



Analysis of The Impact And Dynamics of Gratification in The Practice of State Administrative Law

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Abstract: *The practice of gratification, which involves receiving rewards or gifts by state administrative officials, can undermine the foundations of good governance principles. The implications of gratification practices can damage the government's image, reduce public trust, and affect the effectiveness of public policy. This phenomenon creates challenges in various aspects, including public ethics, public trust, and the effectiveness of legal institutions. Apart from that, the dynamics of gratification can also penetrate the administrative decision-making process. Objective considerations in decision making can be disturbed by the influence of gratification, resulting in policies that are not in line with the public interest. This opens up gaps in inequality in public services and inefficient use of public resources. The high complexity of this problem requires an in-depth understanding of the dynamics of gratification in the practice of State Administrative Law. Especially solutions to overcome the problems of awareness and ethics of state administration administrators, internal and external supervision of perpetrators of gratification, environmental conditions of work organizations and active participation from various stakeholders to prevent and eradicate can involve various parties, especially law enforcement officials, the media and the public to proactively reveal, urge and report behavior that leads to gratification. This article explores the phenomenon of gratification in the context of state administrative law practice. Through in-depth analysis, we explain the dynamics behind gratification, its impact on the effectiveness of the state's administrative legal system, and efforts that can be made to overcome this problem. Our research concludes that a deep understanding of gratification is critical to enhancing the integrity and credibility of the country's administrative legal system.*

Keywords : Gratification, Law, Administration, State

Introduction

Gratification is the root of corruption and therefore poses a serious threat to the integrity of government institutions, including State Administrative Law which has a crucial role in managing and carrying out government tasks by maintaining justice, transparency and accountability. The dynamics of gratification in the practice of State Administrative Law is a major concern because it can damage the moral and ethical foundations of public administration. These practices involve giving or receiving gifts, money, or other benefits in exchange for influencing the decisions or actions of state administrative officials.¹ In the context of State Administrative Law, gratification can occur in various forms, including receiving gifts from third parties who have an interest in administrative decisions.

Conflict of interest according to Law Number 30 of 2014² : “the condition of government officials who have personal interests to benefit themselves and/or others in the use of authority so that it can influence the neutrality and quality of decisions and/or actions and/or what they do.” Even though there are various regulations governing gratuities in the context of State Administrative Law, challenges in handling them still exist. Factors such as lack of supervision, weak law enforcement, and lack of awareness are the negative impacts of gratification which can become major obstacles. Muladi stated that accepting gratuities for civil servants or state administrators is a potentially corruptive habit, therefore controlling gratuities is called a counter culture, because in global developments gratification for officials has become prohibited in world trade business ethics.³ A situation that causes an ASN (state civil service) employee to receive gratification for a decision/position is an example of an incident that ASN often faces and can give rise to a conflict of interest.

Several forms of conflict of interest that can arise from giving gratuities include:⁴

¹ Daniel Kaufmann, “Governance and Corruption: New Empirical Frontier For Program a Design” in T. Mulya Lubis, ‘Anti-Corruption Legal Reform,’ *Paper Presented at the Conference Towards a Corruption-Free Indonesia*, 1998.

² “Concerning Government Administration” (2014).

³ Muladi, “Strengthening Gratification Regulations Article 12B and 12C of Law No.20/2001 Concerning Amendments to Law No.31/1999 Concerning Eradication of Corruption,” *Legal Annotation Presented in the FGD Analysis of the Decision on Gratification Articles at the Corruption Court, Diponegoro University*, September 28, 2016.

⁴ Komisi Pemberantasan Korupsi, “*Buku Saku Pemahaman Gratifikasi*,” 2010.

- a. Receiving gratuities can bring vested interests and reciprocal obligations for a gift so that the independence of ASN can be disturbed;
- b. Acceptance of gratuities can affect ASN objectivity and professional judgment;
- c. Receipt of gratuities can be used in such a way as to obscure the occurrence of criminal acts of corruption.

In the practice of state administrative law, gratification has become a major concern because of its potential impact on the integrity and credibility of government institutions. Gratification, in its various forms, including bribes, gifts, or facilities, often influences the decisions and actions of state administrative officials, resulting in abuse of power and disregard for the rule of law. This introduction provides an overview of the gratification phenomenon, identifies the main challenges faced in overcoming this problem, and sets out the research objectives to analyze the dynamics of gratification in the context of state administrative law.

In the midst of efforts to create good governance, gratification poses a serious threat to the integrity of the system. Therefore, research on the dynamics of gratification in the practice of State Administrative Law is essential to identify the root of the problem and develop effective handling strategies.⁵

A deep understanding of the dynamics of gratification is needed to identify (1) What constitutes gratification? (2) What are the forms of gratification dynamics? (3) How to deal with gratification in the practice of State Administrative Law. Writing about the dynamics of gratification in state administrative law uses library research methods or normative methods⁶, namely methods used by studying and reviewing literature books, legislation and other written materials related to the discussion material, as well as references from dictionaries. and a number of articles from online sources/websites.⁷

Understanding the Concept of Gratification

It is important to understand the various forms of gratification and the ways in which they can occur within the scope of State Administrative Law. The term gratification has only become known in the realm of Indonesian criminal law since 2001

⁵ andi hamzah, *Corruption in Indonesia: Problems and Solutions* (Jakarta: gamedia, 1991).

⁶ Sri Mamudji, *Normative Legal Research* (Jakarta: Rajawali, 1985).

⁷ Soerjono Soekanto, *Introduction to Legal Research*, 3rd ed. (Jakarta, 2008).

through law number 20 of 2001 concerning Amendments to law number 31 of 1999 concerning the Eradication of Corruption Crimes (UU TIPIKOR). The explanation of Article 12B of the TIPIKOR Law states that gratification is a gift in a broad sense, which includes giving money, goods, rebates (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment and other facilities. These gratuities are either received domestically or abroad and are carried out using electronic means or without electronic means.⁸

The definition of gratification shows that the sentence included in the definition of gratification contains the words "giving in the broadest sense", while the words after that are "forms of gratification". Viewed from this perspective, the definition of gratification according to this definition has a neutral meaning. A new gift will be a gratification that is considered a bribe if it is related to the position and is contrary to the recipient's obligations or duties.⁹ Many groups even propose that the provision of sexual services be part of gratification¹⁰ because sexual services can be interpreted as a gift to someone (civil servant or state administrator) which can be used as a means of reciprocation for that person's actions in doing something or not doing something according to the wishes of the provider of sexual services.

Level of Awareness and Ethics

The dynamics of gratification are closely related to the level of awareness and ethics among state administration officials. The presence of external pressure or temptation can influence officials' decisions, and a high level of ethics is key to overcoming this practice. In Article 3 of Law Number 5 of 2014 concerning State Civil Apparatus, one of the foundations that ASN must have as a profession is a code of ethics and code of behavior. The code of ethics and code of behavior aims to maintain the dignity and honor of ASN.¹¹ Article 5 paragraph (2) of the ASN Law, code of ethics and code of conduct contains regulations on the behavior of ASN employees "To

⁸ Sekretariat Jenderal DPR RI - Biro Pengadilan, "Rancangan Undang-Undang Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi," Pub. L. No. 31, 429 (1999).

⁹ Sekretariat Jenderal DPR RI - Biro Pengadilan.

¹⁰ H. Ansori, *Kepuasan Seksual Dalam Persona Korupsi*, 2nd ed. (Jakarta: R.A. De. Rozarie, 2015).

¹¹ P.A.F. Lamintang, *Pelanggaran Khusus Tindak Pidana Pekerjaan Dan Tindak Pidana Tertentu Sebagai Tindak Pidana Korupsi* (Bandung: Pioner Jaya, 1991).

ensure that there are no conflicts of interest in carrying out their duties". Several sources of conflict of interest that ASN must pay attention to are:¹²

- a. The power and authority of state administrators obtained from statutory regulations;
- b. Multiple positions, namely a state administrator occupies two or more public positions making it difficult to carry out his/her position professionally, independently and accountably;
- c. Affiliate relationship, namely the relationship that a state administrator has with a certain party, whether due to blood, marriage or friendship, which can influence his decisions;
- d. Gratification, namely giving in a broad sense includes giving money, goods, rebates, commissions, interest-free loans, travel tickets, lodging facilities, travel, tours, free medical treatment, and other;¹³
- e. Weaknesses of the organizational system, namely conditions that become obstacles to achieving the objectives of implementing the authority of state administrators due to existing rules, structure and organizational culture; And
- f. Personal interests, namely the desires/needs of a state administrator regarding a personal matter.

Inadequate Monitoring System

If the internal and external monitoring system is inadequate, then gratuitous practices can occur without being detected. This dynamic emphasizes the importance of improving monitoring mechanisms to prevent abuse of power. The principle of not abusing authority ¹⁴ requires every government agency and/or official not to use their authority ¹⁵ for personal or other interests and not in accordance with the purpose of granting said authority, not to exceed, not abuse, and/or not mix up authority.

Compared to external supervision, internal supervision has a higher level of integration with the management it supervises (G.R. Terry and Leslie W. Rue, 2001).

¹² Komisi Pemberantasan Korupsi, *Panduan Penanganan Benturan Kepentingan Penyelenggara Negara* (Jakarta: KPK, 2009).

¹³ "Undang-Undang Nomor 20 Tahun 2001 Tentang Pemberantasan Tindak Pidana Korupsi" (2001).

¹⁴ "Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan," Pub. L. No. 30 (2014).

¹⁵ Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.

Meanwhile, the DPRD's role in carrying out supervisory functions is very important in order to prevent abuse, fraud and leaks in government administration. The DPRD's position, which has no official relationship with the government, is expected to guarantee the objectivity of supervision.

The concept of external supervision refers to the State Administration Institute (1997) which states that external supervision consists of legislative supervision and public supervision. The results of Heryati's research (2007) concluded that supervision had an effect on performance by 63%. This means that employee performance is very significantly influenced by supervision. The absence of official relations between the Inspectorate as internal supervisor and the DPRD and the community as external supervisor should not be an obstacle to synergistic monitoring efforts between the two. Referring to the opinion of Budiardjo and Ambong (1993), in the field of supervisory function, the DPRD is given the power to assess the policies and behavior of the executive in running the government. The role of the DPRD and the community in carrying out this supervisory function is very important to prevent abuse, fraud and leaks carried out by the executive in the administration of regional government. Supervision and investigation into alleged abuse of authority¹⁶ is first carried out by the Government Internal Audit Apparatus (APIP). The results of APIP's supervision of alleged abuse of authority are in the form of no errors, administrative errors, or administrative errors that cause state financial losses.

Organizational Environmental Conditions

Organizational culture can play a significant role in gratification dynamics. If the culture supports integrity and transparency, then officials tend to be more careful about gratification practices. Conversely, a culture that is tolerant of corrupt behavior can reinforce this practice. This can be achieved by realizing employee compliance with gratuity control provisions, and creating credibility and public trust in service delivery and law enforcement.¹⁷

The development of the adage "you cannot refuse good fortune" has further strengthened this habit to the point that it has almost become an everyday behavior,

¹⁶ Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.

¹⁷ Kejaksaan Republik Indonesia, "Peraturan Kejaksaan Republik Indonesia Nomor 3 Tahun 2019 Tentang Pengendalian Gratifikasi Di Lingkungan Kejaksaan Republik Indonesia" (2019).

including in public services in society. So various terms are known such as "thank you money", "tired money", "coffee fee" or other similar terms. Justifications using customs, customs and even religious celebrations also often surface.¹⁸

Involvement of External Parties

The involvement of external parties, such as contractors or businesses, can complicate the dynamics of gratification. Giving gratuities from external parties can be a tool to obtain certain benefits or facilities in the state administration process. However, in practice, we often find attempts to justify receiving gratuities. Referring to the 2013 Global Corruption Barometer (GCB) data released by Transparency International, to obtain public services, 71% of respondents said they had to pay "facilitation payments" to be able to access public services. The four main backgrounds for facilitation payments are: the only way to obtain services (11%); speed up processing (71%); get cheaper services (6%); as a gift or thank you (13%). From the perspective of business actors or the private sector, these various terms of gratification are actually seen as additional costs, which trigger the phenomenon of high cost economics. This happens in almost all areas of business actors who are in contact with the duties and functions of government institutions. Additional costs like this of course have implications for the price of a product until it reaches consumers. In other words, it is society as the final consumer who bears the "illegal costs".

Law Enforcement Challenges

Challenges in enforcing laws regarding gratification, including the complexity of the evidence and the possibility of political interference or external pressure, can affect the effectiveness of prosecuting violations. Challenges in enforcing gratification law include the difficulty of proving elements of a causal relationship between the giving of gratuities and actions or inactions related to the recipient's position or work.¹⁹ Then there is a culture of reciprocation or the tradition of giving gifts that is inherent in Indonesian society. Many people consider that giving gratuities to civil servants or state administrators is a form of appreciation or thanks for the services provided, without the intention of influencing their decisions or actions.

¹⁸ Komisi Pemberantasan Korupsi, "Pedoman Pengendalian Gratifikasi," in *"Pedoman Pengendalian Gratifikasi,"* 2015, 1.

¹⁹ Komisi Pemberantasan Korupsi, *Pedoman Pengendalian Gratifikasi*, 2010.

The Role of Media and Civil Society

The media and civil society play an important role in exposing and urging law enforcement regarding gratification.²⁰ This dynamic shows the importance of transparency and public participation in maintaining government accountability by monitoring and reporting corruption and gratification practices. The synergy of media and society can also help strengthen the monitoring and law enforcement system by providing information and support to government institutions tasked with eradicating corruption and gratification. Building an anti-gratification culture by encouraging active community participation in reporting corrupt practices and gratification that they find.²¹

In order to eradicate gratification, the public and the media can work together with government institutions such as the Corruption Eradication Commission (KPK) and the police. The Corruption Eradication Committee (KPK) has made various efforts to increase public awareness about the dangers of corruption and gratification, such as through anti-corruption campaigns and educational programs.²² Apart from that, the Corruption Eradication Commission also encourages active community participation in eradicating corruption and gratification through an online gratification reporting program.²³

Conclusion

Gratification is the root of corruption. Article 12B of the TIPIKOR Law states that gratification is a gift in a broad sense, which includes giving money, goods, rebates (discounts), commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment and other facilities. These gratuities are either received domestically or abroad and are carried out using electronic means or without electronic means. Overcoming the dynamics of gratification in the practice of State Administrative Law requires a holistic approach that involves improving policies, increasing legal and ethical awareness of state administration administrators, strengthening internal and external supervision of both individual and organizational perpetrators, and active

²⁰ H. Jawade Hafidz Arsyad, *Corruption in HAN's Perspective* (Jakarta: Sinar grafika, 2013).

²¹ Monang Siahaan, "Corruption Is a Deadly Social Disease," in *Corruption Is a Deadly Social Disease* (Jakarta: PT Elex Media Komputindo, 2013), 127.

²² H. Juni Sjafrien Jahja, "Prinsip Kehati-Hatian Pemberantasan Korupsi Pada Pemerintahan Dan Korporasi" (Jakarta: Visi Media, 2013), 168.

²³ Komisi Pemberantasan Korupsi (KPK), "Aplikasi Gratifikasi Online (GOL)," n.d., <https://gol.kpk.go.id>.

participation from various stakeholders to prevent and eradicate the behavior. gratification within state administration organizations by actively involving various parties, especially the media and the public, to reveal, urge law enforcement and report various irregularities and behavior that lead to attempts at gratification. The analysis in this article reveals that gratification has a significant impact on the practice of state administrative law, causing a decline in the integrity and public trust in government institutions. However, effective prevention and law enforcement efforts can strengthen the integrity of the country's administrative legal system. Therefore, further reform steps are needed to address the root of the problem and ensure fairness in government administration.

References

- (KPK), Komisi Pemberantasan Korupsi. "Aplikasi Gratifikasi Online (GOL)," n.d. <https://gol.kpk.go.id>.
- andi hamzah. *Corruption in Indonesia: Problems and Solutions*. Jakarta: Gramedia, 1991.
- Ansori, H. *Kepuasan Seksual Dalam Persona Korupsi*. 2nd ed. Jakarta: R.A. De. Rozarie, 2015.
- concerning Government Administration (2014).
- H. Jawade Hafidz Arsyad. *Corruption in HAN's Perspective*. Jakarta: Sinar Grafika, 2013.
- H. Juni Sjafrien Jahja. "Prinsip Kehati-Hatian Pemberantasan Korupsi Pada Pemerintahan Dan Korporasi," 168. Jakarta: Visi Media, 2013.
- Kaufmann, Daniel. "Governance and Corruption: New Empirical Frontier For Program a Design" in T. Mulya Lubis, 'Anti-Corruption Legal Reform.'" *Paper Presented at the Conference Towards a Corruption-Free Indonesia*, 1998.
- Kejaksaan Republik Indonesia. Peraturan Kejaksaan Republik Indonesia Nomor 3 Tahun 2019 tentang Pengendalian Gratifikasi di Lingkungan Kejaksaan Republik Indonesia (2019).
- Komisi Pemberantasan Korupsi. "*Buku Saku Pemahaman Gratifikasi*," 2010.
- . *Pedoman Pengendalian Gratifikasi*, 2010.
- Korupsi, Komisi Pemberantasan. *Panduan Penanganan Benturan Kepentingan Penyelenggara Negara*. Jakarta: KPK, 2009.
- . "Pedoman Pengendalian Gratifikasi." In "*Pedoman Pengendalian Gratifikasi*," 1, 2015.
- Monang Siahaan. "Corruption Is a Deadly Social Disease." In *Corruption Is a Deadly Social Disease*, 127. Jakarta: PT Elex Media Komputindo, 2013.

- Muladi. "Strengthening Gratification Regulations Article 12B and 12C of Law No.20/2001 Concerning Amendments to Law No.31/1999 Concerning Eradication of Corruption." *Legal Annotation Presented in the FGD Analysis of the Decision on Gratification Articles at the Corruption Court, Diponegoro University*, September 28, 2016.
- P.A.F. Lamintang. *Pelanggaran Khusus Tindak Pidana Pekerjaan Dan Tindak Pidana Tertentu Sebagai Tindak Pidana Korupsi*. Bandung: Pioner Jaya, 1991.
- Sekretariat Jenderal DPR RI - Biro Pengadilan. Rancangan Undang-Undang tentang Perubahan Atas Undang-Undang Nomor 31 tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi, Pub. L. No. 31, 429 (1999).
- Soerjono Soekanto. *Introduction to Legal Research*. 3rd ed. Jakarta, 2008.
- Sri Mamudji. *Normative Legal Research*. Jakarta: Rajawali, 1985.
- Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi (2001).
- Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, Pub. L. No. 30 (2014).