



THE ROLE OF THE COMMUNITY IN LAW ENFORCEMENT ERADICATION OF CORRUPTION CRIME

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Abstract

The aspirations of the community in eradicating criminal acts of corruption are very much needed and have an important role as social control. Therefore, efforts to prevent and eradicate corruption need to be intensified by continuing to uphold human rights and the interests of society. Law Number 20 Year 2001 concerning Amendment to Law Number 31 Year 1999 concerning Eradication of Corruption, formulating it explicitly as a formal crime means that even though the results of corruption have been returned to the perpetrators' countries, they are still submitted to the court and the judicial process applies the burden of proof in reverse. which is limited or balanced. It turns out that in this Law the defendant's statement is not a strong evidence because it is only a means of supporting existing evidence, this provision actually becomes a weakness in eradicating criminal acts of corruption. Because the position of a strong defendant's information will become evidence legal and legal basis for judges to impose a crime

Keyword: Public; Law Enforcement; Corruption Crime

INTRODUCTION

Corruption is a systematic act that is detrimental to the country's finances, in terms of quality and quantity of criminal acts of corruption continues to increase and very influential on the decline in the quality of public welfare. Corruption is an extra ordinary crime, therefore it is the responsibility of all elements of society and the availability of legal instruments to jointly fight corruption because corruption is not only a legal problem but also a social and psychological problem so it must be addressed simultaneously dragged them into dealing with law enforcement officers (atmasasmita, 2003).

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In order to be able to reach the various modus of state financial / economic deviations that are increasingly sophisticated and complicated, then criminal acts of corruption need to be formulated in such a way that includes acts of enriching oneself or another person/ corporation in an "unlawful" manner in a formal and material sense.

Formulation of understanding against the law in corruption can include misconduct that must be prosecuted and convicted. In Law Number 20 of 2001 concerning amendments to the Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption, it is explicitly formulated as a formal crime, this is very important in proving its meaning in accordance with the legal procedures of formal justice / KUHAP (Book Criminal Procedure Law) even though the results of corruption have been returned to the state of the perpetrators of corruption, they will still be convicted and the judicial process will apply reverse proof that is limited or balanced in that the defendant has the right to prove that he did not commit a criminal act of corruption and is obliged to provide information on all the property which is allegedly related to the case concerned and the public prosecutor are still obliged to prove their indictment.

Therefore, it is necessary to have a good etiquette to eradicate corruption through integrated collaboration between law enforcement subsystems and intensive community support, because criminal sanctions alone cannot guarantee the decline in corrupt behavior from the community so prevention efforts are needed. The problem of corruption is not only a matter of law and its enforcement but also concerns issues of moral/mental attitude, lifestyle/economy, culture, social environment and bureaucracy/administration. So the criminogen conditions for the emergence of corruption are very broad/multi-dimensional (Putra Jaya, 2008).

In the practice of enforcing the law, it turns out that the law is not an effective remedy for overcoming korupsi often surprising things occur, especially in handling corruption cases. This is what causes the apathy/public dissatisfaction with the weak professionalism of law enforcement officers, on the other hand various obstacles also hinder the process of law enforcement starting from the lack of evidence, the weakness of the public prosecutor in applying the indictment articles to the conviction that does not reflect a sense of justice/effect deterrent (criminal corruption disparity). Therefore, investigators as the spearhead of law enforcement are required to be professional in gathering legal facts and the need to guide sentences without reducing the independence and freedom of judges (Marcella, 2011).

So that corruption crime does not develop it needs to be anticipated through integrated steps both in formal and material law enforcement by involving the participation of the community, because civil society has a large enough contribution to the occurrence of corruption so that its involvement in overcoming corruption is a necessity as social control.

The direction of eradicating corruption is clear, eradication institutions / institutions have been made and the legislation already exists. If all of that can go well and right we no longer need to worry about the dangers of corruption.

DISCUSSION

The Important Role of the Community in Law Enforcement to Eradicate Corruption

Corruption is a term that is familiar to the Indonesian people, the impact of such a large corruption is a serious problem on the welfare of society. Of course it is not easy

to solve the problem of corruption so that it must involve all elements of society because corruption is a *White Collar Crime* that is a crime committed by people with excessive wealth and is considered "honorable" because it has an important position both in government and in the economic field (Sudarto, 1977).

Perpetrators of corruption are not arbitrary because they have access to corruption by abusing their authority, opportunities or facilities (Harkrisnowo, 2002). Corruption is a misuse of public office for personal gain through bribery or an illegal commission (Buckley, 2003).

Corruption is an evil and inhuman crime because of its impact can damage the joints of social order. In the practice of corruption is not only carried out by individual state administrators but also cooperation between state officials and other parties who need services, such as businessmen, families, friends and cronies, because of this heinous practice of corruption is difficult to eradicate. However the government has made various efforts to prevent and eradicate corruption through preventive and repressive efforts, including by involving the community both individually and organizationally. But until now there are still many corruptors who carry out their actions even though the threat of criminal sanctions has been very severe and has received a strong reaction from the community (social sanctions).

One way the community's efforts in combating corruption is stated in Government Regulation No. 71 of 2000 and Article 41 paragraph (5) and Article 42 paragraph (5) of Law No. 31 of 1999 concerning Eradication of Corruption Crimes which has been amended by Law No. 20 of 2001.

Article 45 Paragraph (5) and Article 42 Paragraph (5), emphasize the procedures for carrying out community participation and giving awards in the prevention and eradication of corruption. The role of the people is intended to make the rights and responsibilities of the people involved in upholding the law in the administration of a state that is free from corruption.

In addition to the Government Regulation, provisions regarding the importance of community participation in the prevention and eradication of criminal acts of corruption are also contained in Article 1, Article 9, Article 11, Article 13, Article 22, Article 29 and Article 30 of Law No. 30 of 2002 concerning the Corruption Eradication Commission (KPK), as follows:

Article 1.

"Eradicating corruption is a series of actions to prevent and eradicate corruption through coordinating, supervising, monitoring, investigating, prosecuting and investigating in court hearings with community participation based on the applicable laws and regulations".

Article 9 and Article 11.

"... Reporting criminal acts of corruption (public complaints)".

Article 13

"... Participating in education, outreach and anti-corruption campaigns".

Article 22, Article 29 and Article 30.

"... Following / overseeing the process and mechanism of nominating and electing members of the Corruption Eradication Commission (KPK)".

The role of the community in the prevention and eradication of criminal acts of corruption is to carry out social controls that are in the form of seeking, obtaining, providing and/or information about criminal acts of corruption and the right to submit suggestions and opinions responsibly, in accordance with the principle of openness in a democratic country. Therefore, openness and freedom to use rights must be accompanied by responsibilities to convey facts and/or incidents that are in accordance

with the provisions of the law.

Government Regulation No. 71 of 2000 regulates the obligations of authorized officials/commissions to provide answers or reject the contents of information, suggestions or opinions from every person, non-government organization/organization. Instead the community has the right to submit complaints, criticisms and suggestions regarding efforts to prevent and eradicate criminal acts of corruption. Although in reality, often what is conveyed by the community is not properly and properly responded to by the authorized official/commission.

Community participation should not only be used as an object in the administration of the state but must be involved as a subject or viewed from one side to use its right to convey information responsibly. Considering the important role of the community in efforts to prevent and eradicate corruption, which is pursued in the form of seeking, obtaining, providing data or information about corruption and the right to submit suggestions and opinions responsibly, then to provide motivation for people who have contributed/played an active role, appreciation/appreciation, as formulated in Article 7 to Article 11 Government Regulation No. 71 of 2000.

Meanwhile, law enforcers or commissions must keep confidential the possibility of knowing the identity of the reporter or the contents of the information, suggestions or opinions submitted. And if needed at the request of the law enforcement reporter or the commission can provide physical security to the reporter and his family.

Before the enactment of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, the legal basis of community participation efforts in helping to prevent and eradicate corruption, are the provisions contained in:

a. Article 108 Paragraph (1) of the KUHP, that every person who sees, witnesses and/or is a victim of an event that constitutes a criminal offense, has the right to submit a report or report to the investigator and/or investigator, whether written or written.

b. Article 108 paragraph (3) of the Criminal Procedure Code, every civil servant in the course of carrying out his tasks who are aware of the occurrence of a criminal offense must immediately report it to the investigator or investigator.

After the enactment of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, members of the public who participate in the prevention and eradication of corruption are given legal protection and respect.

Corruption Criminal Law Enforcement

One important aspect of the rule of law is the issue of enforcement. The rule of law is said to be effective if it can be implemented and sanctions can be enforced in the event of a crime.

According to Moeljatno, a criminal act is an act that is prohibited by a legal regulation prohibiting which is accompanied by threats (sanctions) in the form of certain crimes, for those who violate the prohibition (Moeljatno, 1983).

Corruption is seen as extra ordinary crime, so a legal instrument that specifically regulates corruption is needed. This special arrangement is needed because the rules in the Criminal Code are seen as inadequate to be applied in eradicating corruption.

As stated by Eddy OS Hiariej, in criminology, a crime is qualified as an extraordinary crime if it meets 7 (seven) criteria, namely:

- 1) the impact of victimization from crime is very broad and multi-dimensional;
- 2) The crime is transnational, organized and supported by modern technology in the field of communication and information technology;
- 3) Is a predicate criminal money laundering crimes;

- 4) Requires special criminal procedure arrangements;
- 5) Requires special supporting law enforcement institutions with broad authority;
- 6) Crimes are based on international conventions which are treaty based crimes;
- 7) The crime is super mala per se (very evil and despicable) and highly condemned by the community both nationally and internationally (Hiariej, 2018).

Regarding corruption, the modus operandi is to issue policies framed by a legal product, such as licensing and filling positions with local government agencies. *Eddy OS Hiariej* added that *political bribery* was defined as the legislative power of the legislators, including the disbursement of the budget by the commission in the House of Representatives in charge of certain projects.

Corruption prevention conducted by the Corruption Eradication Commission (KPK) should be appreciated with the large number of gratification reporting, meaning that there is awareness of state officials to report the receipt of alleged gratification/corruption results to the KPK. This is a sign that the suspects and witnesses tend to be willing to cooperate with the KPK and are willing to provide honest information to expose corruption cases.

This cooperative attitude is very helpful in handling corruption cases because most of those who return money also acknowledge their actions and expose the involvement of other parties. This cooperative attitude is influenced by several factors such as:

- a. The investigation methods applied by law enforcement officers are getting better;
- b. Personal awareness of corruptors;
- c. Reminded by family;
- d. guilty feeling by corruptors who think there is no point in hiding crime because the investigator already knows (Diansyah, 2019).

The problem often faced in examining corruption is the difficulty of finding and collecting evidence, by charging the investigators and the public prosecutor in proving the guilt of the defendant, resulting in many cases of corruption being decided free.

Not to mention the burden of reverse proof set out in Law No. 3 of 1971 and Law No. 31 of 1999, where the defendant is required to provide information about all his assets or assets so that the burden of proof becomes the defendant's obligation. In addition, this law also requires public prosecutors to prove limited and balanced inverse, however the defendant's statement is not a strong evidence because it is only as a means of supporting evidence that already exists. In terms of eradicating criminal acts of corruption the defendant's information is very much needed and becomes the basis for judges to give verdicts and the defendant's statement of information which depends on other evidence actually becomes a weakness in eradicating corruption.

Seeing the impact of corruption that is so powerful and very detrimental to the community, it takes seriousness in enforcing the law to eradicate corruption. In connection with the problem of law enforcement Barda Nawawi Arief argues that, law enforcement is upholding the values of truth and justice. This means that law enforcement is trusted by the community to uphold the values of truth and justice and in law enforcement there is a very important side that is the role of society which is called social control (Nawawi Arief, 2008).

Community participation in efforts to prevent corruption can be given in the form of optimal social control and supervision of state administrators, henceforth the community implements good religious and moral values on family members or by providing information both directly and in writing about the allegations the occurrence of criminal acts of corruption to law enforcement and/or KPK.

Meanwhile, Abdul Fickar warned, according to the Corruption Act that returning

money resulting from corruption would not eliminate the crime. However, it is still counted as something that can ease the sentence and give the impression to law enforcement officials that they are cooperative so that it is expected to ease the sentence (Diansyah, 2019). For a number of suspects, hoping that the return of corruption money is intended as the basis for filing a justice collaborator or criminal offender who cooperates with law enforcement to uncover certain legal cases in order to be accepted or at least will be considered by judges to receive light sentences.

Added by Fickar, the effort proved that the legal steps taken by the KPK had an impact on eradicating corruption and at least became a reminder for them not to accept money that indicated bribes and were involved in corruption (Diansyah, 2019).

The next step needs to be considered is the existence of a single investigator of a corruption case, namely the KPK, although to date the authority to eradicate corruption is still given to the National Police, the Attorney General's Office and the Corruption Eradication Commission. However, in the prevention and eradication of extra ordinary crime, that the substance of the law and professionalism of law enforcement officers is not enough to be able to deal with crime effectively and efficiently. Therefore, the success of crime prevention is not only seen from the aspect of action alone but also prevention and the main thing is the legal awareness of the community. This is in line with what M. Friedman said that there are 3 (three) things that can affect the operation or enforcement of the law, namely:

1. Legal substance;
2. Legal structure; and
3. Legal culture, which is the mental attitude and behavior of the people towards the existing legal norms (Friedman, 1975).

Community involvement to carry out social control over the practice of governance is needed, meaning that the community is not only used as an object in the administration of the state, how the law is enforced, but the community must be the subject or play an active role in efforts to prevent and eradicate corruption.

Until now there is a tendency that all problems can only be resolved by law, whereas new laws are meaningful if implemented and enforced in practice. We must realize that criminal sanctions alone cannot guarantee the decline in corrupt behavior in society, because corruption is related to various problems, namely not only legal and enforcement issues, but also concerns moral/mental attitude, lifestyle/economic, cultural and social environment.

Corruption has a tremendous impact. According to Yudi Kristiana, the extraordinary level of corruption development is caused by handling corruption that is not in line with public expectations (Kristiana, 2008).

Efforts to eradicate corruption began from the investigation to the reading of the court's ruling. The similarity in the amount of sentences handed down by judges on corruption cases with different amounts of state losses touches a sense of injustice (criminal disparity in corruption). Therefore, guidelines for giving sentences are needed without reducing the independence and freedom of judges in hearing cases.

The issue of criminal disparity in corruption cases seriously hurts the community's sense of justice and raises many questions about the objectivity of judges. Criminal disparity in corruption cases can occur because of:

1. The existence of minimum criminal rules in a number of different articles so that the judge has the freedom to use whichever article he wants;
2. The educational background of the judge influences the understanding of the review of the rule of law;
3. Different views of the community in assessing criminal acts;

4. The absence of guidelines for granting judgments in judging corruption cases (Grhamtika Saitya, 2018).

Although criminal guidelines for preventing criminal disparity have been held by a number of law enforcement agencies with the aim of preventing and minimizing disparity, the strategy is deemed not optimal so that the Task Force in law enforcement is needed about the importance of transparency in handling cases such as online publication of decisions. Because corruption with all its derivatives is the nation's main enemy that contributes to cause poverty and the deterioration of community gaps and to the KPK we all encourage to continue to clean the nation and country from corruption and demand severe penalties including revocation of political rights for the perpetrators.

The Meaning of Corruption and Elements of Corruption

Corruption comes from the Latin word "corruption" or "corruptus" which then appears in English and French "corruption", in Dutch "korruptie" and then in Indonesian as "korupsi".

The term corruption was first presented in the realm of Indonesian law in the Rule of War Ruler Number Prt / Perpu / 013/1858 concerning Regulations to Eradicate Corruption. Then, it was also included in Law Number 24 / Prp / 1960 regarding the Prosecution and Corruption Investigation. This Law was later revoked and replaced by Law Number 3 of 1971 concerning Eradication of Corruption, which was subsequently replaced by Law Number 31 of 1999 and will be effective no later than 2 (two) years later (August 16, 2001), later amended by Law Number 20 of 2001. Literally corruption is something rotten, evil and destructive.

The meaning of corruption can be:

1. Crime, rottenness, can be bribed, immoral, depravity, dishonesty (S. Wojowasiton dan WJS Poerwadarminta, n.d.),
2. Rotten acts such as embezzlement of money, receipt of bribes and so on (Poerwodarminto, 1976),.
3. a. Corrupt (rotten, likes to accept money / bribe using power for their own interests and so on),
b. Corruption (foul acts such as embezzlement of money, receipt of bribes and so on).

Thus it can be concluded that in fact the term corruption has a very broad meaning:

1. Corruption: Misappropriation or embezzlement (state or company money, etc.) for personal and others interests.
2. Corruption: Rotten, damaged, likes to use goods or money entrusted to him, can be bribed (through his power for personal gain) (Sudarto, 1981).

Corruption always gets more attention compared to other criminal acts. This phenomenon can be understood given the impact that can touch various areas of life.

All agreed that corruption in Indonesia falls into the category of extraordinary crime. The extraordinary is not only in terms of losses caused but also the power of the perpetrators of corruption that is so terrible. Therefore, in handling corruption cases, it is better to eradicate corruption without corruption.

Corruption is an act which enriches oneself or others which is against the law and directly or indirectly harms the country's finances or the country's economy. Corruption can also mean an offense resulting from bad, rotten, evil, corrupt or bribery.

Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning Eradication of Corruption, determine convicted of corruption:

1. Anyone who violates the law commits an act or enriches himself or another person or a legal entity that directly or indirectly harms the country's finances and / or is reasonably suspected that these acts are detrimental to the country's finances or the country's economy;
2. Opportunities or means available to him because of his position or position that can directly harm the country's financial or economy;
3. Anyone who commits an offense as stated in Article 209, Article 210, Article 387, Article 388, Article 415, Article 416, Article 418, Article 419, Article 420, Article 423, Article 425 and Article 435 of the Law Code Criminal (KUHP);
4. Anyone who gives gifts or promises to the Public Servant or state organizer as intended in Article 1 bearing in mind a power or an authority attached to it in his position or position or by the promoter attached to that office or position;
5. Whoever without a reasonable reason within the shortest possible time after receiving the gift or promise given to him as mentioned in Article 418, Article 419 and Article 420 of the Indonesian Criminal Code (KUHP) does not report the gift or promise to the party have the authority;
6. Whoever tries or agrees to commit the crime referred to in paragraph 1 a, b, c, d, e of this article.

The elements of the criminal act of corruption are:

1. Doing self-enriching deeds.
The act of enriching oneself means doing anything, for example, taking, transferring, signing a contract and so on.
2. The act is against the law.
Against the law here is defined formally and materially. This element needs to be proven by expressly stated in the offense formula.
3. This act directly or indirectly adversely affects the country's finances and or the country's economy or should be presumed by the maker that is detrimental to the country's finances or the country's economy (Sudarto, 1981).

The expectation of the government and the community to get priority in resolving corruption cases in the legal sector apparently does not show many positive results, sometimes even going wrong. This is allegedly because law enforcement is too compromising with power holders in all forms of intervention. Moreover, most of the perpetrators of corruption are holders of power or not far from politicians, bureaucrats, officials of State-Owned Enterprises (BUMN) and private parties who have relations with the authorities.

According to KPK deputy chairman Laode M Syarief, the effort to eradicate corruption is not an easy thing, it cannot be separated from economic control by a group of people to preserve their power. Even oligarchs contribute to the fertility of corruption in Indonesia so that the eradication of corruption needs to be supported by strong political commitments from state leaders and weak political commitment has an impact on efforts to eradicate corruption (Diansyah, 2019).

Meanwhile, to promote community participation in law enforcement in eradicating criminal acts of corruption is not without obstacles, many obstacles occur in practice such as:

1. The public thinks what to report if the report is not followed up and can even be considered as defamation of someone;
2. The public lacks confidence in the intentions of the government and law enforcement officials to implement Government Regulation No. 71 of 2000; so it is necessary to build public trust in law enforcement officials;
3. Corruption is closely related to the complexity of other problems, such as

- mental/moral attitude, lifestyle, social culture and economic demands;
4. Disparity in punishment toward corruptors, so that law enforcement does not have a deterrent effect and injures a sense of justice.

These constraints have resulted in the handling of corruption cases in Indonesia has not been maximized. In fact, many corruption cases do not reach the court on the grounds that there is insufficient evidence to entrap the perpetrators/corruptors so that the case files submitted by the investigator to the prosecutor are rejected/returned. The success of eradicating corruption is very much influenced by internal factors of the law enforcers themselves, therefore there needs to be synchronized between law enforcement sub-systems through coordinating, supervising, monitoring in investigations/investigations, prosecution to examinations in court proceedings.

CONCLUSION

The role of the community as social control and supervision both directly and indirectly in law enforcement in eradicating criminal acts of corruption is meaningless if it is not supported by the quality and integrity of law enforcement institutions. In the reverse verification system, the defendant's statement can be a strong evidence that the defendant's statement which depends on other evidence becomes a weakness in fighting corruption. Meanwhile, the problem of disparity in criminal acts of corruption has injured the sense of injustice of the community so that it raises the nature/apathy to provide information/reports in eradicating corruption, even though Government Laws and Regulations have been made, the public lacks confidence in the good intentions of the government and law enforcement. In the future, efforts will be made to restore stigmatization by rebuilding public trust through enhancing the integrity of its apparatus.

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