# Understanding The Typology of Judge's Behaviour in Handling Corruption Cases

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# UNDERSTANDING THE TYPOLOGY OF JUDGE'S BEHAVIOUR IN HANDLING CORRUPTION CASES

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**Abstract**
The objective of this paper was to analyze the types of judge's behaviour who handle corruption cases based on sociolegal approach. Main issue of this paper was to bring descriptive analysis on behaviour of judges who handle corruption case in relation with their paradigm of thinking, methods of interpretation they employed and their moral values orientation. The data research was collected by conducting observation, interviews and document research methods. Data analysis used Matthew B. Miles and A. Michael Haberman's interactive model which consists of data collection, data reduction, data presentation and summarization activities. The research result showed that corruption case handling process practically does not only deal with juridical-technical and procedural matters, it also deals with some socio-cultural factors which consist of paradigm of thinking, legal interpretation method and moral value orientation that each judge embraces. Those socio-cultural factors lead to the typology of judge's behaviour in handling corruption case. First, positivist and non-positivist typology based on judge's paradigm of thinking. Second, textual and contextual typology based on method of interpretation. Third, materialist, pragmatist and idealist typology based on moral value that each of judge embraces. This result recommends the importance of tight supervision on judges during the corruption case handling process in judicial institution internally and externally.

**Keywords**: Typology of judge's behaviour, Corruption case, Sociolegal approach

## Introduction

Some people argue that corrupt behaviour has been part of culture of Indonesian society since ancient period. According to Wignjosoebroto, corruption in Indonesia had been institutionalized since Dutch colonial era. The Dutch recognized family system which valued greatly the action of helping other family members that suffered under unfortunate condition. Americans also recognized similar value which called spoil system. However, they attempted to erase out such value and it took several decades in order to be completely free from such value.[2] Corrupt behaviour has been embedded within mentality and soul of most Indonesians.[3] This behaviour usually occurs in every level and aspect of Indonesians life, such as corruption during administration of birth certificate; marriage registration; ID card registration; building license registration; local government institution procurement

[2]Soetandyo Wignjosoebroto, *Kompas, 4 September 2000.*

[3]R.Toto Sugiharto. 2005. "Mengebor Sumur Tanpa Dasar" *Jurnal Demokrasi*, Volume II/N0.7/January2005. p.6-8; read also Heddy Shri Ahimsa Putra. 2002. "Korupsi di Indonesia: Budaya atau Politik Makna" in*Wacana,* Insis Press, Edition 14, year III, p. 44

project; and even happen within judicial institution which is marked by the existence of judicial corruption.[4]

Such corrupt behaviour unconsciously is stemmed from custom which is considered as common practice by society, for example: gratification and bribery for government official that is viewed as thank you payment upon their service. Commonly, this custom is normal practice within culture of eastern society. Unfortunately, this practice eventually evolves into seeds of corruption which later becomes real threats against society.[5] Therefore, such practice is embedded within society life as daily basis, as commented by M. Hatta that such situation has become part of national culture.[6]

Religious aspect cannot be separated from corrupt behaviour since there are some practices that close related to money politics issue such as *bisyarah*(gift) and *risywah*(bribe) which are provided by certain people who intend to use religious figures as political puppets; *jariyah*(establishment of monastery or any religious facility) which holds political motives that commonly happen prior to national general election or local government election; promoting political propaganda which hides behind camouflage of religious doctrine in order to support certain general election candidate, for example: doctrine of prohibition on female leadership, doctrine of leader's religion requirement and etc.[7]

According to research result which was published by *WasingatuZakiyah*, corrupt behaviour also occurs in the entire juridical institution, from the District Court until Supreme Court. Corruption involves almost the entire main instrument of judicial institution, such as judge, prosecutor, police, advocate and registrar. Besides, some people who are not part of judicial institution also play role as case broker during corruption case handling process. Since corruption practice commonly happens during trial process, society then titled it as judicial corruption. This term refers to corruption practice that happens among judge, advocate and prosecutor along with other involved parties in the court during trial process. It also refers to the conspiracy that occurs during trial process in order to give victory for certain concerned party.[8]

Based on recommendation from legal experts of *Center for The Independence of Judge and Lawyer* (CIJL) on biennial conference (on 17-22 September 2000) in Amsterdam, it was concluded that *judicial corruption* occurs because of some actions that

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[4]IGM.Nurdjana, 2005. *Korupsi dalam Praktik: Bisnis Pemberdayaan Penegakan Hukum, Program Aksi dan Strategi Penanggulangan Masalah Korupsi*, Gramedia Pustaka Utama, Jakarta, p.1; read also Agus Sudibyo, 2005, *Pemberantasan Korupsi dan Rezim Kerahasiaan, dalam Jihad Melawan Korupsi diedit oleh HCB.Dharmawan*, Penerbit Buku Kompas, p. 58; read also Munawar Fuad Noeh, *Kyai di Republik Maling Refleksi Gerakan Moral Melawan Korupsi*, Penerbit Republika, Jakarta, 2005, p 77; read also Arif Punto Utomo, 2004.*Negara Kuli Apalagi yang Kita Punya* ? Penerbit Republika, Jakarta, p. 85-105;

[5]Komisi Pemberantasan Korupsi RI, 2006. *Memahami untuk Membasmi*, Buku Saku untuk Memahami Tindak Pidana Korupsi. p. 1;

[6]Sahlan Said. 2005. "Penegakan Hukum Anti Korupsi". *Jurnal Demokrasi*, Volume II/N0.7/January 2005 p. 64;

[7]Ahmad Khoirul Umam, *Kiai dan Budaya Korupsi di Indonesia*, (Semarang: Rasail, 2006), p. 99-107.

[8]Wasingatu Zakiyah, et.all. 2002. *Menyingkap Tabir Mafia Peradilan*. Jakarta: ICW. p. 217-220

might cause dependency on judicial body and legal institution (police, prosecutor, advocate and judge). It might happen if judge or the court ask for rewards or receive various profit from defendant or give promises to the defendant by abusing judicial power or any kind of action, such as bribery; counterfeiting; data or any important court document deletion; deliberate data change; the use of public facility as personal belonging; obedience towards external intervention or pressure; threat; nepotism; conflict of interest; negotiation with advocate upon certain case; false consideration on displacement, promotion and retirement; prejudice that might slow down judicial process and obeying government and political party interest.[9]

As the result, most of or even the entire "product" of judicial institution does not represent justice and legal certainty since there is allegation that case negotiation happens between legal enforcers and the defendant. It would worsen the image of judicial institution which eventually create public's distrust towards judicial institution. Therefore, there is no wonder if vigilante justice practices grow rapidly within society when they have to settle any case.

I think, there are two perspectives that should be proposed in order to analyze such real phenomena. First is internal perspective and the second one is external perspective.[10] The former perspective emphasizes on how the instruments of judicial institution (in this context refers to judge) work based on formal and procedural guidelines as written on regulations. Therefore, if a judge has worked appropriately as stated on regulation and he/she does not violate any formal or procedural regulation, there is no problem with the judge. This perspective stresses on "regulation" factor in interpreting law. Internal perspective's distinctive characteristics are analytic, logic, mechanic and procedural.

On the other hand, external perspective of law emphasizes on how the law works in practice which does not merely focuses on formal-procedural level. The way of law working firstly is determined by and limited to formal guidelines as found on various regulations. However, such formal guidelines do not enough to provide understanding and to explain the behaviour of involved actors since it actually needs to add the elements of behavior. Law enforcement is not free from norms and values. The elements of norms, values, ideas, actions and behaviour are close related to the law enforcement. Such reality was explained clearly by Friedman in his legal culture term.[11]

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[9]Putu Wirata Dwikora. *Peradilan Dagelan, Catatan Hasil Eksaminasi Publik dalam Perkara Korupsi Yayasan Bali Dwipa*. Jakarta: Indonesia Cooruption Watch.p. xiii;

[10] Brian Z. Tamanaha, 2006. "A Socio-Legal Approach to the Internal-External Distinction; Jurisprudential and Legal Ethics Implications," Fordham L. Rev. (forthcoming 2006). Read also: "The Internal-External Distinction and the Notion of a Practice in Legal Theory and Socio-Legal Studies," Law and Society Review (1996). Read also Werner Menski, 2006.*Comparative Law in a Global Context, The Legal Systems of Asia and Africa*. Second Edition. New York: Cambridge University Press. p. 161; compare also with SatjiptoRahardjo, 1980.*HukumdanMasyarakat*. Bandung: Angkasa, p. 18-19. Read also SatjiptoRahardjo, no year *Masalah Penegakan Hukum, Suatu Tinjauan Sosiologis*. Bandung: Sinar Baru. p.6-7.

[11]Lawrence M.Friedman. 1975. *The Legal System: A Social Science Perspektive*, New York: Russel Sage Fondation. p.15, 194 and 223.

The second perspective views legal issues and legal facts from wider point of view than merely viewed as written norms. It commonly employs other knowledge outside law such as sociology, anthropology, psychology and etc as theoretical basis for explaining analyzed legal phenomenon. This is the position I took in order to analyze legal issue and realities.

Since this research used external perspective, it is relevant as well to explain the action theory by using Talcott Parsons' "voluntarism" concept in viewing social realities as stated previously. Parsons had organized scheme of basic units of social action which is divided into some points based on the characteristics as follows: (i) the existence of individual as actor; (ii) the actor is viewed as holder of certain interests and goals; (iii) the actor owns alternative method, instrument and certain technique in order to achieve his/her goals; (iv) the actor encounters various situational conditions which might limit his/her action to achieve ultimate goal, such as certain situation or condition which is incontrollable by any individual (for example: sex and tradition); (v) the actor is not free from the obstacles which are stemmed from values, norms and abstract ideas that influence him/her to choose and to determine goals as well as alternative actions in order to achieve ultimate goal (for example: cultural obstacle).[12]

Within the context of this paper, the actor refers to the judges who handle corruption cases in the court. The actor or the judge is actually on the situation when they are influenced by norms that lead him/her to choose alternative method and means in order to achieve the goal. Such norms do not decide its choice on certain method or mean, instead it is decided by the ability of actor (voluntarism) to choose. *Voluntarism* is individual ability (judge individual ability) to take action in the sense of deciding certain method or means from various available alternatives in order to achieve the goal.[13]

**Statements of Problem**

If the hypotheses that any choice of judge behaviour is the result of persevering interpretation between values, norms, various abstract ideas and condition to achieve goal is true, the main issue of this paper is: what are kinds of judge behaviour in when they handle corruption case? This main question is later divided into more detailed questions, such as: what kind of judge's paradigm of thinking when they are dealing with corruption case? What kind of legal interpretation method which is employed by judge who handled corruption case? What are judge's value orientations when dealing with corruption case?

**Research Method**

This research is categorized as non-doctrinal legal research type[14] which is combined with socio-legal approach.[15] The analyzed object is law which is perceived as meaningful

[12]Talcott Parsons. 1951. *The Social System*. New York: The Free Press. p 4-27. Read aslo George Ritzer. 2004. *SosiologiIlmuPengetahuanBerparadigmaGanda*. AlihBahasaAlimandan, Jakarta: PT RadjgrafindoPersada. p. 48-49.

[13]*Ibid.*

[14] Baca SoetandyoWignjosoebroto. 2002*HukumParadigma, MetodedanDinamikaMasalahnya*. Jakarta: Huma, hlm.148.

symbol that resulted from human mental construction (in this context refers to the judge) and it is reflected in the form of corruption case verdicts.

Data collection was conducted by doing interview, observation and document research. The interview was conducted towards research subject (judge) and interviewee. Interviewing activity was done at the same time with the observation activity or field record keeping. Field record keeping is supposed to gain data which can not be obtained through interview, especially the data which is obtained during the progress of corruption case trial. Document research was conducted upon corruption case verdicts, examination results on corruption case verdicts, other previous research results, academic journals, thesis/dissertations, magazines, newspaper, relevant achieves, regulations and other various references which are relevant with the issue of this research.

Data analysis follows Matthew. B. Miles and A. Michael Haberman's interactive analysis model (1999) which consists of data collection, data reduction, data presentation and summarization/verification activities.

**Analysis**

**The Typology of Judge's Behaviour in Handling Corruption Case**

According to analysis result upon collected data, it showed that there is classification on typology of judge's behaviour in handling corruption case. Such classification is divided based on: (1) paradigm of thinking of judge who handled the corruption case; (2) judge's legal interpretation method; and (3) value orientation of judge. This classification allows us to identify the distinctive characteristics of each typology as explained on table 1 below

Table1.Typology of Judge Behaviour in Handling Corruption Case

| Classification Basis | Judge Typology | The Characteristic of Judge Behaviour |
|---|---|---|
| Judge paradigm of thinking | Positivist | • Written regulations as basis and the only source of justice and truth when dealing with any case<br>• Judge is unlikely to pass discretion as legal finding effort<br>• Judge only representative of written regulation<br>• Judge only emphasizes on the level of procedural justice and focuses more on legal certainty<br>• Judge tends to apply deductive logic in order to achieve truth |

15 ReadSulistyowatiIrianto&Shidarta (ed). 2009. *MetodePenelitianHukumKonstelasidanRefleksi.*Jakarta: YayasanObor Indonesia. p. 173-175.

| | | |
|---|---|---|
| | Non Positivist | • Written regulation is not the only source of truth and justice when dealing with any case<br>• Judge is likely to pass discretion as legal finding effort<br>• Judge does not only represents the regulations, but also as law maker<br>• Emphasizing on substantive justice level<br>• Judge tends to apply inductive logic in order to achieve truth and justice |
| Judge legal interpretation method | Textual | • Interpreting public delict in narrow sense as it only violates written regulation |
| | Contextual | • Interpreting public delict in wide sense as it does not only violate written regulation but also violate values and norms within society along with violates good administration principles |
| Judge value orientation | Idealist | • Much influenced by ideal value of law and justice in handling any case |
| | Pragmatist | • Influenced the most by choice of advantageous situation when handling any case |
| | Materialist | • Much influenced by material values and profit when handling any case |

Source: Processed qualitative primary data

Based on judge's paradigm of thinking in handling any case, it showed that there are two typologies of judge paradigm, they are: positivist judge and non-positivist judge. The positivist type focuses on formal-textual parameter in interpreting the truth of law. Meanwhile, non-positivist one tends to mix either textual or written regulation and contextual of socio-cultural condition in interpreting the truth of law.

In practice, mostly the judge tends to be legal positivist instead of being 'rule breaker' by applying non-legal positivist paradigm. Main characteristic of legal positivist is to make written regulation as the only guideline and ultimate source when handling the corruption case. Judge's creativity less likely gets concern during their legal finding effort since judge is viewed as representative of written regulation. Written regulation is considered as the only source to find truth, while at the same time unwritten regulation and other factors that remain outside written regulation are unknown to legal positivist. Social sensitivity, empathy and dedication to create justice rarely become part of their consideration.

Truth and justice are merely viewed as matter of legal formalism. Such kind of paradigm only put more focus on legal certainty issue than justice and utility of law. In order to find the truth, they employ deductive logic by emphasizing on syllogism.

Legal positivism still dominates judge's paradigm of thinking in the court. As the result, judge is not allowed to explore substantial truth in order to create impartial justice and law that protect people. Judge's failure to prove corruption during the trial process in district court level is caused by their deductive logic, while putting aside inductive logic when searching for truth and legal facts.[16]

In order to master deductive logic, learning every aspect of certain article in written regulation is the first step. Later, constructing story based on legal facts as found during the trial session. This method, thus, brings negative consequence since it allows the judge to create bias in their verdict. When creating verdict, judge should begin with legal facts which they acquired from the witnesses and evidences in order to construct the story of event by using their inductive logic instead of focusing on certain article in written regulation.[17]

In fact, judge starts everything by choosing certain article in written regulation for case they handle and later they construct the story of event based on legal facts they found during trial session. In other words, judge is being a priori. Therefore, choosing certain article in written regulation without any clear basis brings consequence on low quality of verdict which seem only forcing the story of legal event to be in accordance with the article or regulation they had chose first.[18] Such method is named deductive method which is not appropriate for district court judges who have to examine Trier of fact (*judexfactie)*. The best method for examining Trier of fact (*judexfactie)* is inductive.[19]

The typology of judge's paradigm of thinking is actually reflection of judge ideal culture to understand the dimension of ontology, axiology and epistemology. The ontology dimension is related to nature of law, whether it is interpreted as principle of justice and truth, or law as norms that written on regulation or law as sociological behaviour on macro and micro scope and etc.[20] Axiology dimension is focusing on the purpose of law that has to be achieved. The purpose of law might be the justice, legal certainty or legal utility (*gerechtigkeit, rechtssicherheit, und zweckmaaigkeit*) or all of them. Meanwhile, epistemology dimension is related to the method or approach which is employed by certain subject in order to do research on analyzed object. In epistemology context, legal logic does not merely refer to rationality as the only instrument which is employed by subject in order to approach object. There are some instruments that can be employed, such as senses and intuition since in fact the subject is not only a rational being but also an ethical and political being.[21]

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[16]Read Yusti Probowati Rahayu. 2005. *Dibalik Putusan Hakim Kajian Psikologi Hukum dalam Perkara Pidana*. Surabaya: Penerbit Srikandi. p. 95. Read also Artidjo Alkostar. 2008. "Mencandra Putusan Pengadilan". *Paper* for Pelatihan Jejaring Komisi Yudisial, 1 February 2008, in Hotel Mellinium Jakarta. p.5.

[17] BacaProbowati Rahayu. 2005. *Op.Cit.* p. 65.

[18]*Ibid.* p. 95.

[19]Artidjo Alkostar. 2008. *Op.Cit.* Hlm.5.

[20]Shidarta. 2006."Filosofi Penalaran Hukum Hakim Konstitusi dalam Masa Transisi Konstitusionalitas". Jurnal Hukum Jentera, Edisi 11-tahun III, Januari-Maret 2006. hlm.6.

[21]*Ibid.*

Typology of positivist judge and non-positivist judge, in practice, create various pattern of legal interpretation when dealing with corruption case, such as textual and contextual interpretation. This research showed that there is relation between characteristic of judge legal interpretation on corruption with sanction. If judge applies textual interpretation, there is tendency to pass non guilty verdict or even if the judge passes guilty verdict, the sanction is relatively light one. On the other hand, if the judge employs contextual interpretation, judge tends to pass guilty verdict. Sanction level of such guilty verdict is varied which has range from light sanction, moderate one and heavy sanction. It depends on judge's consideration basis in determining sanction level.

Textual and contextual interpretations on corruption is based on types of corruption which might fall in category of "public delict" or "abuse of power" that is committed by local government officials who work in legislative or executive institution. Textual interpretation on corruption which falls into category of public delict and abuse of power is merely underpinned by violation against written regulation basis. Meanwhile, contextual interpretation on corruption that belongs to category of public delict and abuse of power is underpinned by violation against written and unwritten regulation basis. Unwritten regulation which becomes basis for charging corruption within the context of public delict is social norms which prohibits disgraceful action against sense of justice within society. Element of abuse of power can be found on the violation against general principles of good administration as part of unwritten regulation.

The research result indicated that panel of judge's failure to prove elements of crime in corruption case as charged by prosecutor during trial session is caused by textual interpretation on corruption case which applied by most judge. If judge applies contextual interpretation, there is high opportunity to successfully prove elements of crime of corruption case. In other words, application of textual interpretation for corruption case usually leads to non guilty verdict or light sanction (if the defendant receives guilty verdict). Meanwhile, contextual interpretation on corruption case mostly produces guilty verdict in which the sanction range is varied from relatively light one until the heaviest one. It depends on judge consideration as a basis in creating the verdict.

Based on research on corruption case verdict, there are non-guilty verdict and also verdict with minimum sanction which do not put consideration towards legal facts and they lack of strong legal arguments. It is clear cut evidence that judge's verdict fail to protect society interest, especially for the victim who suffered from massive impoverishment, since corruption is not viewed as crime against humanity. Some judges even take side on the defendant by emphasizing a made-up reasoning that the defendant had given many good contributions to government. Some judges mostly do not realize that corruption is crime which violates economic rights, social and culture of society. Corrupted national asset has failed to be interpreted as destructive action against social justice. Corruption which was committed by government officials is not considered as the worst crime that represses poor people with weak social status. Meanwhile, corruptors still remain within top structure of government power. They are mandated by public trust to protect and give prosperity for society, yet they intentionally take away people's socio-economic rights.[22]

[22]Compare also with research result of PUSHAM UII as published in book titled: *Wajah Hakim dalamPutusan, StudiatasPutusanHakimBerdimensiHakAsasiManusia*. Yogyakarta: Pusham UII.

Judge activity when handling a case is close related to the direction of their system of cultural value. The system of cultural value is guidelines that gives direction and provide orientation to judge's life within their cultural environment. It consists of ideas, concepts, and norms and rules that living in judge community realm of mind. This system of cultural value remains within emotional area of psychological realm that being part of respective culture.[23]
Based on system of cultural values, research showed that judge's activity in handling a case depends on the influence of their cultural values. Judge always spends their time to have dialogue with system of cultural values that living in their psychological and mental realm. Judge will set priority upon values that they consider important in relation to case they handle.[24]
The judge will always take chance to have dialogue with values they embrace when handling a case. If they attempt to deviate from such values, they will feel guilty and sinful that might bother their entire life. However, such situation will only occur to judge who has strong sense of morality, conscience and justice. On the other hand, judge will be unlikely to suffer from such situation if they do not have any sense of morality, conscience and justice since their action and decision are merely dominated by desire, greed and pragmatism which only bring advantage to their personal interests.[25]

Research showed result that case handling process in the court does not only deal with juridical-technical and procedural of the application of law, but it also involves values that every judge embraces. Before passing a verdict, judge will experience contemplation, consideration and having dialogue with values that living within their inner soul realm. Such fact is relevant with Ronald Beiner's comment (in Warrasih, 2007) which stated that judge verdict is"...*mental activity that is not bound to rules...* "[26]

Judge will choose values that they decide to manifest. Such manifestation and choice upon values in practice are strongly influenced by some factors, such as: personal interest level, education, life basic needs, environment and habit along with their personality. Those factors will provide direction to judge when they make decision in verdict.

Practically, shift on values they choose is likely to occur, such as shift from basic ideal values or objective values of law into pragmatic or subjective values which become priority by using any means and opportunity to be used efficiently during certain time and context. It means that judge is not free from their personal interest or any interest that is not part of legal aspect when handling any case. Objective condition showed some factors that might influence judge verdict, they are: personal interests and material/financial basic needs, dynamics of organization they belong to, external oppression, personality influence, past experiences or old habit. Moreover, judicial corruption also gives influences to judges when they handle case.[27]
Normatively, judge has been granted by law with authority and freedom to handle the case independently and free from any intervention. They independently make decision and verdict based on their personal belief and conscience without any interference from any institution

[23]Koentjaraningrat, 1984.*KebudayaanJawa.* Jakarta: BalaiPustaka. p.184.
[24]Interview with interviewee code AA.
[25]*Ibid.*
[26]EsmivWarassih, 2007."Mengapa Harus Legal Hermneutic?"Paper for National Seminar "Legal Hermeneutics sebagaiAiternatifKajianHukum".Semarang 24 November 2007.p. 3.
[27]Wasingatu Zakiyah *et all.* 2002, *Menyingkap Tabir Mafia Peradilan.* ICW, Jakarta.

outside judicial system. Any intervention on judicial matters which is committed by other parties is prohibited, unless it is stipulated otherwise by law. However, in practice, normative regulation does not show result as what expected. Practically, some judges cannot run their function well in order to manifest the ultimate objective of law. Legal enforcement function which has purpose to achieve objective of law, as written on the letterhead of verdict "IN THE NAME JUSTICE OF ALMIGHTY GOD" ,in process, must experience degradation, distortion, dysfunction and malfunction which are caused by legal enforcers, particularly the judge. This situation is labelled as "Judicial Mafioso".

In other words, in handling any case, the judge's decision is bound to values and orientation that they embrace. Ideas and concepts which reside in judge's mind also influence their actions and decisions they have to make, particularly when they have to decide defendant's guilty status and to determine defendant's sanction in verdict. Select on values that judges have to take much affects the quality of judge's verdict.

When dealing with any case, in practice, judges have to encounter many temptations, especially material or financial temptations. In this context, a case handling process can be interpreted as source of opportunity to gain material profit.[28] Therefore, judge's activity in making decision upon a case is vulnerable to any corrupt practice, such as bribery.[29]

Regarding to such condition, there are some proposed categories of judge based on their personality. First, greedy judge who actively offers settlement of a case to certain party concerned (defendant) and in return they ask for reward. This type of judge is categorized as materialistic judge. Second type is wishy-washy judge who allows themselves to receive any reward from party concerned, yet they will not do protest if they do not receive such reward. Most of judges belong to this category and they are labelled as pragmatic judge. The last one is honest judge who rejects any kind of reward which is offered by the defendant. This type of judge belongs to idealist type but they are quite few in number.[30]

Such condition proves and strengthens a thesis which argued that there are two types of judge when making decision over a case. First type is, before making decision and creating verdict, the judge who only looks for truth and justice on written regulation. After successfully finding the legal basis as written on regulation, they attempt to apply it on real case. However, during this process, they usually ignore the possibility if such written regulation is relevant with sense of justice that resides within society. They think that the aptness between written regulation and legal facts they found on the case is enough to handle every case they take. It means that judge is merely representative of written regulation. Such procedure is embraced by positivist judge.

*Second* type is judge who looks for the truth and justice from their conscience before making decision and creating verdict. This type of judge will question their conscience firstly upon the exactness of decision he is going to make. After conducting such process, they start to find out legal basis in written regulation for case they handle. Afterwards, they are ready to write their final decision on verdict. Verdict which they made does not merely rely on written regulation.

[28]Interview with interviewee code AA.
[29]Interview with interviewee codeSS.
[30]Interview with interviewee code RMT

# Understanding The Typology of Judge's Behaviour in Handling Corruption Cases

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