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## Law Enforcement and Justice Issues in Gratification Criminal Cases

**Eddy Rifai<sup>1</sup>**

Faculty of Law University of Lampung

### Abstract

*This case study is based on a law suit of a gratification case in Tanggamus Regency, Lampung Province, where law enforcement left out 13 perpetrators who had received the gratification and convicted only the main offender. Several questions were raised subsequent to this verdict, especially about the role of law enforcement in cases of corruption, especially gratification. This study aimed to examine and analyze these questions in the light of criminal law enforcement model. This study used a normative and empirical juridical approach with primary and secondary legal materials obtained from literature searches and field studies. Based on the research results, a fair criminal law enforcement model in the case of bribery/gratification in Tanggamus Regency was enacted to determine whether the 13 Regional House of Representatives of Tanggamus Regency who were the recipients of gratuities should also be tried under the law. Article 12C of the Corruption Eradication Law was the basis for KPK investigators not to carry out legal proceedings against 13 DPRD members who had received gratuities from the Regent. According to progressive legal analysis, the decision was taken in favor of the members and that the court had not violated the 1945 Constitution nor its Article 12C. The study recommends that Article 12C of the Corruption Eradication Law should be reviewed, even if it needs to be removed from the Corruption Eradication Act.*

Keywords: Gratification, Law Enforcement, Justice.

### Introduction

Corruption cases related to public officials in the form of project fees as criminal acts of bribery and gratification often occur in the Lampung Province, Indonesia. According to an estimate, all regional heads during 2010 to 2019, committed criminal acts of corruption in the form of bribes and gratuities, namely the Regent of East Lampung STN worth Rp. 117 billion, Central Lampung Regent AA worth Rp. 30 billion, the Regent of Tanggamus BK worth Rp. 943 million, South Lampung Regent ZH worth Rp. 95 billion, Central Lampung Regent Mus worth Rp. 95 billion, Mesuji Khamamik Regent worth Rp. 1.5 billion, North Lampung Regent AIM. worth Rp. 100 Billion. These figures and estimates reveal that there is unfair criminal law enforcement

<sup>1</sup> Faculty of Law University of Lampung. Email: eddy.rifai@fh.unila.ac.id

and disparity against the perpetrators of corruption. In all these cases, there are perpetrators who were used as suspects/defendants, but there were also some perpetrators who were only used only as witnesses. These perpetrators were imposed criminal sanctions until the case had permanent legal force.

One of the cases that attracted attention was the case of the former Regent of Tanggamus, Bambang Kurniawan, who gave gratuities / bribes to members of the Regional House of Representatives of Tanggamus Regency up to the amount of Rp. 943 Million as “knock hammer” money. This bribe was paid with a threat to members of the Regional People's Representative Council not to the quorum in ratifying the Regional Revenue and Expenditure Budget (hereinafter abbreviated as APBD) for the 2016 Tanggamus Regency before the Corruption Eradication Commission (hereinafter abbreviated as KPK) as a criminal act of gratification. A case was filed against former Tanggamus Regent, Bambang Kurniawan, with charge of corruption and criminal acts of gratification. Bambang Kurniawan was sentenced to 2 years in prison by the Tanjungkarang Corruption Court. During the trial, Bambang Kurniawan stated that he was a victim of extortion and the distribution of funds was carried out 2 times at different time intervals, and each time the people who reported and received gratuities were different. Therefore, the first gift was not included in the gratification qualification. In addition, the members of the Tanggamus Regency (DPRD) who had received funds outside the gratuity should also be charged and punished for corruption and accepting bribes.

In the public prosecutor's indictment of the gratification case for the approval of the 2016 Tanggamus Regency APBD, there were 13 members of the Tanggamus Regency DPRD who had received the ‘bribe’ money but they had reported about this money to the KPK. These 13 DPRD members had the initials: AM, AP, B, DF, F, N, H, HA, HE, S, T, K, and TW. They received money from Bambang Kurniawan in different amounts: AM and HA received Rp. 65 Million, N got Rp. 40 million, HE got Rp. 30 Million, B got Rp. 64.8 Million, S got Rp. 38.6 Million, F received Rp got 30 Million, T got Rp. 29.9 Million, K got Rp. 40 million, AP got Rp. 30 Million, TW got Rp. 30 Million, H got Rp. 30 million, and D received Rp.30 million. The total amount of money was given by Bambang Kurniawan to the DPRD members was Rp. 523,350,000. This money was then handed over to the KPK Gratification Directorate, in which case the KPK determined it as a criminal act of gratification. Bambang Kurniawan was named a suspect for violating Article 5 paragraph (1) of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption (hereinafter abbreviated as Law on the Eradication of Corruption).

During the trial, it was revealed that Bambang Kurniawan had given money to 23 members of the DPRD of Tanggamus Regency with the initials PU, AM, TK, BH, HA, ZQ, R, FN, Bsk, IS, AF, BS, Mch, SW, SMY, DF, FRZ, HE, NsN, HLN, TZN, TW, IM, R, and KRN. The total money that they received was Rp. 943,350,000. According to Bambang Kurniawan, this amount was forced as a result of threats from members of the Tanggamus Regency DPRD who would not be present in a quorum in the 2016 Tanggamus Regency APBD discussion.

Based on the facts of the trial, there was a difference in the bribe amount by Rp. 420 million between the bribe first given to members of the Tanggamus Regency

DPRD and the amount revealed during the trial. In addition, there was a difference of as many as 10 DPRD members of Tanggamus Regency who had not reported about the bribe to the Directorate of Gratification of the KPK. Tanjungkarang Corruption Court Decision Number: 14/Pid.Sus-TPK/2017/PN.Tk dated 22 May 2017, in its legal considerations, used the facts of the trial and sentenced Bambang Kurniawan to 2 years in prison. This decision was confirmed by the Tanjungkarang High Court Corruption Court Decision Number: 16/PID.SUS-TPK/2017/PT.TJK dated August 16, 2017. Neither Bambang Kurniawan nor the public prosecutor filed an appeal, so the decision had a permanent legal force (*inkracht van gewijsde*) (Alfiyan et al., 2020). However, until the decision had permanent legal force and the convict Bambang Kurniawan had finished serving his sentence, the other perpetrators who accepted bribes but were never been tried by any court. In fact, most of them had served again as members of the DPRD at both district and provincial levels.

Based on the above background information above, the problem that becomes the object of study in this research is a fair criminal law enforcement model in cases of criminal acts of gratification. The case that became the object of this research was the case of a criminal act of gratification with the convict Bambang Kurniawan, the former Regent of Tanggamus Regency.

### Research Method

The research method adopted for this study were the normative juridical (doctrinal legal research) and empirical juridical (non-doctrinal legal research) research methods. The normative juridical approach is based on legal principles, especially the principle of justice, legislation, court decisions, theories, and concepts related to the writing of a research (Setiadi & Afrizal, 2019) while the empirical juridical approach mainly comprises primary data collected by conducting field research (Benuf & Azhar, 2020). The Normative research method uses several approaches, including the statutory and case systems. The process of legislation in this research was carried out by analyzing the laws and regulations in eradicating corruption. The case approach was carried out by reviewing cases and court decisions in corruption cases. In this case, the criminal act of gratification with the convict Bambang Kurniawan, the former Regent of Tanggamus Regency, was analyzed. The data analysis was carried out through qualitative methods, by first describing the facts that existed based on the research results and coded in the form of explanations. Subsequently, the collected data was analyzed systematically, descriptively, and qualitatively. Finally, a conclusion was drawn inductively.

### Results

The Corruption Eradication Commission (KPK) named the Regent of Tanggamus Bambang Kurniawan (BK) as a suspect in the alleged corruption case of giving bribes to members of the DPRD of Tanggamus Regency related to the 2016 APBD. BK was charged with alternative charges, namely first bribing the members of the DPRD and second, threatening them to keep away from the DPRD during the voting. The first case of bribe was regulated in Article 5 paragraph (1) letter b of Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption (as amended by Law Number 20 of 2001) (from now on referred to as the Corruption Eradication Law) in

conjunction with Article 64 paragraph (1) of the Criminal Code. The second crime was regulated and punishable under Article 13 of the Corruption Eradication Law in conjunction with Article 64 paragraph (1) of the Criminal Code.

The case of Defendant BK, the former regent of Tanggamus Regency, was decided by the Tanjungkarang Corruption Court based on Decision Number: 14/Pid.Sus-TPK/2017/PN.Tk dated May 22, 2017, with the verdict as follows:

- 1) that the Defendant BAMBANG KURNIAWAN, ST is proven legally and convincingly guilty of committing a criminal act of corruption continuously;
- 2) that the Defendant BAMBANG KURNIAWAN, ST, is sentenced to imprisonment for 2 (Two) years and a fine of Rp. 250,000,000. - (two hundred and fifty million rupiahs) provided that if the fine is not paid, it is replaced with imprisonment for 2 (Two) months;
- 3) that the Defendant will remain in custody;
- 4) that the period of arrest and detention served by the Defendant would be fully deducted from the sentence imposed;
- 5) that the evidence would remain attached to the case file;
- 6) that the Defendant would pay court fees of Rp. 10,000 (ten thousand rupiahs).

Against the decision of the first level, both the Legal Counsel and the Public Prosecutor filed an appeal. The Tanjungkarang High Court of Corruption decided it based on Decision Number: 16/PID.SUS-TPK/2017/P.T.TJK dated August 16, 2017, with a verdict that was as follows: (i) that the appeal from the Public Prosecutor is acceptable; (ii) that the decision of the Corruption Court at the Tanjungkarang District Court Number: 14/Pid.Sus-TPK/2017/P.N.Tjk dated May 22, 2017 is strengthened and shall remain unchanged; (iii) that Defendant Bambang Kurniawan, ST. is proven legally and convincingly guilty of committing a criminal act of corruption; (iv) that the court upholds the imprisonment of 2 (two) years and a fine of Rp. 250,000,000 (two hundred and fifty million rupiahs); and (v) that Defendant would pay court fees of Rp. 5,000, - (five thousand rupiahs) at both levels of court, including that of appeal level. The court also ordered to deposit safely the bribe money evidence number 1 to 66 (attached to the case file and to be used in the investigation of other cases), and evidence number 67 to 98, each being seized to be deposited into the State treasury.

The Defendant BK went to the Supreme court against the Tanjungkarang High Court Decision Number 16/PID.SUS-TPK/2017/PT Tjk dated 16 August 2017 on 22 August 2017. The case on behalf of the BK was given a permanent legal force and subsequently was filed for a Judicial Review with the Supreme Court. The Judicial Review of the supreme court, vide the Decision Number 76 PK/Pid.Sus /2018 dated 17 May 2018, gave the following verdict: (i) it rejected the Request for Judicial Review from the Petitioner for Judicial Review/Convicted Bambang Kurniawan; (ii) it stipulated that the decision requested for judicial review remains in effect; (iii) it charged the convict to pay the cost of the case at the Judicial Review in Rp. 2,500 (two thousand five hundred rupiahs)

In connection with this decision, BK completed his sentence without receiving a reduction in his ruling. BK was blamed for violating the provisions of Article 5 Paragraph 1 (b) of the Corruption Eradication Law. However, the gratification

recipients, as well as the reporting parties, in this case, should be 13 members of the Tanggamus Regency DPRD. So far, they have never been a part of any legal proceedings. When referring to the provisions of Article 5, jo. Article 12 letters a and b of the Corruption Eradication Law, both perpetrators of giving and receiving gratuities should be imposed criminal penalties.

Article 5 of the Corruption Eradication Law states the following provisions to perpetrators of giving and receiving bribes. Firstly, a sentence to a minimum imprisonment of 1 (one) year and a maximum of 5 (five) years and or a minimum fine of Rp. 50,000,000.00 (fifty million rupiahs) and a maximum of Rp. 250,000,000.00 (two hundred and fifty million rupiahs) for every person who either (a) gave or promised something to a civil servant or state administrator with the intention that the civil servant or state administrator do or not do something in his position, which is contrary to his obligations; or (b) gave something to a civil servant or state administrator because of or in connection with something contrary to his obligations, done or not done in his position. Secondly, for civil servants or state administrators who receive gifts or promises as referred to in paragraph (1), letter a or letter b shall be subject to the same punishment as referred to in paragraph (1).

Similarly, Article 12 of the Corruption Eradication Law provides a sentence of life imprisonment or a minimum imprisonment of 4 (four) years and a maximum of 20 (twenty) years, and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiahs) and a maximum of Rp. 1,000,000,000. 00 (one billion rupiahs) if (i) a civil servant or state administrator accepts a gift or promise, even though it is known or reasonably suspected that the present or assurance was given to mobilize him to do or not do something in his position, which is contrary to his obligations; (ii) a civil servant or state administrator receives a gift, even though it is known or reasonably suspected that the facility is given as a result or because he has done or not done something in his position that is contrary to his obligations.

Based on these provisions, those 13 members of the Tanggamus DPRD who received the money and then reported the money to the KPK should be named suspects. The KPK was obliged to raise the cases of those who had received gratuities to the level of investigation. According to Article 12C paragraph (1) of the Corruption Eradication Law, dividends received by civil servants or state officials would not be considered bribes if the recipient of the gratification reported it to the KPK. In other words, if the recipient of the gratification registers the gratuity he has received, the recipient will not be penalized because his unlawful nature is lost (Fauziah, 2015). In this case, although the act of reporting 13 members of the DPRD of Tanggamus Regency who received gratuities to the KPK can be considered as the basis for eradicating the unlawful nature of the act, the act of receiving gratification remains a corruption because it violated the provisions of Article 12B paragraph (1) Jo (2) (Mauliddar et al., 2017).

In many other bribery cases, sentences were imposed on both the Giver and the Receiver. However, in the case of BK, there has been no follow-up from the Corruption Eradication Commission (KPK). Until now, the other perpetrators who had received bribes have never been queried by the law enforcement agencies. On the other hand, till date, the Corruption Eradication Commission (KPK) has not canceled the acceptance status of 13 members of the Tanggamus Regency DPRD from the BK as Gratuity. Only BK as the gratuity giver is made a suspect/defendant. The total amount of money that was

given by Bambang Kurniawan to 13 DPRD members was Rp. 523,350,000. That money was then handed over to the KPK Gratification Directorate, in which case the KPK designated it as gratuity so that Bambang Kurniawan was named a suspect.

In criminal acts of gratification, there are two parties, both of whom play an active role in realizing the criminal act of gratification, namely the giver and the recipient of gratification (Mauliddar et al., 2017). The giver of gratification is regulated in Article 5 (Andiko, 2016) and the recipient of gratification is regulated in Article 12B of the Corruption Eradication Law (Saragih, 2018). However, with the provisions of Article 12C, namely when the recipient of the gratification reports the gratification to the KPK within 30 days at the latest, the legal provisions of Article 12B paragraph (1) do not apply. If viewed carefully, this will cause injustice, especially for the gratuity giver. Aristotle stated that justice must be based on law, that is, each should have the right or share proportionally considering his education, position and ability (Srisusilawati & Eprianti, 2017). Justice in the context of corruption is demanded on the basis of equality and should be viewed as accountability for criminal acts of gratification (Ishaq, 2009).

The next problem that arose with the existence of Article 12 C of the Corruption Eradication Law was that there was a big gap for civil servants or state officials to justify their actions of not reporting the criminal acts of gratification that they receive (Mapuasari & Mahmudah, 2018). The civil servants or state administrators may argue that the gratification had not passed the reporting period of 30 days since receiving the gratification. Determining the status of gratuities reported to the KPK, it was also the duty of the judge in the trial to determine whether a gratuity could be considered a bribe or not (Rusadi et al., 2019). Some common rationalizations of gratification can be learned from Dellaportas (2013) research. Dellaportas conducted a literature analysis and interviewed white-collar detainees. Some of the sentences presented in Table 1 were often used by perpetrators to justify their actions. These are also the reasons that white-collar criminals used to justify their actions (Dellaportas, 2013).

Table :1 Rationalizing accepting gratifications

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<b>Rationalizing Accept Gratification</b>	
1.	I deserve it because I've worked hard.
2.	Naturally, in my duty capacity, I received more than just a salary.
3.	Many other people are rich because they receive the same thing. Why not me?
4.	It's nothing serious, just a thank you.
5.	I also want to improve my standard of living while there is sustenance.
6.	Many accept things like this, not just me. This is common and commonplace.

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In connection with the gratification case for the approval of the 2016 Tanggamus Regency APBD which ensnared Bambang Kurniawan, to achieve justice, ideally 13 members of the Tanggamus Regency DPRD, who were recipients of the money, and who later reported the money to the KPK, should also be named as suspects. In this case, even though the 13 DPRD members reported the receipt of gratuities to the KPK, it can be considered as the basis for eradicating the unlawful nature of the act. However, the act of accepting gratification was still corruption, because it violated the



provisions of Article 12B paragraph (1) and paragraph (2). Therefore, if the recipient of the gratification was also submitted to the court as a defendant, and if it could be proven and the elements of Article 12C paragraph (1) and paragraph (2) of the Corruption Eradication Law were fulfilled, the civil servant would not be released, but should be convicted in all lawsuits (Pebriani & Parwata, 2019) because the act of accepting gratification was proven. If the legalization of the abolition of criminal sanctions in Article 12C of the Corruption Eradication Law is viewed from the theoretical side of criminal abolition, it is clear that there is no element of the act of reporting gratification by the recipient which can logically explain that the act of reporting voluntarily can remove the element of punishment in it. Unless those who receive gratuities fully surrender the results of the gratification to the state voluntarily.

## Discussion

The current case turned into a debate on the implementation of Article 12 C and the justification why the act of accepting gratification by 13 members was not seen as corruption, because it had violated the provisions of Article 12B paragraph (1) and paragraph (2). These recipients of the gratification should also be submitted before the court as a defendant. Intuitively as a community, the provisions of Article 12C in the Law on eradicating corruption imply legal injustice and hurt the trust of the Indonesian people towards corruption enforcement agencies in Indonesia. A few people think that the person who receives the gratuity is the person who legalizes the practice of bribery. Based on article 12C, the trust of a handful of people gradually began to fade because people who received gratuities, as well as the 13 members of the Tanggamus Regency DPRD, were given the elimination of criminal sanctions by the KPK because there was a report from the party receiving the gratuity to the KPK within the time limit, which has been determined, which is 30 days after receiving the bribe.

Even what has been regulated in Article 12C of the Anti-Corruption Law can impact many corruptors carrying out washing their hands against corruption as if they were subject to state rules. In addition, based on legal facts confirmed by the panel of judges, the receipt of money by 13 DPRD members in connection with the ratification of the 2016 Tanggamus Regency APBD has occurred perfectly. The panel of judges was of the opinion that the reporting of the receipt was not purely out of the conscience of the DPRD members as the moral awareness of the members of the Tanggamus Regency DPRD to avoid gratification. The panel of judges considered that the action was more of a trap because previously members of the DPRD were asked by threatening not to quorum so that the defendant took active bribery.

A few cases can be cited for the use of jurisprudence to deal with perpetrators of gratification, who were released by the court if it was proven that there was a trap (Fauzi et al., 2018). For example, the decision of the Supreme Court of the Republic of Indonesia Number 401 K/PID.SUS/2012 dated 19 February 2014 rejected the Public Prosecutor's Cassation request with the following considerations: "In law enforcement practices (searches/raids), the police often use "other people" undercover boys whose role is to trap the perpetrators in various ways, for example storing evidence in a certain place so that it looks as if it belongs to the Defendant, even the officers themselves often do this, this is proven in various cases." Secondly, law enforcement should be carried out based on law and human rights whereas law

enforcement is done by fabricating or trapping, which is a violation of the law and tarnishes the image of the legal apparatus, thereby causing public distrust.

Article 12 C of the Anti-Corruption Law has indeed invited a long debate, mainly because the reporting of gratuities by civil servants or state officials to the KPK can provide impunity to the reporter, so that acceptance of gratification by him can be justified. Law enforcement officers must prove that the receipt had passed the reporting period as stipulated in Article 12 C paragraph (4) of the Anti-Corruption Law, 30 days after the state administrator or civil servant receives the gratuity. The impunity for the complainants of gratification did not need to be absolute. So that if it is later found that the gift was illegal, the gratification reporter could still be charged with the gratification article, which was considered bribery with a reversal of the burden of proof.

Attempts to escape from legal snares by using Article 12 C of the Anti-Corruption Law occurred with Tommy Hindratno, an employee of the Sidoarjo Director General of Taxes who was arrested during OTT by the KPK ([Lalola et al., 2014](#)). In the OTT, Tommy Hindratno was caught red-handed while receiving a bribe from James Gunarjo, amounting to Rp. 280,000,000 (two hundred and eighty million rupiahs). In the OTT, Tommy argued that he would only report the receipt of the bribe to the KPK because 30 days had not passed from the time it was received. This loophole was created by applying Article 12 C of the Anti-Corruption Law. The defendant could be acquitted of charges only because the Prosecutor, as the Public Prosecutor, could not prove whether the receipt of the gift was not reported after 30 days.

About criminal acts of gratification involving BK as the Regent of Tanggamus, to achieve fairness, the provisions regarding reporting on receipt of gratification should not be treated in a general way, considering that gratification is comprehensive in meaning ([Budiarti, 2015](#)). The point is that every report by a civil servant who receives gratuities to the KPK is not used as an excuse by the investigating officer not to carry out an investigation, or not to process cases of recipients of gratification. From a juridical point of view, the investigation does not stop or the right to investigate is not erased because the maker has reported the receipt of the gratuity to the KPK.

Gratification is an action that is not carried out based on negligence, coercion, irresponsibility, or ignorance ([Lorensa et al., 2018](#)). Gratification is a purely criminal act that is carried out consciously and in a planned manner. Therefore, it is very difficult to say that recipients of gratuities who voluntarily reported their legal events to the Corruption Eradication Commission could escape the legal trap. However, if it is seen from the point of view of the loss of the element of resistance to material law, the abolition of criminal acts against recipients of gratification then can be the main legal tool in condoning criminal acts against recipients of gratification. If the acquisition is considered reasonable by the KPK, then all elements of material unlawful acts attached to the recipient of the gratification will be removed based on justification and the gratification in the form of goods and services officially handed over by the KPK. If the acquisition is considered unreasonable, the gratuity received is also considered invalid according to law and must be returned as a state treasury.

The formulation of this gratification should be formulated comprehensively regarding the issue of the giver and recipient of gratification as a complete rule, so that in the case of the application of sanctions it can refer to one Article that regulates



it. This has an impact on the principle of balance and justice, in which the perpetrators, both the giver and the recipient of gratification, receive appropriate and appropriate sanctions so that the law enforcement of the criminal act of gratification is by the objectives to be achieved, namely justice and legal certainty.

By legal analogy, the line of thought in Article 12C leads to the principle of presumption of innocence for the first time, as long as further proof is needed whether the act of accepting the reported gratification is included in the legal or invalid category. Therefore, based on Article 12C, paragraphs 2 and 3 provides an opportunity for the investigative team to prove the prohibited elements in the act of gratification. Theoretically, as explained by Barda Nawawi Arief, the unlawful nature of the gratuity recipient will fall automatically due to administrative, procedural problems, and procedures regulated in Article 12C. So, it is clear that the abolition of the punishment for gratuities recipients who report themselves stems from the rule of exception article 12C of Law Number 20 of 2001, which is based on the provisions of the Criminal Code concerning the abolition of the authority to prosecute criminals and carry out crimes consisting of articles 76 to 85 of the Criminal Code as well as additional rules regarding gratification.

To avoid misperceptions about Article 12C of Law Number 20 of 2001 concerning the Crime of Corruption (Gratification) and the institution that runs it (KPK), further observations need to be made on whether the abolition of criminal sanctions contained in Article 12C violates the state constitution. The 1945 Constitution and the law that lives amid society (customary law) grows to be the main trigger for the failure to implement corruption in Indonesia. If the completion of the analysis of Article 12C is stopped only to the point of the explanation above, Article 12C does not conflict with the 1945 Constitution or any other law in Indonesia. However, the search for legal development in Indonesia does not necessarily have to stop at legalization. It is necessary to apply a progressive analysis that is considered more representative of the value of justice in society.

Legal reviews based on progressive thinking should be viewed with three directions: first, the positive law must be seen with the primary legal basis, namely the 1945 Constitution and legal science; second, positive direction must be by the values of justice and law that live in the community, and third, positive law must be the rules of religious law (especially Islam) as the central pillar of the value of the benefit of the people. Article 12C is an article of the ultimate weapon for corruptors to wash their hands of corruption. Even though it is legally justified to give excuses for gratification recipients who have reported to the KPK, according to a progressive legal study, Article 12C violates the provisions of two elements of progressive law, namely the law applicable in society religious law. In a pluralistic society, Indonesia, in particular, considers that acts of gratification are regarded as giving gifts. However, when the gratification occurs a shift in meaning and purpose and has been mixed with elements of power and authority, the act is contrary to the morality and credibility of a tribe or nation. The public is well aware that the impact of gratification brings many opposing sides and losses for the character and credibility of individuals and groups. The collapse of the morality of a leader/official carried out by both the customary holders and outside the everyday holders can affect the continuity of the noble values of a nation's customs. These noble values include honesty, cooperation, and prioritizing

the public interest above personal interests. Therefore, community law views Article 12C as inconsistent with the habits of noble values that live in the community.

### **Conclusion**

This study has helped to reiterate that in order to improve the legal construction of corruption in Indonesia, Article 12C does not need to be revoked or deleted because it is based on the permissibility of a person to accept a pure gift without any bribes. Article 12C of the Corruption Eradication Law was the basis for KPK investigators not to carry out legal proceedings against 13 DPRD members who had received gratuities from the BK, according to progressive legal analysis, basically does not violate the state's legal basis, namely the 1945 Constitution. On the other hand, the advanced legal assessment of Article 12C breaks two main elements, namely, living law in society and religious law. Therefore, it is recommended that Article 12C of the Corruption Eradication Law should be reviewed, even if it needs to be removed from the Corruption Eradication Act.

However, in practice, there comes the point where there is a slight difference between gifts and bribes, and it is for this reason that many KPK investigators have difficulty in uncovering the truth that the gratuities received are purely not bribes. Article 12C can cause new problems such as the degradation of public trust in law enforcement and the legalization of corrupt practices under the pretext of reporting the form of receiving gratuities. Therefore, to achieve justice and increase the authority of law enforcement for criminal acts of corruption, it is necessary to review and abolish Article 12C of the Law on the Eradication of Criminal Acts of Corruption. Thus closing the meeting of state administrators who receive and report gratuities to escape the snares of the Law.

To conclude, this study reiterates that efforts to enforce the law against the crime of gratification are not an easy thing. Although various efforts have been made to eradicate gratification, there are still some obstacles in enforcing the law. The law enforcement agencies face various obstacles against gratification, however, efforts to eradicate it must continue to be carried out by making various changes and improvements. About the case of criminal acts of gratification in the Tanggamus Regency, ideally, 13 members of the Tanggamus DPRD as recipients of gratification should also be named as suspects. In this case, even though the act of reporting the receipt of gratuities to the KPK, can be considered as the basis for eliminating the unlawful nature of the act. However, the act of accepting gratification is still a form of corruption.

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