kong invested HK \$24.4 billion in R&D, of which HK \$10.9 billion went to industry and commerce and HK \$12.3 billion went to higher education. In 2019, 17,323 patent applications were filed in Hong Kong, and the output value of high-tech products was HK \$2.5 trillion. In 2019, only 38 patents were filed in Macao.

2. Research institutions in the Guangdong-Hong Kong-Macao Greater Bay Area

There are more than 240 national innovation centers in the Guangdong-Hong Kong-Macao Greater Bay area, including national key laboratories, national engineering technology research centers, national engineering laboratories, national engineering technology research centers, state-local joint engineering research centers, and national Enterprise technology centers. By the end of 2020, Guangdong had 45 state-local joint engineering research centers.

There are more than 300 provincial-level industry-university-research platforms, 5944 provincial-level engineering technology research centers, 108 provincial-level engineering laboratories, and 1434 provincial-level enterprise technology centers. In December 2019, the first 10 Guangdong-Hong Kong-Macao joint laboratories were officially inaugurated.

Greater Bay Area has the Guangdong branch of Chinese Academy of Sciences, Shenzhen Institute of advanced technology of Chinese Academy of Sciences, South China University of Science and Technology, South China University of Technology, Sun Yat-Sen University, University of Hong Kong, the Hong Kong Polytechnic University, Hong Kong University of Science and Technology, the Chinese University of Hong Kong, University of Macau, Macau University of Science and Technology as the representative of basic and application research base of the world. The Guangdong-Hong Kong-Macao Greater Bay Area has gradually formed a cultural atmosphere conducive to innovation, entrepreneurship and research. Superior scientific research culture gene is conducive to attracting outstanding world-type talents to return home, and lays a cultural foundation for the construction of high-level laboratories and scientific research institutions facing the world's scientific and technological frontier.

Hong Kong and Macao have a solid foundation for education and scientific research. In 2018, the Ministry of Science and Technology with the Hong Kong signed the "mainland and Hong Kong on strengthening innovation of science and technology cooperation arrangement", covering scientific research, scientific and technological cooperation platform and base construction, personnel training, Hong Kong's 16 key lab partner lab officially changed its name to national key laboratory, incorporated into the national scientific research innovation system. In 2018, the Ministry of Science and Technology approved Macao to set up two new national key laboratories, namely, the National Key Laboratory of Smart City Internet of Things at the University of Macau and the National Key Laboratory of Lunar and Planetary Science at the Macau University of Science and Technology. By 2020, Macao had four national key laboratories.

3. Financial resource endowment of the Guangdong-Hong Kong-Macao Greater Bay Area

In 2020, the financial sector GDP of the Greater Bay Area will reach 1.5 trillion yuan, accounting 12% for GDP, significantly higher than the national average of 8%. By the end of 2020, the balance of deposits and loans of financial institutions in the Bay Area will exceed 75 trillion yuan, accounting for 19% of the national total.

The Guangdong-Hong Kong-Macao Greater Bay Area has two of the top 10 global financial centers, namely Hong Kong and Shenzhen. According to the 29th Global Financial Centers Index (GFCI 29) in March 2021, Hong Kong ranks 7th in the list of the world's top financial centers, Shenzhen 8th and Guangzhou 22nd in the list of global financial centers. Shenzhen ranked fourth in the financial sector, while Shenzhen, Hong Kong and Guangzhou ranked fourth, sixth and 11th respectively in fintech.

In December 2020, the 12th "China Financial Center Index (CDI-CFCI) report" showed that Shanghai, Beijing and Shenzhen were the top three financial centers in China, and Guangzhou ranked first among regional financial centers. Shenzhen ranked first in China among the top 10 cities for the development of local financial institutions, the top 10 cities for financial risk management and the top 10 cities for comprehensive financial policy support. Shenzhen ranks third in China among the top 10 cities for the development of corporate financial institutions, top 10 cities for the utilization of capital market, top 10 cities for the ability to gather financial talents, and top 10 cities for the level of financial openness and development. Shenzhen ranks second among the top 10 cities in the fund industry.

Practical problems faced by Greater Bay Area in building a modern industrial system

1. The Industrial layout is unbalanced and faces structural difficulties

Strategic pillar industry and strategic emerging industry are the organic components of modern industrial system. The strategic pillar industry plays the role of stabilizing the basic plate of economic development. The strategic emerging industry not only has its own development rules, but also supports the development of strategic pillar industry with technology spillover.

The Guangdong-Hong Kong-Macao Greater Bay Area has strong strategic pillar industries, but in recent years, the decline in external demand, trade friction and the rise in factor costs have led to the slowdown in the development of traditional industries, and the added value of the industry is still low. At the same time, the proportion of strategic emerging industries in GDP is not high, and emerging industries cannot grow into pillar industries in the short term, causing structural problems in the industrial development of the Greater Bay Area. Pillar industries and emerging industry have not been formed vertical cooperation pattern. In addition, some emerging industries have repeated construction, excessive investment and other phenomena are not conducive to the sustainable development of emerging industries, such as "small but complete", poor professional division of labor, excessive competition for limited high-tech talents, and low capital utilization efficiency.

2. The technological innovation system is not sound, basic research is weak and the supply of high-tech personnel is insufficient

The allocation of scientific and technological innovation resources in the Guangdong-Hong Kong-Macao Greater Bay Area has not yet formed an ecological system, and the infrastructure, such as industry-university-research technology innovation and application platform system and technology supply and demand trading market, surrounding enterprises and industries are not perfect, resulting in the slow commercialization and industrialization of scientific and technological achievements.

Scientific research institutes have many scientific and technological innovation resources input and abundant scientific and technological achievements output, but high-quality scientific and technological achievements cannot be commercialized because there is no matching industrialization platform, resulting in the waste of scientific research funds and scientific and technological achievements. Basic research is weak, the number of key technological innovation platforms around the problem of "bottleneck and chain failure" is limited, and collaborative innovation mechanism has not been established on the platforms.

High-tech talent and technology cultivating skilled talents cannot meet the needs of the development of strategic emerging industry. Semiconductor, robots and other industries need more research and development personnel, education system cannot meet the needs of industrial upgrading, in addition has not cultural ecology to attract international talents such as New York bay.

3. The ecosystem of science and technology and finance is not sound, and the pattern of mutual promotion between science and technology and finance has not yet been formed

Building an efficient and dynamic technology and financial ecosystem in the Guangdong-Hong Kong-Macao Greater Bay Area is an arduous task and a complex process. The Guangdong-Hong Kong-Macao Greater Bay Area has international financial centers such as Hong Kong, Shenzhen and Guangzhou. However, traditional banking, investment banking and securities and fund services remain core businesses. Due to legal restrictions in China, corporate debt financing and equity financing are isolated from each other, and the joint business model of investment and loan for innovative enterprises has not yet been formed. Private equity funds and other equity financing institutions pay insufficient attention to early projects. Traditional financial institutions such as banking and insurance are short of science and technology financial talents, and the supporting modes of science and technology banking, science and technology insurance and science and technology guarantee for science and technology innovation are still in the exploratory stage.

The sci-tech financial system centering on strategic emerging industries is still in its initial stage, and it is still a traditional sci-tech financial model for technology and enterprises to seek funds. Compared with world-class bay, New York, San Francisco bay have large scale of financial talents, innovative financial services model, world-class bay areas are entering into the advanced stage of mutual promoting development of science and technology and finance. It has formed a dynamic cultural atmosphere and ecosystem for innovation and entrepreneurship.

Analysis of the path for the Guangdong-Hong Kong-Macao Greater Bay Area to build a modern industrial system and promote high-quality economic development

The report to the 19th National Congress of the Communist Party of China pointed out that "implementing the new development concept and building a modernized economic system". Modern industrial system is the important content and material base of modern economic system. The modern industrial system is characterized by the coordinated development between the real economy with modern finance, scientific and technological innovation, human resources and other elements. It is of great significance for the Guangdong-Hong Kong-Macao Greater Bay

Area to build a modern industrial system by accelerating the upgrading and transformation of traditional industries, shaping strategic emerging industrial clusters, forming a collaborative innovation system with enterprises as the main body, accelerating the training of high-tech and skilled personnel and the integrated development of science and technology and finance, etc.

1. Raising the effective supply level of the real economy and giving consideration to both traditional and emerging industries

Weak global demand, trade friction, a new round of regional competition of industrial transfer, declining demographic dividend, rising land cost and other internal and external factors have restricted the rapid economic growth of the Greater Bay Area. The Greater Bay Area urgently needs to accelerate the innovation and upgrading of industries and enterprises, accelerate the transformation of innovation-driven economic structure, and avoid falling into the structural trap. We will implement the industrial foundation reconstruction project. Fiscal and tax policies will guide and encourage the upgrading and transformation of traditional industries shifting to intelligent manufacturing and lean manufacturing, accelerate the digital transformation of manufacturing industry, improve the operation and management level and technological innovation level of traditional industries and enterprises, and further consolidate the foundation of strategic pillar industries. Light industry enterprises seize the opportunity of consumption upgrading to accelerate the improvement of production efficiency and product quality, research and develop new products suitable for the market, and build well-known brands. We will develop high-tech industries, strategic emerging industrial clusters, enrich the industrial layout, and strive to form technological leadership in key areas and core technologies such as new-generation information technology, high-end equipment manufacturing, green and low-carbon, new-energy vehicles, biopharmaceutical, digital economy, new materials, and Marine economy. We will strive to have a say in the global industrial chain and value chain in advantageous areas.

With the development of economic globalization, the division of global value chain and industrial chain is further refined and specialized. Producer services are emerging industries that have independently developed from within the manufacturing industry, which proves the great demand and important role of producer services. In GVCS, the proportion of added value of modern services, represented by producer services, is gradually rising, while that of manufacturing terminal links is declining. Developing and improving the quality of modern service industry is of great significance to the transformation and upgrading of industrial structure and the promotion of high-quality economic development. The degree of coupling and coordination between modern service industry and manufacturing industry determines the degree of advanced manufacturing industry. Especially, the direct improvement of the technological level of manufacturing industry in the form of modern producer services such as information service and scientific and technological service will bring about great changes in manufacturing industry and help to accelerate the rapid transformation and upgrading of manufacturing industry.

In July 2021, Guangdong province issued the Implementation Plan for Digital Transformation of Manufacturing Industry in Guangdong Province (2021-2025) and Several Policies and Measures for Digital Transformation of Manufacturing Industry. By 2025, it will promote the implementation of digital transformation of 50,000 enterprises, and drive 1 million enterprises to reduce cost, improve quality and increase efficiency of cloud application. With the wide application of a new generation of information technology, the digital economy has the new development of soil, change the manufacturing production mode, improve the production efficiency, help to achieve the optimal allocation of production materials.

2. Building a system of scientific and technological innovation in which enterprises play a leading role and strengthening international cooperation in scientific and technological innovation

Enterprises are the micro behavior subject of modern industrial system, the carrier of scientific and technological innovation application, and the core subject of participating in global value chain competition. At the Conference of Academicians of the Chinese Academy of Sciences and the 10th National Congress of China Association for Science and Technology on May 28, 2021, General Secretary Xi Jinping stressed that "the key to the integration of innovation chain and industry chain is to establish the leading position of enterprises in innovation." As the main body of the market economy, enterprises can accurately grasp their own technology needs, accurately grasp the market needs, understand the world's cutting-edge technology trends, and have a strong demand for transformation and upgrading. Establishing a collaborative innovation system with enterprises as the main body, exploring the participation role of enterprises under the juguo system, protecting intellectual property rights, and exploring a flexible cooperation model for the transformation of scientific and technological achievements can help solve the long-standing disconnection between scientific research and the needs of economic transformation and upgrading, and form a situation in which scientific and technological innovation and economic development promote each other. The realization of scientific and technological innovation serving the transformation of economic development mode and the adjustment of economic structure is of great significance to the construction of modern industrial system with innovation as the core feature.

The Guangdong-Hong Kong-Macao Greater Bay Area has a relatively complete industrial system. It has many well-known enterprises in traditional industries, and has initially formed high-tech industries and strategic emerging industry clusters. It also has many leading enterprises in science and technology and small and medium-sized enterprises in intelligent manufacturing, advanced manufacturing, modern service industry and other fields. The enterprises in the representative of strategic pillar industries and emerging industries shall take the initiative to undertake the key technology in the field of crucial tasks, provide funds for technology innovation and industrialization experimental base, scientific research institutions of all kinds of enterprises should actively integrate itself technical force for their own needs and the industry development direction, offer innovative resources and innovative talents. We will explore diversified models to build industry-university-research collaborative innovation alliances, accelerate enterprise transformation and upgrading and technological progress, and open up paths for industrialization and commercialization of scientific and technological achievements.

To comprehensively improve the technological innovation level of the Guangdong-Hong Kong-Macao Greater Bay Area from the perspective of building a national innovation system, we should not only encourage applied research from the perspective of technological innovation serving the real economy, but also pay attention to basic research and break the bottleneck in the development of key technological innovation by strengthening basic research. Relying on public laboratories and generic technology laboratories in the Greater Bay Area jointly develops generic technologies, build a generic technology collaborative research and development platform, and concentrate on key and core technologies. Strengthening the internal degree of specialization of strategic emerging industries, and to avoid strategic emerging industry development in the process of "conveniently small" phenomenon, to encourage small emerging enterprise merger and reorganization, improve industrial structure convergence, improve the utilization efficiency of enterprise funds, to avoid the war for talent.

We should strengthen international cooperation in science and technology, learn from advanced experience of developed countries in digital and intelligent transformation, integrate ourselves into international innovation networks, and tackle key technologies with a global perspective and an open mind. Capable enterprises and research institutions will go global, build science and technology innovation centers and joint laboratories with developed countries, jointly tackle the bottleneck problem, make good use of world-class scientific and technological talents,

and increase the speed of scientific and technological innovation. To strengthen cooperation between cities in the PEARL River Delta and Hong Kong and Macao in technology development and commercialization of scientific and technological achievements by relying on the Guangzhou-Shenzhen-Hong Kong-Macao Science and Technology Innovation Corridor, integrate Hong Kong and Macao's innovation strength with the PEARL River Delta industry chain, establish an industrial cooperation platform between cities in the Greater Bay Area, and speed up two-way industrial transfer. To develop higher vocational education, train more technical and skilled talents urgently needed by strategic emerging industries, encourage vocational education colleges and enterprises to jointly train more high-skilled talents with better quantity and quality, and create an innovative atmosphere to attract international talents to settle in the Greater Bay Area from the aspects of culture, livable and entrepreneurial ecology.

3. Promoting the mutually reinforcing and integrated development of the financial sector and the real economy

The upgrading and transformation of traditional industries and the rapid development of strategic emerging industries need the support of a large amount of capital. Diversified capital supply systems such as venture capital fund, mature enterprise private equity fund, stock exchange, science and technology insurance, science and technology credit, and science and technology guarantee can meet the capital needs of enterprises in different life cycles.

With international financial centers such as Hong Kong, Shenzhen and Guangzhou, the Guangdong-Hong Kong-Macao Greater Bay Area is endowed with abundant financial resources. In particular, Hong Kong's financial industry has an international background. Make good use of Hong Kong's role as a channel to attract international capital into the development of the Guangdong-Hong Kong-Macao Greater Bay Area, realize the integrated development of an international science and innovation center and an international financial hub, and realize the sustainable development of scientific and technological innovation. Strategic emerging industry is bound to attract a large number of high-quality domestic and foreign capital investment, help to shape of modern industrial system, collaborative innovation system.

Financial big data and other fintech means are used to establish the evaluation system of science and technology enterprises. The evaluation system can provide comprehensive services for government finance, banks, private equity funds and other institutions to improve financing efficiency and capital utilization efficiency.

4. Use digital factors to enhance the overall influence of trade and economy and boost the pattern of dual-circulation development

The Guangdong-Hong Kong-Macao Greater Bay Area should seize the historic opportunity of the fourth industrial revolution and technological revolution, rely on its strong manufacturing base and huge market size, deeply participate in the redistribution of global value chain and industrial chain, strengthen economic and trade cooperation with countries along the Belt and Road, and build a modern industrial system from an international perspective.

Relying on the pilot of Free Trade Zone (Guangdong), we will improve the transnational optimal allocation of industrial resources, strengthen industrial cooperation, encourage enterprises in the Greater Bay Area with an international perspective and strength to go global, establish an inter-regional industrial division of labor, and jointly build an independent and controllable inclusive global value chain with countries along the Belt and Road. To explore digital elements to drive the global value chain division of labor pattern, reshape global trade interests mechanism, Hong Kong and Macao play a big lead in the field of digital economy in this region, further

strengthening trade and economic influence, using intelligent digital elements cross-border trade platform of digital infrastructure, through digital manufacturing and trade links. We will enhance the overall influence of manufacturing and industrial chains, integrate international and domestic market resources, make good use of the strategic opportunities of the Belt and Road Initiative, expand diversified trade channels, and form a pattern of economic development in which both domestic and international cycles reinforce each other.

References

- [1] Song Yingchang, Ren Gao. Accelerating the development of modern industrial new system and marching towards a new journey of high-quality development [J]. *Enterprise Economics*, 201,40(01):14-23.
- [2] Luo Hong. The construction of China's modern industrial system under the background of high-quality development [J]. *Theoretical construction*,2020,36(03):56-61.
- [3] Sun Xuegong, Guo Chunli, Li Qingbin, Research Group of Economic Research Institute, China Macroeconomic Research Institute. Grasp the connotation, characteristics and path of high-quality economic development scientifically [N]. *Economic Daily*,2019-09-17(014).
- [4] Zhang Shen, Li Zhengtu. The century-old change of industrial system under the leadership of the Communist Party of China. *Shanghai Economic Research*,2021(06):5-17.]
- [5] Shen Hua, Wang Xiaoming, PAN Jiaofeng. *Chinese Academy of Sciences*, 201,36(05):565-572.]
- [6] Wang Yiming. Building a Modern Industrial System with International Competitiveness [N]. *Learning Times*,2019-03-04(002).
- [7] Zou Xinyue, CAI Weixing. Guangdong-hong Kong-Macao Greater Bay Area: Building a Modern Industrial System with International Competitiveness [N]. *Shenzhen Special Zone News*,2021-05-18(B01).
- [8] Gu Naihua. Research on the development of Guangdong-Hong Kong-Macao Greater Bay Area [J]. *Urban Observation*,2021(02):5-6.
- [9] Jiang L. Research on coordinated development of industrial upgrading in Guangdong-Hong Kong-Macao Greater Bay Area [J]. *Guangdong Economy*,2020(11):28-35. (in Chinese)
- [10] Chen J. Breakthrough path of key core technology "bottleneck" [J]. *High-tech & Industrialization*, 201,27(02):36-39. (in Chinese)

**INTERNATIONAL JOURNAL OF
CREATIVE RESEARCH AND STUDIES**

www.ijcrs.org

ISSN-0249-4655

**Criminalization of Sexual Gratification: Criminal Law Policy
Perspective in Indonesia**

Suryaantara Adi Pratama, I Gede Widhiana Suarda & Ainul Azizah
Student and Lecturer, Postgraduate Program, Jember University

Abstract

The provision of sexual services with the intent and purpose as a form of criminal act of gratification has actually been going on for quite a long time. However, until now sexual gratification has not been explicitly regulated in positive law in Indonesia. In addition, there are still many doubts in the community and law enforcement regarding this phenomenon regarding whether it is not clear whether this form of sexual service can be categorized as a criminal act of corruption or not. The legal issue in this case is about Interpretation of Article 12.b of the Corruption Crime Law regarding gratification of sexual services in positive law in Indonesia, so with this the author wants to review the criminalization of sexual gratification by using a normative juridical approach, conceptual and legal approach.

Keywords: *Criminal, Gratification, Sexual.*

Introduction

The crime of corruption is a very serious crime so that it is categorized as an extraordinary crime because the impact it causes is not only detrimental to state finances, disturbing the stability and security of society, weakening the values of democracy, ethics, justice and legal certainty, but also violating human rights. social and economic community at large,¹ It can even damage democratic values, courtesy and legal certainty. Gratification is a form of corruption that has been widely practiced in the bureaucracy by employees and state administrators. Rules regarding gratification have also been regulated in Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Criminal Acts of Corruption. what often happens in people's lives is the giving of thanks or gifts or souvenirs for services that have been given by someone, either in the form of goods or even money, so that according to Robert Klitgaard which states that:²

¹Evi Hartanti, 2006, Corruption Crime, Sinar Graphic, Jakarta, p. 1.

²Kristian and Yopi Gunawan, Corruption Crimes Study on Harmonization between National Law and The United Nations Convention Against Corruption (UNCAC), Cet.1, Refika Aditama, Bandung, 2015. p.56

The provision of gratification is not only in the form of goods, travel tickets or money, currently a new type of gratification is emerging, namely the provision of sexual services in the form of sexual pleasure and enjoyment which is carried out by officials or state administrators that occur in various business and political transactions. According to Mahfud MD, bribery for sexual services or sex gratification is suspected to have been rampant since the New Order era. In Mahfud's view, sexual gratification is sometimes more powerful than money gratification, he has received many reports regarding sexual gratification among policy makers.³ Sometimes there are many government officials who do not tolerate being bribed using money or other objects but when offered by women as a means of giving the official will falter, so it is not surprising that in every job that involves the government or the private sector, it can be said that there is female intervention in it. "There needs to be a law on sexual service gratification and there needs to be special considerations that regulate it, because sexual gratification is difficult if it has to be converted in numerical form," said Mahfud.⁴

Sex services are taboo for the Indonesian people, as sex services can only be done by a husband and wife who are bound by legal marriage. Sex services in this case are sexual relations carried out by a man and a woman who are not legal husband and wife according to law and religion, which is adultery. Sex services as carried out outside the marriage, if it is known that one of them is already married, it can lead to adultery offenses and if it is carried out by a man and a woman who are not legally married, it is a cohabitation (*sameleven*), as this is prohibited by the norms that live in society.

Indonesia as a country *the civil law system in its legal development cannot be separated from the issue of legal certainty. The Criminal Code as a source of criminal law has contained the principle of legality/legal certainty, namely in Article 1 paragraph (1)*⁵, "No action can be punished except on the strength of the criminal rules in the existing legislation, before the act is committed." The issue of legal certainty initially did not receive special attention in the development of law in Indonesia. The existence of political dynamics then brought the issue of legal certainty in the second amendment to the 1945 Constitution of the Republic of Indonesia. Article 28I paragraph (1) of the Second Amendment to the 1945 Constitution of the Republic of Indonesia⁶, namely: "... the right not to be prosecuted on the basis of retroactive law is a human right that cannot be reduced under any circumstances.". If explored further, the issue of legal certainty has actually existed since the Dutch brought the Indonesian Criminal Code. The issue of legal certainty is between the notion of codification influenced by the Dutch and customary law or also known as the law that lives in Indonesian society. The arrangement and explanation of Gratification has already been explained in Article 12b of Law No. 20 of 2001⁷ about corruption, but it is not enough because the article does not explain about sexual gratification, explicitly the Corruption Act does not include sexual services (sex service) as a form of gratification.

Research Methodology

This research uses normative legal research. Normative legal research includes several sections, including: research on legal principles, legal systematics, level of legal synchronization, comparative law and legal history. The approach used in this study includes a conceptual approach, a statutory approach. The legal materials used consist of primary, secondary and non-legal legal materials. Primary legal materials consist of: Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of

³Politics Indonesia.com, Mahfud MD: Bribery in the form of sex services has occurred since the New Order. <http://www.politikindonesia.com/index.php?k=politik&i=40991-Mahfud-MD:-Suap-Berupa-Sex-Happening-Since-New-Order-Service,2013>. Accessed August 8, 2021

⁴ <http://korannonstop.com/2017/12/suap-seks-goda-pns/>, accessed 7 August 2021

⁵Moeljatno, Principles of Criminal Law, Jakarta: Rineka Cipta, 2008, p. 26

⁶<https://tirto.id/isi-pasal-28-uud-1945-before-dan-after-amendment-f8eH> accessed August 7, 2021

⁷Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, p. 7

Criminal Acts of Corruption Secondary legal materials are books, journals, legal scientific papers and court decisions. Non-legal materials in the form of non-legal books and information accessed via the internet.

Discussion

In a comprehensive context, it is undeniable that corruption is a white-collar crime with actions that always experience a dynamic *modus operandi* from all sides which is very difficult to obtain procedural proof, because it often requires a "systemic approach" to its eradication.⁸

The history of corruption begins at the beginning of human life in society, namely when complex social organizations began to emerge, humans were troubled by symptoms of corruption for at least several thousand years. The intensity of corruption varies at different times and places. Like other social phenomena, corruption is largely determined by various factors. Ancient records on this matter point to the bribery of judges and the conduct of government officials. In ancient Egyptian, Babylonian, Hebrew, Indian, Chinese, Greek and Roman history,⁹ corruption often comes to the fore as a problem. Hammurabi of Babylon, who ascended the throne around 1200 BC ordered a provincial governor to investigate a bribery case.¹⁰

Discussions on the characteristics of corruption have not been widely described in several writings or literature. However, from several definitions of the concept of corruption or corruption, it can be concluded that corruption is a bad act, an act that is not commendable, an act to enrich oneself and other people as well as corporations in ways that violate the rules that are detrimental to the state or state finances committed. by people who have the authority or power the government's efforts in eradicating corruption in Indonesia are realized by making regulations regarding the eradication of corruption. In the Old Order Government, Law Number 24 Prp of 1960 was enacted¹¹ concerning the Investigation, Prosecution and Examination of Corruption Crimes (Law Number 24/Prp/1960),¹² then in the New Order Government Law Number 3 of 1971 concerning the Eradication of Corruption Crimes was enacted (Law No. 3-1971). Now in the Reformation era, the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (Law No. 31-1999) is enacted which was later amended by the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication Criminal Acts of Corruption (Law No. 20-2001), however, with the enactment of the law, it is still not able to overcome the problem of corruption that is so prevalent and whose *modus operandi* continues to grow. The form of legal subjects in criminal acts that are categorized as criminal acts of corruption are natural human beings who can be held criminally responsible based on the mistakes made.

From a legal perspective, corruption has been clearly explained in 13 articles in Law no. 31 of 1999 which has been amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes. Based on these articles, corruption is formulated into 30 forms/types of criminal acts of corruption. Law Number 20 of 2001 defines gratification broadly. Article 12B also does not clearly state that sex is a form of gratification. However, because the gift is given in relation to the position and is given contrary to the obligations or duties of a civil servant or state administrator, Article 12B can ensnare perpetrators of sex gratification.

The definition of gratification refers to the explanation of Article 12 Paragraph (1) as follows: Giving in a broad sense, which includes the provision of money, goods, rebates (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. other. The

⁸Indrianto Seno Adji, *Corruption and Law Enforcement*, (Jakarta: Diadit Media, First Cet., 2009), p. 87

⁹Ridwan Nasir, *Islamic Dialectics with Contemporary Problems*, p. 277

¹⁰Syed Hussain Alatas, *Corruption, Nature, Cause and Function*, (Jakarta: LP3ES, 1987), p. 1

¹¹Government Regulation in Lieu of Law (Perpu) Number 24 of 1960 (24/1960)

About Investigation, Prosecution and Examination of Corruption Crimes

¹²Martiman Prodjohamidjojo, *Application of Reverse Evidence in Corruption Offenses (Law No. 31 of 1999)*. Mandar Maju Publishers, Bandung 2001, p. 15

gratification is received both domestically and abroad and is carried out using electronic means or without electronic means.¹³

It is understood that gratification in this Law is a gift in a broad sense given to a state employee related to his position. The employee and the organizer accept the gift so that it affects his authority. Thus, the gift that affects his position is used as a benchmark for gratification. Likewise, sexual gratification which is also a gift can be classified as gratification. So, giving gifts in the form of sex services can be qualified in Article 12B of Law Number 20 of 2001.¹⁴

Thus, the giving of gifts in the form of sex services as gratification is in accordance with the extensive interpretation of the word other facilities in the explanation of Article 12B of Law Number 20 of 2001. There is no mention of the word sex in the definition of gratification based on the explanation of Article 12B of Law Number 20 of 2001.¹⁵ resulted in a debate about the gift of sex services as a criminal act of corruption gratification. Sex can be included in "other facilities", because by definition it is a means to facilitate the implementation of the function of convenience. In addition to the word "other facilities", the provision of gifts in the form of sex services has fulfilled the elements of Article 12B of the Anti-Corruption Law.

Based on the explanation above, in this case, sexual gratification meets the elements of other facilities, which can be used as a benchmark for the characteristics of other facilities by analyzing the articles regarding the law on criminal acts of corruption, namely:

Interpretation of Article 12.b of the Corruption Law regarding Gratification of Sexual Services in Positive Law in Indonesia

Gratification comes from the Dutch language, gratificatie which was later adopted into English gratification, which means a gift. The term later appeared in the Anglo-Saxon countries and continental Europe. Gratification arises because of the difficulty of proving bribery. Previously, gratification was better known as gift. There are two terms used in Black's Law Dictionary, namely gratification and gratuity. Gratification is a gratuity, a recompense or reward for a service or benefit, which is given voluntarily, without any inducement or promise. Meanwhile, gratuity is defined as: something that is obtained or received without any particular bargain or inducement; something given at no cost (free of charge) or without being reciprocated; a gift (gift); something that is "voluntary given in return for a favor or especially a service" thus includes gifts (a bounty), tips, bribes (bribe).¹⁶

The above definition shows that gratification actually means a neutral gift. A gift becomes a gratuity which is considered a bribe if it is related to the position and contrary to the obligations or duties of the recipient. The provisions regarding gratification which are considered bribes as regulated in Articles 12B and 12C of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption are different from bribes. This needs to be emphasized considering that so far there is still confusion in thinking as if it were a crime.

Gratification is regulated in Articles 12B and 12C of Law No. 31 of 1999 in conjunction with Law no. 20 year 2001. The definition of gratification is contained in the explanation of Article 12B paragraph (1) of Law Number 31 of 1999 juncto Law Number 20 of 2001, that: "what is meant by "gratification" in this paragraph is a gift in a broad sense, which includes the giving of money, goods, rebates (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. The gratuities are received both domestically and abroad and carried out using electronic means or without electronic means". In connection with the explanation of Article 12B paragraph (1), it can also be seen that the

¹³<https://ejournal3.undip.ac.id/index.php/dlr/article/view/25460/22729> accessed on January 25, 2021 at 11.00 WIB

¹⁴Loc.cit p. 7

¹⁵Loc.cit p. 7

¹⁶Henry Campbell Black, Black's Law Dictionary, VI Edition, West Publishing, St. Paul, 1990P. 700-701

notion of gratification has a neutral meaning, meaning that there is no reprehensible or negative meaning of the meaning of the word gratification. If this explanation is connected with the formulation of Article 12B, it can be understood that not all gratifications are contrary to the law, but only gratifications that meet the criteria in the elements of Article 12B.

Article 12 B¹⁷ :

1. Every gratuity to a civil servant or state administrator is considered a bribe, if it is related to his position and contrary to his obligations or duties, with the following provisions:
 - a. The value is Rp. 10,000,000.00 (ten million rupiah) or more, proof that the gratification is not a bribe is made by the recipient of the gratification;
 - b. The value is less than Rp. 10,000,000.00 (ten million rupiah), proving that the gratification is a bribe is carried out by the public prosecutor.
2. The punishment for civil servants or state administrators as referred to in Paragraph (1) is life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1.000.000.000,00 (one billion rupiah).

The provisions of Article 12C Paragraph (1) states, The provisions as referred to in Article 12B Paragraph (1) do not apply if the recipient of gratification reports the gratification he has received to the Corruption Eradication Commission. Meanwhile, Paragraph (2) states, Submission of the report as referred to in Paragraph (1) must be carried out by the recipient of the gratification no later than 30 (thirty) working days from the date the gratification is received. Article 12C paragraph (3) states, the Commission for the Eradication of Criminal Acts of Corruption within a maximum period of 30 (thirty) working days from the date of receiving the report must determine that the gratuity may belong to the recipient or the state.¹⁸

In Law no. 31 of 1999 is not clearly regulated, it already exists but is implicitly listed in articles that are still included in the corruption crime of bribery, namely: Article 5 paragraph (2) Civil Servants (PNS) accept bribes according to Article 5 paragraph (2) is when a civil servant accepts a gift or a promise from a person who bribes according to paragraph 1 letter a or b. According to bribery for civil servant's letter a, the gift contains the intention that the civil servant who receives the gift does something or does not do something in his position, which is contrary to his obligations. Thus, the grant to the civil servant is confirmed to be related or related to the position he holds as a civil servant, and it is also confirmed that the acceptance is contrary to the obligations of his position fulfills the elements of receiving gratuities in Article 12B paragraph 1. Therefore, Article 12 B paragraph (1) can also be charged with civil servants who receive gifts as referred to in Article 5 paragraph (1) letter a.

The Corruption Eradication Commission itself has developed control of gratuities as an element of driving corruption eradication, which is based on a number of rules, in particular: 1. Article 12 B and Article 12 C of Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning the Eradication of Corruption Crimes¹⁹; 2. PP 60 of 2008 concerning the Government's Internal Control System; 3. The third part concerning the Principle of Integrity in the Regulation of the Constitutional Court Number 07/PMK/2005 concerning the implementation of the Declaration of the Code of Ethics and the behavior of Constitutional Judges; and 4. The second value is about integrity in the Code of Ethics and Conduct for Employees of the Constitutional Court of the Republic of Indonesia. In 2010 the KPK has issued a Gratification Pocket Book

¹⁷loc.cit p. 7

¹⁸Yolana Jayaningrum, 2018, Criminal Accountability for Corruption Crimes Performed by Village Heads in Village Financial Management (Corruption Case Study in Palur Sukoharjo Village, Decision Number: 71/Pid.Sustpk/2016/Pn SMg), Journal of the Faculty of Law, State University of Semarang

¹⁹Op.cit p.8

which contains information about what gratification is, examples of gratification, criminal sanctions for gratification, who must report gratifications, and the mechanism for reporting gratifications.²⁰

Based on the historical interpretation of giving gifts in the form of sexual services as outlined in the words "other facilities" in Law No. 20 of 2001 Article 12B can be interpreted as gratification in accordance with the purpose of the Law. In the sense of historical interpretation by analyzing the history of legislation so that the purpose or intent of making it can be known.²¹ Law No. 20/2001 aims to eradicate Corruption Crimes that have occurred since the Ordelama. Prior to the issuance of Law Number 20 of 2001, several laws and regulations related to the government's efforts to eradicate corruption were carried out several times and the last one was Law Number 31 of 1999 which was later amended by Law Number 20 of 2001. Existing regulations regarding the eradication of criminal acts of corruption aim to eradicate and prevent the negative impacts caused by the commission of corruption. Sexual gratification must also be eradicated because the impact is the same as other corruption crimes.

The provision of gifts in the form of sexual services as gratification is in accordance with extensive interpretation, said another facility in the explanation of Article 12B of Law Number 20 of 2001. into it.²² The absence of mention of the word sexual in the sense of gratification based on the explanation of Article 12B of Law Number 20 of 2001 resulted in a debate regarding the giving of gifts for sexual services as a criminal act of corruption in gratification. The word sexual can be included in the sentence "other facilities" because the definition is a means to facilitate the implementation of the convenience function. While "means" are everything that can be used as a tool in achieving goals and objectives. In the case that occurs, the provision of gifts in the form of sexual services is given with the aim of making civil servants or state officials do something or not do something that is contrary to their obligations and duties.

If it is considered in the formulation of the explanation of Article 12 B, the meaning of ratification only lies in the sentence "what is meant by "gratification" in this paragraph is a gift in a broad sense..." While the next sentence explains the forms of giving that can be categorized as gratification. The formulation of the explanation of Article 12 B which can be expanded in meaning so that it can touch the meaning of giving in the form of sexual services is the word "... and other facilities". The word facility itself in the Big Indonesian Dictionary is defined as a means to expedite the implementation of the function; convenience.²³

In addition to the existence of the word "other facilities", the provision of gifts in the form of sexual services has fulfilled the elements of Article 12B of the Law on criminal acts of corruption, namely:

- 1) The provision of sexual services is "related to the position" of the civil servant or state administrator who receives the gift, meaning that the provider of sexual services has a will or interest related to the position of the civil servant or state administrator who receives the gratification.
- 2) The provision of sexual services is "contrary to the obligations or duties" of the civil servant or state administrator who receives the gift, meaning that the remuneration that has been provided by the civil servant or state administrator is in return for the provision of sexual services that have been received, which is actually a civil servant or state administrator who receiving the provision of sexual services does not have direct authority or even contrary to their obligations or duties.

That not all receipts by civil servants are not gratifications which are considered bribes. For example, if a civil servant or state administrator whose family is hospitalized and then the older brother or parent gives money to help pay for the care of his/her sister/child, the receipt of the money is not a gratuity as referred to in Article

²⁰KPK, 2010, Pocket Book of Gratification, Jakarta: Corruption Eradication Commission.

²¹Ishaq, Fundamentals of Law, (Sinar Graphics, Jakarta, 2012), p. 256.

²²Chainur Arrasjid, Fundamentals of Law, Sinar Graphic; 2000, p. 93.

²³Saeiful Akbar, Sexual Gratification as a Form of Corruption, IUS Journal, Vol. IV, 30 December 2016, p. 490

12B of Law Number 20 of 2001 concerning corruption. The gift does not exist with the position and is contrary to the obligations or duties.²⁴

The Principle of Certainty in the Regulation of the Criminalization of Sexual Gratification in the Corruption Act in Indonesia

A principle is a fundamental statement or general truth that can be used as a guide for thought and action. Principles emerge from the results of research and action. Principles are permanent, general and every science has a principle that reflects the "essence" of the basic truths in the field of science. Principles are basic but not absolute or absolute. This means that the application of the principle must consider special circumstances and changing circumstances.²⁵ The definition of principle according to the Big Indonesian Dictionary is: Basic (something that becomes the foundation of thinking or opinion). Principles have different meanings. The principle is something that is the foundation of thinking or opinion. It can also mean that it is a basic law.

Legal certainty is a guarantee that a law must be carried out in a good or appropriate way. Certainty is essentially one of the goals of law. Legal certainty often leads to the flow of positivism because if the law does not have an identity, it is no longer used as a guide or role model for everyone's behavior. But the law is very closely related to the politics of power, so that's where the law is anchored.²⁶ So in sexual gratification the application of legal certainty is if the recipient of the gift is a civil servant or state administrator. However, there is no legal certainty regarding the provision of sexual services as a form of gratification. Criminal policies or criminal provisions regarding sexual gratification and legal sanctions against perpetrators, especially "women" who become perpetrators of sexual services, have not been clearly and in detail regulated in the law to date. Giving gifts or gratifications can be categorized as a crime by referring to the rules contained in Article 12 B and 12 C of Law Number 20 of 2001²⁷ concerning the Eradication of Criminal Acts of Corruption (Tipikor), in this case equated with bribery, if it is related to a position and which is contrary to his obligations or duties.

Based on this, in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption, gratification can be punished if the recipient of the gift is a civil servant or state administrator. However, there is no legal certainty regarding the provision of sexual services as a form of gratification. Criminal policies or criminal provisions regarding sexual gratification and legal sanctions against perpetrators, especially "women" who become perpetrators of sexual services, have not been clearly and in detail regulated in the law to date.

1. That it turns out that the meaning of gratification is the same as the meaning of passive bribery, especially civil servants who accept bribes in the form of receipts from gifts in a broad sense consisting of goods, services, facilities, and so on;
2. Because it is in the form of passive bribery, it means that it does not include the definition of active bribery, which means not being blamed and responsible for the crime by imposing a penalty on the giver of gratification according to Article 12 B.
3. Thus, the breadth of the understanding of bribery gratification as explained in the explanation of Article 12 B paragraph (1) above, then regarding the acceptance of TPK receiving gratification can overlap with the meaning of passive bribery in Article 5 paragraph (2), Article 6 paragraph (2), and Article 12 letters a, b, and c.

Giving gifts or gratifications can be categorized as a criminal act by referring to the rules contained in Article 12 B and 12 C of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (Tipikor), in this

²⁴Dewi Novita Sari, Corruption Crimes in the Form of Sexual Gratification, Vol. II, July 3, 2013 Number 3,

²⁵ Malay SP Hasibuan, Management: Basics, Understanding, and Problems Jakarta: PT. Bumi Aksara, 2006, p.9

²⁶*Ibid* Thing. 200

²⁷Loc.Cit, p. 8

case it is equated with bribes, if it is related to position and contrary to their obligations or duties. Thus, if the gratuity is not related to the position and which is contrary to the obligations or duties, the gratification is a legal act according to the law. The existing regulatory provisions related to the gratification of sexual services do not explicitly mention the criminal provisions for the gratification of sexual services. However, if one examines several related provisions, both material and formal crimes.

The phenomenon of sexual gratification is increasingly being encountered in various corruption cases that have recently occurred. Cases of criminal acts of corruption which contain elements of gratification in the form of sexual services can be exemplified as follows:²⁸

1. The case of Al Amin Nur Nasution

In 2008, the member of the Indonesian House of Representatives, Al Amin Nur Nasution, was arrested at the Mistere Pub at the Ritz Carlton Hotel for allegedly accepting bribes. What is interesting is that at that time the former member of the DPR, Al Amin Nur Nasution, was arrested by the Corruption Eradication Commission (KPK) along with a beautiful woman who was a 'gift' from the Corruption Eradication Commission. Ex-Sekdakab Bintan because Al Amin has helped in the conversion of protected forest functions on Bintan Island.²⁹

In this case, the public prosecutor in his indictment stated that Al Amin Nur Nasution as a defendant declared guilty of violating Article 12 letter a and Article 12 letter e of Law Number 31 of 1999 in conjunction with Law Number 20 of 2011 concerning the Eradication of Corruption Crimes with imprisonment for fifteen years and a fine of five hundred-million-rupiah subsidiary six months incarceration. Whereas furthermore, the judge charged the defendant with Article 11 and Article 12 letter e of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption with a sentence of imprisonment for eight years and a fine of two hundred and fifty million rupiahs with a subsidiary of six months in prison.

2. The case of Izedrik Emir Moeis

Izedrik Emir Moeis, who is a member of the Indonesian House of Representatives, was entangled in the bribery case for the Tarahan PLTU project, Lampung. Whereas in the examination of the witness, Pirooz Sharafi, there was a statement stating that the Emir received sexual gratification around 2002 or 2003 at which time they and Fred Perruci met at a Club located in Paris, then they left the Club with a woman hired by Fred Perruci to spend the night with Emir in Paris.³⁰

Giving gifts in the form of sexual services can be qualified under Article 12 B for several reasons, including:³¹

- a. Sexual services have met the elements in Article 12 B of the Corruption Law.
- b. The provision of sexual services includes illegal gratuities
- c. The act of sexual gratification is contrary to the values in Pancasila
- d. The act of sexual gratification as a crime that causes misery has become an argument for legislators as an act of violating the law or violation, because it has the same impact as other corruption crimes.
- e. The provision of sexual services is included in the form of gratuities

²⁸Desy Maryani, Law Enforcement Against Minor Crimes of Sexual Gratification in Corruption in Indonesia, Journal of the Window of Law and Justice, Volume 3 Number 1 June 2016, p. 38

²⁹Haluankepri, Sex Services Can Enter Gratification, (accessed from: www.haluankepri.com/insert/40302-service-sex-can-entergratification-.html, on February 11, 2015, Time: 14:50 WIB)

³⁰Tempo.com, Emir Moeis Called Received Sex Gratification In Paris, (accessed from: www.Tempo.co, www.tempo.co/read/news/2013/12/05/063534803/Emir-Moeis-Disebut-Can-Gratification- Sex-in Paris, 2013, On March 15, 2021, Time: 14:59 WIB).

³¹Bertrand Silverius Sitohang, Elizabeth Ghozali, Jaminuddin Marbun, The Urgency of Regulating Sexual Gratification as a Form of Corruption, Prointegrita Journal, Volume 4, Number 1, April 2020, 5

It is undeniable that gratification practices, especially the provision of sexual services, are certainly very contrary to religious values and moral values that exist in society and it can also harm the state because the indication of the provision is to get convenience to benefit individuals or groups. In addition to general crimes, there are also special crimes regulated outside the Criminal Code, such as corruption, economic crimes, and others.³² The act of gratification in this case as a form of corruption can be categorized as a special crime, therefore corruption is regulated in a separate law with special provisions and mechanisms.

Setting the Criminalization Against Perpetrators of Sexual Gratification for Criminal Acts of Corruption in the future in Indonesia

According to Prof. Satochid Kartanegara, SH., can simply be stated that criminal law is a law that regulates actions that are prohibited by law and criminal sanctions that can be imposed on perpetrators.³³In addition to general crimes, there are also special crimes regulated outside the Criminal Code, such as corruption, economic crimes, and others. Criminal law is one part of the law in general. Criminal law exists to provide sanctions for anyone who commits a crime. Talking about criminal law cannot be separated from matters relating to punishment. The meaning of the word criminal in general is law while punishment is defined as punishment³⁴

Sentencing is an important part of criminal law, it is said so because punishment is the culmination of the entire process of holding someone accountable for a crime. "A criminal law without sentencing would morely be a declaratory system pronouncing people guilty without any formal consequences following the form that guilt". Criminal law without punishment means to declare a person guilty without any definite consequences for his guilt. Thus, the conception of guilt has a significant influence on the imposition of punishment and the process of its implementation. If the error is understood as "reproachable", then here punishment is "the embodiment of the reproach".³⁵

The theory of punishment in Indonesia adheres to the combined theory, the combined theory is also used in the concept of the Draft Criminal Code 2004, namely in Article 1 paragraph (2) affirms "Criminalization is not intended to suffer and is not allowed to degrade human dignity", Application of combined theory in the Book of Criminal Law divides the criminal into two, namely the main crime and additional punishment. Regarding crime, it is regulated in Article 10 to Article 43 of the Criminal Code.

The Anti-Corruption Law regulates the provisions for sanctions against perpetrators of giving and receiving gratuities, but does not yet contain provisions for sanctions against female perpetrators who provide services. In the sense that it is necessary to apply legal sanctions for women providing sexual services, because they are categorized as parties participating in the crime of sex gratification who have participated in supporting and damaging the image of this nation, the *Lex Specialis Derogat Lex Generalis* principle applies in the provisions of Article 12 B paragraph (1) letter a of Law Number 20 of 2001 because it is a deviation from the provisions of the Criminal Procedure Code (KUHAP). According to Article 137 of the Criminal Procedure Code, it is the public prosecutor who must prove whether the defendant committed a crime. Meanwhile, Article 66 of the Criminal Procedure Code states that the suspect or defendant is not burdened with the obligation of proof. In Article 12 B paragraph (1) letter a, the burden of proof is that the gratuity with a value of Rp. 10,000,000.00 (ten million rupiah) or more is not a bribe, which is carried out by the recipient of the gratification. The reverse proof system has been applied in Law Number 20 of 2001. This proof is specifically applied to

³²Andi Hamzah, *Eradication of Corruption through National and International Criminal Law*, Raja Grafindo Persada, Jakarta, 2005, p. 3

³³Bambang Waluyo, *Op.cit*, p. 6.

³⁴Amirotul Azizah, 2003, *Criminal Sanctions Against Perpetrators of Sexual Gartification*, Journal of Kertha Wicara, Vol. 01, Number 4.

³⁵Chairul Huda, 2006. *From No Crime Without Errors To No Criminal Accountability Without Flaws. A Critical Review of the Theory of Separation of Crime and Criminal Liability*. Kencana Prenada Media, Jakarta. p. 125

corruption crimes. Articles of gratification related to the article of bribery are also related to demands for confiscation of the defendant's property which is suspected to have originated from one of the criminal acts in Article 2, Article 3, Article 4, Article 13, Article 14, Article 15, and Article 16 of Law Number 31 of 1999, as well as Articles 5 to 12 of Law Number 20 of 2001. which is given the burden of proof that the gratuity with a value of Rp. 10,000,000.00 (ten million rupiah) or more is not a bribe, is carried out by the recipient of the gratification. The reverse proof system has been applied in Law Number 20 of 2001. This proof is specifically applied to corruption crimes. Articles of gratification related to the article of bribery are also related to demands for confiscation of the defendant's property which is suspected to have originated from one of the criminal acts in Article 2, Article 3, Article 4, Article 13, Article 14, Article 15, and Article 16 of Law Number 31 of 1999, as well as Articles 5 to 12 of Law Number 20 of 2001. which is given the burden of proof that the gratuity with a value of Rp. 10,000,000.00 (ten million rupiah) or more is not a bribe, is carried out by the recipient of the gratification. The reverse proof system has been applied in Law Number 20 of 2001. This proof is specifically applied to corruption crimes. Articles of gratification related to the article of bribery are also related to demands for confiscation of the defendant's property which is suspected to have originated from one of the criminal acts in Article 2, Article 3, Article 4, Article 13, Article 14, Article 15, and Article 16 of Law Number 31 of 1999, as well as Articles 5 to 12 of Law Number 20 of 2001.

Sexual gratification, which is implicitly part of Article 12 B, of the Republic of Indonesia law number 20 of 2001 concerning amendments to law number 31 of 1999 concerning the eradication of criminal acts of corruption, describes the perpetrators of the crime of corruption as "sex gratification", both the giver and the perpetrator. recipients of Sex Gratification can be snared or charged with the provisions of Article 5 jo. Article 12 letter a and letter b of Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (Corruption Law), namely a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 250,000,000.00 (two hundred and fifty million rupiah).

Furthermore, if it is linked to the criminal law policy regarding the reformulation of gratification rules, the reformulation on gratification that currently exists in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Crime of Corruption requires reformulation, especially in the substance of understanding gratification, reporting on receipt of gratification to the KPK, criminal sanctions, and the qualifications of the giver and recipient of gratification, so as to optimize the application and enforcement of the law in accordance with the objectives to be achieved, namely certainty and justice. Prior to the regulation of gratification, the public was still allowed to give gifts on the basis of their position relationship as long as the gift giving did not expect any form of reward. A person can only be charged with the bribery article if he "knows" or "should be suspected" that the gift he received was given due to the power and authority related to his position, or as described in Article 11 of the Corruption Crime Act. So not all gifts received by officials must be returned or checked.

The regulation regarding the formulation policy on sex gratification must consider the underlying values and the objectives to be achieved from the regulation regarding sex gratification. The formulation policy regarding sex gratification can be implemented properly in the context of reforming criminal law. As the study and exploration of values contained in society and sourced from Pancasila and regulations that have not provided clarity. Pancasila as the basis of the state and ideology of the Indonesian nation has a logical consequence that the values of Pancasila are used as the fundamental basis for the administration of the Indonesian state to regulate sex gratification. Pancasila contains five precepts which essentially contain five fundamental basic values. These basic values are the value of God Almighty, Just and civilized human values, Indonesian unity values, and populist values led by wisdom in representative deliberation and social justice values.

Conclusion

In the Elucidation of Article 12B (1) of Law no. 20 of 2001, there is no mention of the word sexual service, there is only the phrase "other facilities", then the giving of gifts in the form of sexual services can be categorized into the phrase "other facilities" by using an extensive interpretation, namely interpretation by expanding the provisions in the law. Service Sex can be included in "other facilities", because by definition it is a means to facilitate the implementation of the function of convenience. While the means are everything that can be used as a tool in achieving a goal or goal. In the case that occurs, the provision of gifts in the form of sexual services is given with the aim of making civil servants or state officials do something or not do something that is contrary to their obligations or duties.

There is no legal certainty regarding the provision of sexual services as a form of gratification. The provision in the form of sex services or sex gratification has not been regulated explicitly and clearly in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes. Article 12B of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption mentions giving in a broad sense, but does not provide an explicit regulation regarding sex gratification as part of a criminal act. The absence of a formulation regarding sex gratification creates a legal vacuum and does not fulfill legal certainty, as is the purpose of the law.

Giving in the form of sex services or sex gratification requires formulation as a criminal offense in the future (*ius constituendum*). The formulation is an effort to reform criminal law in order to realize the role of law that provides protection in order to create an orderly and prosperous society. Policy formulation on sex gratification as a preventive effort in the context of eradicating corruption.

Suggestions and Recommendations

In Article 12B (1) of Law no. 20 of 2001 there is no word for sexual services which creates uncertainty that sexual gratification can be punished or not, therefore It is necessary to add the word sexual services in article 12B (1) Law no. 20 of 2001 or there is a separate article that regulates the gratification of sexual services.

Efforts are needed to review the provisions on gratification, especially the elements that are still unclear and sexual gratification has not been included as a form of corruption so that the interpretation of sexual gratification in corruption crimes does not lead to multiple interpretations.

It is necessary to formulate the provision in the form of sex services or sex gratification as a crime, because sex gratification has damaged the values and norms that live in society, which has the potential for corruption and abuse of authority by civil servants or state officials. Sex gratification has violated and injured the goals of the Indonesian state. Legislators (legislative and executive) include the formulation of the provision in the form of sex services in the Corruption Eradication Act so that there are comprehensive rules and as a step to realize future-oriented laws (*ius constituendum*), according to the legal objectives, namely provide legal certainty.

References

Scientific Work

- Adji Indrianto Seno, 2009, *Corruption and Law Enforcement*, Jakarta: Media Diadit, Cet. First.
- Alatas Syed Hussain, 1987, *Corruption, Nature, Causes and Functions*, Jakarta: LP3ES.
- Andi Hamzah, 2005, *Eradication of Corruption through National and International Criminal Law*, Raja Grafindo Persada, Jakarta.
- Chairul Huda, 2006. *From No Crime Without Errors To No Criminal Accountability Without Flaws. A Critical Review of the Theory of Separation of Crime and Criminal Liability*. Kencana Prenada Media, Jakarta.
- Hartanti Evi, 2006, *Corruption Crimes*, Sinar Graphic, Jakarta.
- Nasir, Ridwan. 2006. *Islamic Dialectics with Contemporary Problems*. Surabaya IAIN Press.
- Prodjohamidjojo Martiman, 2001, *Application of Reverse Evidence in Corruption Offenses (Law No. 31 of 1999)*. Mandar Maju Publishers, Bandung,
- Henry Campbell Black, *Black's Law Dictionary*, VI Edition, West Publishing, St. Paul, 1990.
- Yolana Jayaningrum, 2018, *Criminal Accountability for Corruption Crimes Performed by Village Heads in Village Financial Management (Corruption Case Study in Palur Sukoharjo Village, Decision Number: 71/Pid.Sustpk/2016/Pn SMg)*, *Journal of the Faculty of Law, State University of Semarang*
- KPK, 2010, *Pocket Book of Gratification*, Jakarta: Corruption Eradication Commission.
- Ishaq, 2012, *Fundamentals of Law*, (Sinar Graphics, Jakarta).
- Chainur Arrasjid, 2000, *Fundamentals of Law*, Sinar Graphic.
- Hamzah Andi, 2005, *Eradication of Corruption through National and International Criminal Law*, Raja Grafindo Persada, Jakarta.

Laws and Regulations

- Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption Hal. 7
- Government Regulation in Lieu of Law (Perpu) Number 24 of 1960 (24/1960) Regarding Investigation, Prosecution and Examination of Criminal Acts of Corruption

Journal

- Ari Budiarti, Widodo Tresno Novianto, 2015, *Policy on Formulation of Criminal Law Against Sex Gratification in Corruption Crimes as Efforts to Reform Criminal Law*, Vol. 4p. 261
- Kristian and Yopi Gunawan, *Corruption Crimes Study on Harmonization between National Law and The United Nations Convention Against Corruption (UNCAC)*, Cet.1, Refika Aditama, Bandung, 2015. p.56
- Saeful Akbar, *Sexual Gratification as a Form of Corruption*, IUS Journal, Vol. IV, 30 December 2016, 490
- Dewi Novita Sari, *Corruption Crimes in the Form of Sexual Gratification*, Vol. II, July 3, 2013 Number 3,

Desy Maryani, Law Enforcement Against Minor Crimes of Sexual Gratification in Corruption in Indonesia, *Journal of the Window of Law and Justice*, Volume 3 Number 1 June 2016, 38

Bertrand Silverius Sitohang, Elizabeth Ghozali, Jaminuddin Marbun, The Urgency of Regulating Sexual Gratification as a Form of Corruption, *Prointegrita Journal*, Volume 4, Number 1, April 2020, 5

Internet

Haluankepri, Sex Services Can Enter Gratification, (accessed from: www.haluankepri.com/insert/40302-jasaZseks-bisa-entergratification-.html, on February 11, 2021, Time: 14:50 WIB <http://korannonstop.com/2017/12/suap-sex-goda-pns/>, accessed 7 August 2021

<https://tirto.id/isi-pasal-28-uud-1945-before-dan-after-amendment-f8eH> accessed August 7, 2021

Politics Indonesia.com, Mahfud MD: Bribery in the form of sex services has occurred since the New Order. <http://www.politikindonesia.com/index.php?k=politik&i=40991-Mahfud-MD:-Suap-Berupa-Sex-Happening-Since-New-Order-Service,2013>. Accessed August 8, 2021

Tempo.com, Emir Moeis Called Received Sex Gratification In Paris, (accessed from: www.Tempo.co, www.tempo.co/read/news/2013/12/05/063534803/Emir-Moeis-Disebut-Can-Gratification-Sex-in-Paris, 2013, On March 15, 2021, Time: 14:59 WIB).

