

**Legal Analysis Of Reverse Burden Of Proof In Corruption Criminal Acts In The
Jeneponto District Prosecutor's Office**

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Abstract

This study aims to analyze the role of the Jeneponto District Attorney's Office in implementing the principle of reverse burden of proof in corruption cases, and to identify factors that influence the success or obstacles in implementing the principle. The method used is an empirical method with a legal approach, namely combining observations of legal practices with normative studies. The results of the study indicate that although the principle of proof is legally recognized in Indonesia through Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, its implementation is still limited and faces obstacles, such as minimal transparency and lack of technical understanding in the field. This study concludes that to optimize the principle of reverse burden of proof, improvements are needed in terms of legal substance, human resources, and synergy between law enforcement agencies.

Keywords: *Reverse Proof, Corruption, Prosecutor's Office, Criminal Law, Jeneponto*

Abstrak

Penelitian ini bertujuan untuk menganalisis peran Kejaksaan Negeri Jeneponto dalam penerapan asas pembuktian terbalik dalam perkara tindak pidana korupsi, serta mengidentifikasi faktor-faktor yang mempengaruhi keberhasilan atau kendala penerapan asas tersebut. Metode yang digunakan adalah metode empiris dengan pendekatan hukum, yang memadukan pengamatan terhadap praktik hukum dengan kajian normatif. Hasil penelitian menunjukkan bahwa meskipun pembuktian terbalik diakui secara hukum di Indonesia melalui Undang-Undang Nomor 31 Tahun 1999 jo. Undang-Undang Nomor 20 Tahun 2001, penerapannya masih terbatas dan menghadapi kendala, seperti minimnya transparansi serta kurangnya pemahaman teknis di lapangan. Studi ini menyimpulkan bahwa optimalisasi asas pembuktian terbalik membutuhkan perbaikan dari segi substansi hukum, sumber daya manusia, dan sinergi antarlembaga penegak hukum.

Kata kunci: *Pembuktian Terbalik, Korupsi, Kejaksaan, Hukum Pidana, Jeneponto*

Introduction

Corruption is considered an extraordinary crime due to its destructive consequences. It not only harms the country's finances and economy, but also hinders economic growth, reduces investment, exacerbates poverty, and increases both economic and social inequality. In addition, corruption leads to increased national debt, lowers the quality of goods and services, and adds burdens to economic transactions. Corruption also affects governance, such as the collapse of social ethics, inefficient bureaucracy, and the loss of governmental functions. In the legal field, corruption renders legislation ineffective and erodes public trust in the state. It also impacts the political sphere, leading to the emergence of corrupt leaders and the erosion of public confidence in democracy.¹

Evidence plays a crucial role in corruption crimes, as such offenses are often committed secretly and covertly, often concealed behind legal justifications. The disclosure of evidence in corruption cases, according to the Indonesian Criminal Procedure Code (KUHP), reflects the application of a negative evidentiary system. This means that judges must be convinced, based on legally admissible evidence, that the perpetrator indeed committed the criminal act.² Proof in criminal procedural law is an effort to obtain information through means of evidence and exhibits in order to establish a belief regarding the truth or falsity of the alleged criminal act, as well as to determine whether or not the defendant is at fault.

The term *tindak pidana* (criminal act) is synonymous with *delik*, which originates from the Latin word *delictum*, also commonly referred to as *delict*, and in Dutch is called *Strafbaar feit*. In Anglo-Saxon legal systems, such as those of the United Kingdom and the United States, the term used is *offense* or *criminal act*. Since the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP) is derived from the Dutch *Wetboek van Strafrecht* (WvS), the original term used is also *Strafbaar feit*.³

Reversed burden of proof in the Indonesian Code of Criminal Procedure (KUHP) is a system that places the obligation of proof on the defendant. In this system, the defendant is presumed to have committed the criminal act unless they are able to prove otherwise. The reversal of the burden of proof (*omkering van bewijslast* or reversal of burden of proof), commonly known as reversed burden of proof, is a system of evidence in Indonesian criminal procedural law that assigns the burden of proof to the defendant

¹ Mansur Kartayasa, *Korupsi & Pembuktian Terbalik: Dari Perspektif Kebijakan Legislasi dan Hak Asasi Manusia*, Jakarta: Kencana, 2017

² Aiman, Rahmat (2024). Hukum dan Korupsi. *Peradaban Journal of Law and Society*, Pustaka Peradaban,

during court proceedings.⁴ In the elucidation of Law No. 31 of 1999, it is stated that the reversed burden of proof is limited and balanced in nature, meaning that the defendant has the right to prove that they did not commit the act of corruption and is obliged to provide information about all of their assets, the assets of their spouse, children, and any other person or corporation suspected to be connected to the case. Meanwhile, the public prosecutor still holds the obligation to prove the charges.⁵

Article 37 of Law No. 31 of 1999 grants the defendant the right to prove that they did not commit the act of corruption as charged. If the defendant exercises this right and is able to prove that they did not commit the alleged corruption offense, the court may use the evidence presented by the defendant as the basis for rendering a verdict that acquits them.⁶

In the Kamus Besar Bahasa Indonesia (Great Dictionary of the Indonesian Language) by Poerwadarminta (1976), corruption is defined as wrongful acts such as embezzlement of money, accepting bribes, and the like. In the 2005 edition of the dictionary, the word *korup* is described as bad, damaged, rotten; someone who uses goods (money) entrusted to them; or someone who can be bribed and uses their power for personal gain. The verb *mengkorup* means to damage or misappropriate (embezzle) company or state-owned goods (money) at one's workplace. Meanwhile, the term *korupsi* (corruption) is defined as the embezzlement or misuse of state (or company, e.g., regional enterprises) funds for personal gain or the benefit of others, including the use of official working hours for personal matters.⁷ Literally, corruption refers to something rotten, evil, and destructive. This is because corruption involves moral decay, corrupt character and conditions, the abuse of positions within institutions or government apparatus, misuse of authority for personal gain, economic and political factors, as well as nepotism—placing family or groups into official positions under one's power or authority.

Method

This research is an empirical legal study with descriptive characteristics. Empirical legal research can also be referred to as sociological legal research, which is a method that functions to observe law in its real context and to examine how law operates within a community environment. This research was conducted in Jenepono

⁴ Mariyanawati, Yessy Artha, & Saleh, Moh. (2023). Sistem Pembuktian Terbalik Dalam Pemberantasan Tindak Pidana Korupsi. *Perspektif*, 28(3), 176-184, ISSN 2406-7385, Universitas Wijaya Kusuma Surabaya.

⁵ [hukumonline.pembuktian-terbalik-dalam-tindak-pidana-korupsi](https://hukumonline.com/berita/hukumonline-pembuktian-terbalik-dalam-tindak-pidana-korupsi) diakses pada tanggal 23 November 2024

⁶ [hukumonline.pembuktian-terbalik-dalam-tindak-pidana-korupsi](https://hukumonline.com/berita/hukumonline-pembuktian-terbalik-dalam-tindak-pidana-korupsi) diakses pada tanggal 23 November 2024

⁷ Kamri Ahmad, Upaya pemberantasan korupsi, PT. Nas media Pustaka, 2022, hlm 3.

Regency, specifically at the Jenepono District Attorney's Office. The author chose this location for several reasons: the selected location has a direct connection to the research topic. Additionally, the research was carried out at the Jenepono District Attorney's Office to understand the role and function of the judicial institution within the community. The population in this study focuses on public prosecutors who handle corruption cases. Additionally, several corruption cases will be used as research samples. The types and sources of data in this study are divided into two categories: primary data and secondary data. Primary data are data obtained directly from the original sources or the location where the research is conducted. Meanwhile, secondary data are obtained through library research on materials such as literature books, journals, legislation, legal articles, scientific writings, documents or written archives, data, and other readings related to the research object and the issues discussed. The data collection techniques used by the author in this study are carried out in two stages: interviews and literature review. An interview is a process that brings together two or more people to exchange information and ideas through questions and answers, producing valid and reliable information. In other words, an interview is a conversation conducted by the interviewer to obtain information from the informant. The author will conduct interviews with various parties at the Jenepono District Attorney's Office. Meanwhile, the literature review is a technique for collecting data and information through reading literature or written sources such as books, previous studies, papers, journals, articles, reports, and magazines related to the research. All data collected, both primary and secondary, will be analyzed based on the research questions so that a clear picture can be obtained. In this study, the data analysis process uses a qualitative method and is presented descriptively by explaining, elaborating, and illustrating in accordance with the issues closely related to the research.

Result & Discussion

A. The Role of the Jenepono District Attorney's Office in the Application of Reverse Burden of Proof in Corruption Crime Cases

The role of the Jenepono District Attorney's Office in eradicating corruption is generally regulated in Article 2 paragraph (1) and specifically in Article 30 paragraph (1) of Law Number 16 Year 2004 concerning the Prosecutor's Office. The Prosecutor's Office functions as a government institution that exercises state authority in the field of prosecution and other powers based on the law. One important legal instrument in combating corruption is the application of reverse burden of proof, which requires the defendant to prove the origin of their wealth if it is deemed inconsistent with their legitimate income.

The Jenepono District Attorney's Office actively implements the reverse burden of proof mechanism as a strategy to reduce corruption and hold perpetrators accountable. In this process, prosecutors must first prove the elements of the crime, such as state losses, unlawful acts, and benefits obtained by the defendant. After these elements are

proven, prosecutors may request the defendant to prove that their wealth comes from legitimate sources, in accordance with Article 37A of Law Number 31 Year 1999 jo. Law Number 20 Year 2001.

In practice, the Jenepono Prosecutor's Office employs various approaches, including financial forensics, investigative audits, and cooperation with the Financial Transaction Reports and Analysis Center (PPATK) to trace suspicious fund flows. The Head of Special Crimes, Mrs. Angraeni SH, emphasized that prosecutors must prove the charges and the balance between the defendant's wealth and legitimate income. The Prosecutor's Office also presents witnesses and experts to strengthen suspicions of discrepancies in the defendant's wealth.

During the investigation and inquiry stages, the Jenepono Prosecutor's Office identifies inconsistencies between official income and the wealth owned. This process involves tracing bank accounts, fixed assets, ownership documents, and routine expenses that are disproportionate to salaries. Once sufficient preliminary evidence is found, the suspect is required to provide explanations and legal proof of asset ownership. Thus, the burden of proof is not entirely on the prosecutor but shared with the defendant to prove that the wealth was legally acquired.

The reverse burden of proof becomes the main weapon for prosecutors in proving corruption cases that are difficult to trace through conventional methods. Furthermore, reverse burden of proof is also applied in civil cases for the seizure of assets whose origin cannot be proven by the defendant, even if the criminal elements are not fully established. This mechanism helps the Jenepono Prosecutor's Office recover state financial losses more effectively without waiting for the final criminal verdict.

In its implementation, the Jenepono Prosecutor's Office collaborates with other institutions such as the Audit Board (BPK), the Financial and Development Supervisory Agency (BPKP), the Corruption Eradication Commission (KPK), and financial institutions to strengthen the application of the reverse burden of proof through access to financial data and audits. This approach also serves as effective legal education, demonstrating that law enforcement officials not only prosecute offenders but also actively pursue the recovery of corruption assets.

Based on data from the Jenepono Prosecutor's Office between 2020 and 2024, out of 36 corruption cases decided, only a few applied the reverse burden of proof. This indicates that the implementation of the reverse burden of proof has not been maximized, although it is regulated in Article 37 paragraph 2 of Law Number 20 Year 2001.

The main challenges in implementing the reverse burden of proof are the still dominant role of prosecutors in the proof process and the lack of clear regulation in the Indonesian legal system regarding this mechanism. Nevertheless, the evidence and proof requirements in corruption cases still refer to the Criminal Procedure Code for Corruption Crimes (UUTPK).

In gratification cases exceeding ten million rupiahs, defendants often deny the charges and defend themselves by claiming never to have received gratification as alleged by the public prosecutor. Therefore, the effectiveness of the reverse burden of proof heavily depends on the examination process and the prosecutor's ability to present convincing evidence.

B. Factors Affecting the Implementation of Reverse Burden of Proof in Corruption Cases

The reverse burden of proof system in corruption cases is a legal instrument designed to overcome the difficulties of law enforcement against white-collar crime. Corruption is often carried out using sophisticated methods, involving extensive networks, and exploiting loopholes in the law and modern financial systems. Therefore, conventional mechanisms that place the responsibility solely on the public prosecutor often lead to a dead end. In Indonesia, the reverse burden of proof mechanism is regulated in Article 37A of Law Number 31 of 1999 concerning the Eradication of Corruption in conjunction with Law Number 20 of 2001. This article grants defendants the right to prove that their assets are not the proceeds of corruption. However, its implementation in practice is not as simple as it appears on paper. Research at the Jenepono District Attorney's Office shows that the implementation of the reverse burden of proof system is influenced by several factors, including normative, institutional, and sociological. The first factor influencing the effectiveness of the reverse burden of proof is the legal regulation that underpins its implementation. Although Article 37A stipulates the defendant's right to prove the origin of their assets, implementation still faces challenges. The lack of a standard operating procedure (SOP) has led to differing interpretations among prosecutors. Some prosecutors interpret the reverse burden of proof as merely a right, not an obligation, for the defendant. Others believe this article opens up the opportunity for prosecutors to demand that defendants present clear evidence relating to assets. Furthermore, there is a normative dilemma regarding the compatibility of the reverse burden of proof system with the principle of presumption of innocence, which is upheld in modern criminal law. Criticism has come from academics and legal practitioners, who argue that the application of the reverse burden of proof has the potential to violate human rights. However, the Constitutional Court has affirmed that the reverse burden of proof in corruption cases remains constitutional as long as it is limited and proportional, namely only relating to assets disproportionate to the defendant's income profile. Thus, regulatory factors are not only concerned with the existence of a legal basis, but also with clarity, consistency, and alignment of norms with human rights principles. This ambiguity ultimately results in inconsistent implementation.

The next factor is the capacity and professionalism of law enforcement officials, particularly public prosecutors. The application of reversed burden of proof requires a high level of technical expertise, particularly in analyzing financial evidence, tracing banking transactions, and verifying the defendant's assets. Not all prosecutors possess

this interdisciplinary capability. Prosecutors with specialized experience and training in corruption are generally better equipped to apply reversed burden of proof. However, the limited number of prosecutors with expertise in forensic accounting or asset investigation presents a significant obstacle. Without this expertise, prosecutors will struggle to present convincing arguments in court and rebut the defendant's defense. Therefore, individual competence is crucial for the effectiveness of the reversed burden of proof system.

The application of reversed burden of proof is inextricably linked to the availability of evidence. Prosecutors often face difficulties in quickly obtaining banking transaction documents, investigative audit reports, and asset ownership data. Bureaucratic procedures, limited access, and the protection of banking confidentiality often hinder this.

Conversely, if prosecutors successfully gather comprehensive evidence, such as the Financial Transaction Reports and Analysis Center (PPATK) report on suspicious transactions or the results of the state loss audit from the Financial and Development Supervisory Agency (BPKP), the defendant's position is weakened. The presence of strong evidence can encourage defendants to prove the origin of their assets, enabling the reversed burden of proof system to function optimally. The defendant's objections and the defense strategy of legal counsel are other determining factors. Corruption defendants generally have access to experienced legal counsel. They often exploit legal loopholes to weaken the prosecutor's arguments. For example, defendants may claim that assets were acquired through family businesses, inheritance, or through a nominee scheme, preventing direct ownership. Furthermore, legal counsel often raises procedural objections, such as rejecting certain electronic evidence or questioning the validity of audit documents. These efforts slow down the evidentiary process and make it difficult for prosecutors to effectively implement the reverse burden of proof system. The success of the reverse burden of proof system also depends heavily on institutional support from other agencies, such as the Financial Transaction Reports and Analysis Center (PPATK), the Supreme Audit Agency (BPK), the Financial and Development Supervisory Agency (BPKP), the Financial Services Authority (OJK), banks, and the National Land Agency (BPN) play a vital role in providing relevant data and information. For example, the Financial Transaction Reports and Analysis Center (PPATK) investigates suspicious fund flows, the Supreme Audit Agency (BPK/BPKP) calculates state losses, while banking and land institutions provide proof of asset ownership. Prosecutors cannot work alone. Without cross-agency coordination, the reverse burden of proof system will be paralyzed. Therefore, institutional support is a key pillar in its implementation. The public's legal culture also has a significant impact. In Jeneponto, for example, there is still a perception that corruption is part of the tradition of power and is not always viewed as a serious offense. Low public awareness about reporting cases or providing information regarding suspicious assets weakens the prosecutor's position.

Public participation is crucial for strengthening evidence. Communities with a strong legal culture will be more proactive in assisting authorities. Conversely, low public legal awareness increases the burden on law enforcement officials in proving corruption cases. Corruption often involves actors with strong political and economic networks. Political interference, both direct and indirect, frequently influences the legal process. Political pressure can take the form of efforts to weaken investigators, influence public opinion, or even intervene in the judicial process. This situation demonstrates that the success of a reverse burden of proof system depends not only on legal norms but also on the political commitment and independence of law enforcement agencies to resist all forms of external pressure. Implementing reverse burden of proof requires the support of robust investigative technology. Asset tracking software, integrated inter-agency databases, and rapid access to digital information are essential. However, at the regional level, such as the Jenepono District Attorney's Office, limited facilities and infrastructure are still acute. Prosecutors often rely on manual procedures, which slow down the process. This situation contrasts with the increasingly sophisticated modus operandi of corruptors, who exploit digital financial systems, shell companies, and cross-border transactions. The integrity of law enforcement officers is a fundamental factor. A reverse burden of proof system can only be effective if prosecutors, investigators, and supporting officers are free from conflicts of interest. Cases in which officers engage in corrupt practices or compromise the law will undermine the system's credibility. Strict internal oversight, a firm code of ethics, and severe sanctions for violators are essential for maintaining public trust. Without integrity, no matter how advanced regulations and technological tools are, they will not be able to promote the effectiveness of reverse burden of proof.

Conclusion

Based on the research results and discussion, it can be concluded that the role of the Jenepono District Attorney's Office in applying reverse burden of proof in corruption cases is quite significant. Especially in the process of proving the origin of the defendant's wealth, the Attorney's Office not only acts as the public prosecutor but also actively collects indirect evidence and encourages the defendant to provide explanations that can refute allegations of gratification or unlawful acquisition of assets.

The factors influencing the effectiveness of reverse burden of proof in corruption cases at the Jenepono District Attorney's Office are complex and interconnected. The success of applying reverse burden of proof largely depends on the willingness and ability of the defendant to explain the lawful origin of their wealth. Additionally, the availability of supporting data and documents from related institutions such as PPATK, the National Land Agency (BPN), and banks is a crucial factor that determines the smooth process of evidence collection.

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