

Political Criminal Law Perspective of Dionysios Spinellis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

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ABSTRACT: The alleged corruption in sugar imports involving Tom Lembong has attracted public attention because it is considered to be politically motivated. Mahfud M.D. believes that this case has strong political dimensions, because the alleged corruption, which has been going on for a long time, has only recently been questioned. Suspicions have intensified as the Attorney General's Office has rejected requests to investigate five other trade ministers who are also implicated, while the investigation covers the long period from 2015 to 2023. In Dionysios Spinellis' perspective, this reflects the practice of penal politicization, which is when criminal law is used as a political tool to suppress opponents. Spinellis divides political crimes into two forms: crimes by those in power (state officials) and crimes against power (by citizens). Materially, Tom's actions can be seen as abuse of power, but from a procedural law perspective, there is debate because he feels that the legal process is fraught with political interests, especially after he joined the presidential candidate's campaign team. This situation shows how the line between law enforcement and political interests is often blurred, as Spinellis describes through the concept of the politicization of criminal proceedings.

KEYWORDS: Politics, Criminal Law, Alleged Corruption, Sugar Imports, Penal Politicization

I. INTRODUCTION

Corruption is often a hot topic of discussion in the midst of community development. In fact, corruption has become a phenomenon that attracts a lot of attention and public opinion from various circles. In various media outlets, columns related to corruption cases are always an important and unignorable part. This phenomenon has become even more prominent in the era of reform, with cases such as the E-KTP scandal, alleged corruption in the 2018 Asian Games, corruption at PT Timah, alleged corruption at Pertamina, and alleged corruption in sugar import permits. The alleged corruption case involving former Minister of Trade Thomas Trikasih Lembong is related to his involvement in sugar import permits in 2015. This case has attracted attention due to the length of detention, allegations of criminalization, and its connection to the 2024 presidential election. Cases such as this further illustrate the depth of the problem of corruption in various levels of society. Cases involving important figures. When figures who are supposed to uphold the constitution and the law are involved in corruption, it damages the credibility and authority of the legal and governmental systems.

The case of sugar import permits issued by former Minister of Trade Tom Lembong has raised suspicions of political manipulation of the law. This has been raised by a number of figures. One of them is Ferry Amsari, a constitutional law expert at Andalas University, who stated that the case faced by Tom Lembong was a political trial to silence the opposition. However, the highest number of corruption cases still involve government officials in Indonesia, from the central government to regional governments.¹ Corruption Watch recorded 482 corruption cases in Indonesia in 2016, with the most common offense being the abuse of authority by government officials. It is through this power and authority that many acts of corruption are committed by government officials, which are illegal acts or crimes.² In criminal law terminology, there are two grounds for prosecuting

¹ Ewaprilyandi Fahmi Saputra, *Legal Policy in Efforts to Eradicate Corruption Through the Revision of Corruption Regulations as Extraordinary Crimes in the National Criminal Code*, Unes Law Review, Volume 6, Number 2, December 2023, p. 4494

² I Gede Sayogaramasatya, I Made Minggu Widyantara, Ida Ayu Putu Widiati, *Criminal Sanctions Against State Officials Who Commit Corruption Through Abuse of Authority*, Volume 2, Number 1, April 2021, p. 168

Political Criminal Law Perspective of Dionysios Spinelis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

someone, namely malicious intent (*mens rea*) and wrongful acts (*actus reus*). In the case of sugar import permits issued by former Trade Minister Tom Lembong, the public prosecutor was unable to prove malicious intent.³

The regulation addressing corruption-related crimes is stipulated in Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, which is widely recognized as the Anti-Corruption Law. Article 2 paragraph (1) specifies that any individual who unlawfully enriches themselves, another party, or a corporation in a way that causes financial loss to the state or damages the national economy is subject to imprisonment ranging from 4 to 20 years and fines between 200 million and 1 billion rupiah. Furthermore, Article 3 provides that any person who, with the purpose of obtaining benefits for themselves, another party, or a corporation, abuses power, opportunity, or means linked to their position, thereby harming state finances or the economy, may face life imprisonment, or a minimum of 1 year and up to 20 years in prison, along with fines from 50 million to 1 billion rupiah. Corruption's definition, its elements, and the related sanctions are comprehensively regulated across 13 provisions of Law No. 20 of 2001, which amended Law No. 31 of 1999 on the Eradication of Corruption Crimes.⁴

When discussing the relationship between politics and law today, it is clear that politics tends to be more dominant than law. This condition makes the law vulnerable to being used as a political tool. Mahfud M.D., former Coordinating Minister for Political, Legal, and Security Affairs, in his public lecture at USM, stated that the politicization of law occurs when the law is positioned as a political issue or used as an instrument for the interests of certain groups. This phenomenon often arises in the run-up to elections, particularly in campaign activities. Campaigning itself is a political communication strategy to gain public support. In practice, the politicization of cases is often part of a negative campaign strategy, which is an attempt by a candidate to weaken their opponent. It is not surprising that legal issues are often politicized during campaigns, because by highlighting the weaknesses of the other party, a candidate can appear to be more deserving of public support.⁵

There are a number of indicators that lead the public to believe that Tom Lembong's corruption case is rife with political overtones. According to Mahfud M.D., this case is considered to have political dimensions because the alleged corruption in sugar imports has in fact persisted over an extended period, but has only now been questioned. Public suspicion grew stronger when the Attorney General's Office rejected Tom Lembong's request to investigate five other Trade Ministers, namely one who served before him and four after him.⁶ This rejection raised suspicions of criminalization, especially since the letter of indictment issued by the Attorney General's Office stated that the investigation period for alleged corruption in this sector covered the period from 2015 to 2023. Therefore, the author was motivated to conduct a more in-depth study of political criminal law according to Dionysios Spinelis' perspective. This study was then published in a journal entitled: "Political Criminal Law from the Perspective of Dionysios Spinelis: Analysis of the Case of Alleged Corruption in Sugar Imports by Tom Lembong." Based on the previously outlined background, the issues studied are as follows: (1) What is the concept of political criminal law according to Dionysios Spinelis? (2) How to analyze the case of alleged corruption in sugar import permits by Tom Lembong according to political criminal law.

II. RESEARCH METHOD

This research is normative legal research, also known as doctrinal legal research. It is called this because the focus of this research lies in the analysis of cases using written legal regulations. Therefore, the approach used is highly dependent on literature studies, with secondary data sources obtained from various legal literature. The primary legal materials used include Law Number 31 of 1999 concerning Eradication of Corruption Crimes, which was amended by Law Number 20 of 2001. Meanwhile, the secondary legal materials used as references include books, national journals, and scientific works such as theses, dissertations, and undergraduate theses.

III. RESULTS AND ANALYSIS

A. The Concept of Political Criminal Law According to Dionysios Spinelis

³ Firda Janati and Ardito Ramadhan, *Allegations of Political Motives Behind the Hasto-Tom Lembong Verdict, Was There Really Intervention by the Authorities*, Kompas.com https://nasional.kompas.com/read/2025/07/26/09031881/tuduhan-motif-politik-dibalik-vonis-hasto-tom-lembong-is-there-really?lgm_method=google&google_btn=onetap&page=all accessed July 26, 2025, at 09:30 WIB.

⁴ Law Number 20 of 2001 Concerning Amendments to Law Number 31 of 1999 Concerning the Eradication of Corruption Crimes.

⁵ Ahmad Wiji Nusantara, *Legal Analysis of Corruption Allegations in the Tom Lembong Sugar Import Case: Politicization or Law Enforcement?*, LK2 FHUI Article, <https://lk2fhui.law.ui.ac.id/portfolio/legal-analysis-of-corruption-allegations-in-the-sugar-import-case-involving-tom-lembong-politicization-or-law-enforcement/>.

⁶ *Ibid.*

Political Criminal Law Perspective of Dionysios Spinelis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

The term political criminal law or political crime is not a legal term, but rather a “scientific term” or “public term.”⁷ Even among the public and scientific circles, there is still no consensus on what is meant by political crime and what its scope is.⁸ The lack of consensus is understandable, because people can give various meanings and interpretations to political crime, including crimes against the state/state security, crimes against the political system, crimes against the power system, crimes against basic values or fundamental human rights in society/state/politics, crimes containing political elements/motives, crimes in gaining/maintaining/overthrowing power, crimes against political institutions, crimes by the state/rulers/politicians, and crimes of abuse of power.⁹

Political crimes are classified as crimes against the public interest, where their occurrence invariably links law, power, and politics within a country. When crime hides behind power, the line between criminals and rulers becomes blurred.¹⁰ The authority granted to state officials becomes very attractive because there are many indications of irregularities or abuse of office that can benefit individuals but harm the state, such as criminal acts of corruption, which take many forms, for example, bribery of state officials, which is a problem that is widely found in society.¹¹

Broadly speaking, political crimes are categorized into two groups, specifically, offenses carried out by those in power and crimes against the power system. Crimes committed by those in power are often referred to as crimes/criminal acts committed in office. Crimes committed by those in power are often referred to by various terms, such as “crimes/criminal acts committed in office,” “crimes of the powerful,” “abuses of public and political power,” “crimes by government,” “crimes by politicians in office,” and “top hat crimes.” Crimes in this category are committed by officials/rulers/politicians.¹² According to Prof. Dr. Dionysios Spinelis in “Crime by Government,” ed. Dr. Helmut EPP, pp. 19-23, “Crimes of Politicians in Office” consist of:

1. Violations of basic rules or fundamental rules regarding the struggle for power and political games. This group includes treason against the state, violations of the state constitution, election crimes, illegal manipulation and intervention in elections, and political espionage.
2. Violations of the human rights of citizens to gain and maintain political power. These include political assassinations or political murder, disappearances or abductions (the practice of removing people, usually by the authorities, to silence political opponents), torture, police brutality (violent acts by the police to silence demonstrators or the opposition), unlawful arrests (arbitrary arrests that do not comply with legal procedures, usually directed at political opponents).
3. Offenses commonly referred to as corruption and economic scandals. These include embezzlement of public funds, bribery, favoritism in public auctions and employee selection, misuse of inside information, and falsification of public documents.
4. All other crimes committed by politicians or officials in the course of their duties.

The characteristics of crimes committed by politicians in office according to Dionysios Spinelis include the following:¹³

1. Contains elements of abuse of public office
2. Contains elements of breach of trust or abuse of trust
3. Relates to matters of serious public interest
4. Usually carried out by civilian employees or party employees as accomplices or as the main perpetrators (while the politician acts as an instigator or indirect perpetrator).
5. The difficulty of detecting and proving this crime.
6. The emergence of a twin phenomenon in the form of political penalization and criminal proceedings.

The second category of political crimes according to Dionysios Spinelis are crimes directed against the system of power. These types of crimes are committed by citizens against the existing governmental structure or authority. They can take various forms, including the following types of criminal acts:

- a. Criminal acts against state security
- b. Criminal acts against the head of state

⁷ Barda Nawawi Arief, *Issues of Law Enforcement and Criminal Law Policy in Combating Crime*, (Jakarta: KENCANA), 2018, p. 176-177

⁸ Dian Rahardian and Nyoman Serikat Putra Jaya, *Criminal Law Policy in Combating Political Crimes*, Article from the UNDIP Master of Law Study Program, p. 141-142

⁹ Stephen Schafer, *The Political Criminal, Issues of Morality and Crime* (New York, The Free Press, 1973). p 10-20

¹⁰ T Subarsyah S. *Law Enforcement Against Political Crimes in Indonesia in the Context of Criminal Law Reform*, Article by Lecturer at the Faculty of Law, Pasundan University, Bandung, p. 2551

¹¹ Anton Jaksu Trisakti and Pujiyono, “*Corruption Crimes by State Officials: A Political Criminal Law Perspective*,” Udayana Law Master's Journal, Vol. 11 No.4, December 4, 2022, p. 789-790.

¹² M. Arief Amrullah, “*Campaign Fund Contributions and Corporate Crime*,” Law Journal Vol. 11, No. 26, 2004 p. 119–130.

¹³ *Ibid*, p. 184

Political Criminal Law Perspective of Dionysios Spinelis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

- c. Criminal acts against state officials and institutions or institutions of the people's sovereignty
- d. Criminal acts against the constitution and state symbols
- e. Criminal acts against constitutional/state obligations and rights
- f. Criminal acts against public order g. Criminal acts against the judicial system

As explained above, according to Dionysios Spinellis, the concept of political crime can be categorized into two types, namely crimes committed by those in power and crimes against power. Crimes committed by those in power are typically carried out by state officials, while crimes against power are committed by citizens against those in power.

Currently, criminal law is the field most often exploited to serve specific political interests. In other words, criminal law is frequently employed as a political tool to weaken or trap political rivals, particularly among actors in politics and government. The committee labels this prevailing phenomenon as penal politicization. The phrase “politicization of criminal law” was likewise highlighted by Dionysios Spinellis in his discussion of Top Hat Crimes during the General Report at the XV International Congress of Criminal Law in 1994. He explained that the defining feature of crimes committed by public officials, or so-called Top Hat Crimes, lies in the misuse of opportunities derived from their office. They believe that the crimes they commit are difficult to uncover, and even if they are uncovered, there is a strong belief that they will not be punished.¹⁴ This confidence is reinforced by various strategies to neutralize their actions, which Spinellis refers to as the politicization of criminal proceedings.

B. Analysis of Political Criminal Law According to Dionysios Spinelis in the Case of Tom Lembong

The alleged sugar import corruption case began on May 2, 2015. At that time, a number of ministries held a coordination meeting and agreed that Indonesia had a sugar surplus and therefore did not need to import sugar. However, Tom Lembong, who was then Minister of Trade, issued an import permit for 105,000 tons of raw crystal sugar (GKM) to PT AP. The permit was granted without a coordination meeting with relevant agencies and without recommendations from other ministries to ensure the actual domestic sugar needs.

According to Regulation of the Minister of Trade and Industry No. 57 of 2004, only state-owned enterprises (SOEs) are entitled to obtain permits to import white crystal sugar. Furthermore, on December 28, 2015, an economic coordination meeting was held, one of the agenda items of which was to discuss the predicted deficit of white crystal sugar in Indonesia in 2016, amounting to 200,000 tons. In order to maintain sugar price stability and ensure national stock availability, from November to December 2015, CS, as Director of Business Development at PT PPI, instructed his subordinates to hold meetings with eight private companies operating in the sugar sector.¹⁵

The eight companies then processed GKM into white crystal sugar, even though their licenses only allowed them to process refined sugar. In fact, in order to meet stock requirements and maintain price stability, the imported sugar should have been white crystal sugar directly, and such imports should only have been carried out by state-owned enterprises. Furthermore, PT PPI appeared to be the buyer of the sugar. In fact, the eight companies sold the sugar directly to the public through affiliated distributors at a price of IDR 16,000 per kilogram, far above the maximum retail price (HET) at that time, which was set at IDR 13,000 per kilogram, without any market operations. On October 29, 2024, Tom Lembong was named a suspect along with CS. Both were charged with violating Article 2 Paragraph 1 or Article 3 in conjunction with Article 18 of Law Number 20 of 2021 concerning Eradication of Corruption in conjunction with Article 55 Paragraph 1 of the Criminal Code. Then in November 2024, Tom Lembong filed a pretrial motion against his designation as a suspect. His pretrial motion was rejected by the South Jakarta District Court judge.¹⁶

At the initial hearing, Tom was charged with causing the state to suffer losses amounting to Rp 578 billion in a sugar import case while he was serving as Minister of Trade. The public prosecutor's indictment stated that Tom Lembong issued raw crystal sugar (GKM) import licenses without going through coordination meetings or recommendations from the Ministry of Industry. The import licenses were granted to ten private sugar companies. These licenses were deemed to have resulted in high costs for PT PPI in procuring white crystal sugar (GKP) for price stabilization or market operations. Additionally, the permits also resulted in unpaid import duties and taxes. The public prosecutor demanded a 7-year prison sentence and a fine of 750 million rupiah for

¹⁴ Dionysios D. Spinellis is a Professor of Criminal Law and Criminology at Panteion University, Athens, Greece.

¹⁵ KumparanNEWS, Chronology of the Tom Lembong Case: Beginning in the Jokowi Era, Granted Amnesty in the Prabowo Era, <https://kumparan.com/kumparannews/kronologi-kasus-tom-lembong-dimulai-sejak-era-jokowi-dapat-abolisi-era-prabowo-25ZKKHC4WCz/full> accessed August 1, 2025, at 5:27 a.m. WIB.

¹⁶ Hendrick Khoirul Muhid, Chronology and Alleged Corruption Case Involving Tom Sugar Imports, Attorney General's Office Names Nine New Suspects, Tempo.com, <https://www.tempo.co/hukum/kronologi-dan-kasus-dugaan-korupsi-impor-gula-tom-lembong-kini-kejagung-tetapkan-9-tersangka-baru-1196839> accessed on January 21, 2025, at 10:21 a.m. Western Indonesian Time

Political Criminal Law Perspective of Dionysios Spinelis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

Tom Lembong. After hearing the prosecutor's demands, Tom expressed disappointment because the prosecutor ignored the facts revealed during the trial.

Tom then submitted a defense memorandum stating that he had mentioned the interference of the authorities as the reason why he now had to face legal proceedings. Tom initially stated that he had been targeted since joining the campaign team of Anies Baswedan–Muhaimin Iskandar, one of the pairs of candidates in the 2024 presidential election. He explained that the Investigation Order (Sprindik) related to the sugar import case was issued by the Attorney General's Office on October 3, 2023. One month later, on November 14, 2023, Tom officially joined the Anies-Muhaimin campaign team. He also assessed that his case was being handled in a way that was like “moving the goalposts” so that he could still be charged. However, when his case began to be heard, the charges that had previously been presented at a press conference were changed to new charges.

In the end, the Jakarta Corruption Court declared Tom guilty of corruption related to sugar imports. He was found to have breached Article 2 paragraph 1 in conjunction with Article 18 of the Corruption Law and Article 55 paragraph 1 of the Criminal Code, resulting in a sentence of 4 years and 6 months in prison. Following this decision, Tom submitted an appeal to the Jakarta High Court, which contained several important points emphasizing three main issues, namely the absence of malicious intent (*mens rea*), the fact that Tom did not enrich himself but rather other parties, and the view that Tom's sugar import policy was more oriented towards capitalist economic principles. Finally, Deputy Speaker of the Indonesian House of Representatives, Sufmi Dasco Ahmad, stated that the granting of abolition to Tom Lembong was a proposal from President Prabowo Subianto, which was then submitted for approval by the Indonesian House of Representatives. Minister of Law, Supratman Andi Agtas, explained that the abolition stopped all legal proceedings against Tom Lembong.¹⁷

Legally, Tom Lembong's case can be understood as part of a criminal act of corruption as stipulated in Article 2 paragraph (1) and Article 3 in conjunction with Article 18 of the Corruption Eradication Law in conjunction with Article 55 of the Criminal Code. The core of the problem lies in the alleged abuse of authority that resulted in losses to the state. As Minister of Trade, Tom issued an import permit for raw crystal sugar to a private company without the proper coordination and recommendation mechanisms, even though the regulations clearly state that only state-owned enterprises are entitled to import white crystal sugar. From a substantive criminal law perspective, his actions can be categorized as abuse of power, which is the core of criminal acts committed in an official capacity.

However, the problem does not stop there. From a criminal procedural law perspective, a new dynamic emerged when Tom accused the decision to name him as a suspect of being politically motivated, especially given his involvement in the campaign team of one of the presidential candidates. This situation shows how the application of legal norms often intersects with political interests, raising doubts as to whether the legal process is being conducted impartially or is being politicized. This is in line with Dionysios Spinellis' view of penal politicization, namely the tendency for criminal law to be used as a tool for political purposes. Ultimately, Tom Lembong's case is at a crossroads: on the one hand, there are strong legal grounds for prosecuting him because the elements of the offense are fulfilled, but on the other hand, the shadow of politics calls into question the objectivity of law enforcement.

CONCLUSIONS

From the discussion presented in the preceding subchapter, the following conclusions are derived:

1. The term political criminal law or political crime is not a legal term but rather a “scientific term” or “public term.” Political crimes are classified as crimes against the public interest, where their occurrence always links law, power, and politics in a country. According to Dionysios Spinellis, the concept of political crimes can be categorized into two types, namely crimes by those in power and crimes against power. Crimes by those in power are typically committed by state officials, while crimes against power are committed by citizens against those in power.
2. Materially speaking, Tom Lembong's actions can be seen as abuse of power or misuse of authority, which constitutes a criminal offense. However, from a procedural law perspective, this case has sparked debate because Tom considers his appointment to be politically motivated, especially after he was involved in the campaign team of one of the presidential candidates. This illustrates the tension between the application of law and political interests, as explained by Dionysios Spinellis in his concept of penal politicization, which is the tendency to use criminal law as a tool for political purposes.

¹⁷ *Ibid.*

Political Criminal Law Perspective of Dionysios Spinelis: Analysis the Case of Alleged Corruption in Sugar Imports by Tom Lembong

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