

ABSTRACT

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LEGAL PLURALISM PERSPECTIVE IN PROSECUTING PERPETRATORS OF BRIBERY AND GRATUITIES CORRUPTION CRIMES

(x + 154 pages)

The act of giving and receiving has occurred in the days of the kingdom. The practice of giving gifts or tribute to kings or officials and other forms of giving is part of the tradition commonly practiced and is considered part of social manners. Then, the understanding of giving and receiving is now different when it is put into a frame of positive legal rules that are normative legalistic where such practices collide with legal rules that prohibit, even have a criminal threat for those who give and receive. With this background, this research was prepared with the aim of examining the problems regarding the regulation and application of the bribery and gratuity articles from the perspective of legal pluralism. To answer these problems, the theory of criminal responsibility, the nature of being against the law, legal pluralism, and the legal system is used. This study uses a normative juridical research method. The results showed that the regulations regarding bribery and gratuities had not been given clear boundaries regarding the giving of gifts or promises that could or were not accepted by civil servants or state officials. So that there is no clear and rational distinction between giving gifts or promises in the form of bribes related to his position and giving gifts or promises that have nothing to do with his position. In its implementation, the application of the Article of bribery and gratuities is not well targeted which results in people who should be innocent being found guilty whereas people who should be guilty are declared innocent. An arrangement is needed that provides a clear boundary between bribery and gratuity so that this culture of giving and receiving is clearly limited. This regulation is a form of rational law enforcement in which the legal structure, legal substance, and legal culture go hand in hand.

Keywords: Corruption Crime, Bribery and Gratuities, Legal Pluralism

Reference: 74 (1965-2020)