

RESEARCH ARTICLE

# Combating Corruption: Problems and Challenges in Indonesia

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## Abstract

Corruption has been regarded as commonplace, under the pretext of being in line with procedures. Corruptor no longer have a sense of shame and fear, instead showing off their demonstrative corruption results. This study aims to analyze the problematic and contemporary cases on eradicating and combating corruption in Indonesia. The study found and highlighted that a crime corruption is a violation of social rights and economic rights of society, so that crime corruption can no longer be classified as ordinary crimes but has become a crime extra-ordinary crime. So, in the effort to eradicate it seems still require the struggle is heavy and can no longer be done "as usual", but it takes "extraordinary ways" (extraordinary crimes). Given the actions by law enforcement officials, it is hoped that the crime of corruption is not increasing expanding. If law enforcement is not as good as it is today, crime is growing, corruption more rampant, bribery cases happening everywhere, abuse of narcotics, and so can only be controlled from a penitentiary. Finally, as well as any existing legislation on ultimately depending on law enforcement officers.

**Keywords:** *Corruption; Corruption Eradication; Law Enforcement; Anti-Corruption Movement*

## 1. INTRODUCTION

It seems that everyone is not happy and does not agree with corruption, where is it wrong? as always, there are a lot of

opinions, there are many assumptions, lots of cross disputes. The end is not clear meaning and completion. The first step of legal methodology seems to have been violated. People want to explore the land of the law first must agree on the meaning and understanding of the object of the dispute concerned first. At least the reasoning is unclear. All understanding or concepts and statements or proportions need to be explored thoroughly first.

This first step needs to be taken in the form of a discussion field with the same language. The studies undertaken here focus exclusively on background behind, and the factors causing corruption, and the importance of law enforcement as an effort to eradicate corruption in Indonesia, which then is expected to be answer the basic problem in this paper, that is how effort eradication corruption as a law enforcement in Indonesia.

## 2. METHOD

The research process can be viewed as a series of interrelated phases and can't be separated from one another. Various aspects that can be the cause of corruption, it can be said that consists of internal factors and external factors. Efforts to prevent corruption can basically be done by eliminating or at least reducing the two factors that cause corruption [8]. In this qualitative research method, there are 3 phases. **Standpoint:** principles and values of anti-corruption are an inseparable unity. The most decisive mental factors, the need for a sense of responsibility in self. **Research Strategy:** using a normative juridical approach using data in the form of legislation. **Methods of Data Collection and Analysis:** The type of data required in research is in the form of legislation. The death penalty as a criminal penalty, only threatened for certain criminal acts of corruption in Article 2 paragraph (1), namely: "to commit enrichment yourself/others/corporation unlawfully". In Article 2 paragraph (2), capital punishment constitutes a criminal sanction against the offense in Article 2 paragraph (1) which

is threatened with life imprisonment or 20 years imprisonment. According to Article 28A of the 1945 Constitution (the 1945 Constitution) which reads: "Every person shall have the right to live and have the right to preserve his life and life." As well as records of corruption that have occurred in Indonesia, then the data collected and after that done the focus of analysis.

### **3. RESULT AND DISCUSSION**

#### **A. Corruption in Indonesia**

One of the causes of corruption is a lack of moral integrity that also undermines national discipline. Weak system is also a cause, inevitably weak mechanisms in various bureaucratic sector at this time, such as pretty much complained by national and foreign entrepreneurs, because there are still many links that they must go through, to obtain a permit or credit facility. This situation leads to the fertility of bribery and corruption. To improve the system depends on the moral integrity that a person possesses. From the Old Order era to the New Order and then the Reform Order, corruption is a common thing, also it always as a trend topic while having a conversation with fellow politicians back in the old times. Simply, it is concluded that the corrupt regeneration process is very fast. There are always more advanced generations of successors, and greater power.

Corruption has been regarded as commonplace, under the pretext of "being in line with procedures". Corruptors no longer have shame and fear, instead showing off their corrupt results demonstratively. Politicians are no longer serving their constituents. Political parties are not a tool to fight for the interests of the people, but to become a place for dredging personal wealth and ambition. Whereas corruption is a very serious problem because corruption can jeopardize the stability and security of the State and society, endangering the social, political and economic development of society, even can also destroys the values of democracy

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and morality of the nation because it can have an impact criminalize corruption. So be aware of the increased action uncontrolled corruption will bring an impact that is not only limited to losses State and the national economy but also in the life of the nation and state

Like disease, corruption in Indonesia has evolved in three stages, namely elitist, endemic, and systemic. In the elitist stage, corruption is still a typical social pathology in environment of elites/officials. At the endemic stage, corruption reaches out to the community large. Then at a critical stage, when corruption becomes systemic, every individual is in the system contracted a similar disease. It is possible that the disease of corruption in this nation has arrived at systemic stage.

The act of corruption is a violation of social rights and rights economic community, so that the criminal act of corruption can no longer be classified as ordinary crimes but has become an extraordinary crime (extra-ordinary crimes). So that in an effort to eradicate it can no longer be done "normally" but it takes "extra-ordinary crimes" Abdullah Hehamahua in Ermansjah Djaja argued that "corruption in Indonesia already classified as extra-ordinary crimes for destroying, not only the State's finances and the economic potential of the State, but has also devastated the socio-cultural, moral, political, and legal and national security arrangements. Therefore, the pattern of eradication can't be solely by a particular agency and can't also be a partial approach. He must do comprehensively and jointly, by law enforcers, community institutions, and individual members of the community. For that purpose, we must know exactly the map corruption in Indonesia and what is the main cause. Like a doctor, before a member therapy (treatment) to the patient, must know more precisely what is diagnose his illness. The proper diagnosis of bringing the therapy done will work. But if diagnose wrong, the therapy provided not only failed, even add to the patient's severity. Thereby also with the problem of corruption in Indonesia.

## **B. Law Enforcement Against Corruption in Indonesia**

The Republic of Indonesia is a unitary state in the form of a republic and constitutes a state of law (*Rechtstaat*), it is embodied in the 1945 Constitution of the State of the Republic of Indonesia. The consequences of the rule of law are that everything should be based on law, the law determines what to do and what which shouldn't be done. Law enforcement in Indonesia has the main principle of putting each person equally before the law regardless of whether he or she is a KPK leader, a politician or an ordinary citizen everybody is equally in the eyes of the law. Enforcing the law especially preventing crime should not be delayed, for the crime itself will overwhelm us and destroy what is there if we do not quickly prevent and eradicate it.

Back to the issue of corruption. That corruption should indeed be recognized as a crime that can no longer be tolerated in Indonesia. Every Indonesian agree that corruption has caused millions of Indonesians to suffer. Both corruption at the centre and in the regions. The law in Indonesia governing the criminal act of corruption is Law no. 31 of 1999 on the Eradication of Corruption as amended by Law no. 20 of 2001 on Amendment to Law no. 31 of 1999 on the Eradication of Corruption ("Corruption Law"). Persons who assist the perpetrators of corruption are subject to the same criminal penalties imposed on the perpetrators of corruption. Criminal threats to people who participate in corrupt acts, we need to refer to the general provisions of criminal law provided for in the Criminal Code ("Criminal Code"). Pursuant to Article 55 Paragraph (1) of the Criminal Code, persons participating in a criminal act shall be punished as criminals. Thus, pursuant to Article 55 Paragraph (1) of the Criminal Code, the person who participates in the criminal act of corruption is also convicted with the same criminal penalty as the perpetrator of the criminal act of corruption. Indonesia's legislation regulating corruption is now better than before with the issuance of Law no. 28 of 1999 on the Implementation of

Clean and Free State of KKN, Law no. 31 of 1999 jo Law no. 20 Year 2001 on the Eradication of Corruption, Law no. 30 of 2002 on the Corruption Eradication Commission, and finally with the ratification of United Nations Convention Against Corruption, 2003 (United Nations Convention against Corruption, 2003) with Law no. 7 of 2006. According to Law no. 31 of 1999 jo Law no. 20 Year 2001 on the Eradication of Corruption. It shows that the government in Indonesia is trying to continue to uphold justice and strive continuously to update the previous law. Because over time when the criminal corruption crime can't be tolerated anymore and getting smarter with various ways so that corruption can be achieved.

### **C. Other things that cause corruption in Indonesia**

As for the causes of corruption in Indonesia according to Abdullah Hehamahua, based on the study and experience there are at least eight causes, namely as follows:

#### **1) Incorrect State Administration System**

As a newly independent country or a newly developing country, should be a priority development in the field of education. But for decades, starting from the old order, new order until the order of this reform, development focused on the economic field. Yet every newly independent country, limited in having human resources, money, management, and technology. Consequently, everything is imported from abroad turn, generates the second cause of corruption, namely:

#### **2) Low Civil Servant Compensation**

Naturally, if the newly independent State does not have enough money to pay high compensation to employees, but due to development priorities at economics, so that physically and culturally gave birth to a pattern of consumerism, so 90% of civil servants do KKN. Whether in the form of time corruption, doing activities such illegal changes and small mark ups to balance income and expenditure personal / family.

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3) Greedy Official

The lifestyle of consumerism born by the above development system is encouraging officials to get rich instantly. Born a greedy attitude were officials misusing authority and position, marking up project's development, and even business with entrepreneurs, both in the form of a commissioner or become one of the shareholders of the company.

4) Law Enforcement Not Running

Due to the greedy officials and civil servants of KKN because of insufficient salary, then arguably law enforcement does not run almost all the lines of life, both on government agencies as well as in social institutions because everything is measured with money. Born the habit of slashing words like the Criminal Code (Love of Money Out Case), Tin (Ten percent), Belief in God Almighty (The One and Only), etc.

5) Because law enforcement does not work where law enforcement officers can be paid ranging from police, prosecutors, judges, and lawyers, then the punishment imposed on the para corruptor is very light so as not to cause deterrent effect for corruptors. Not even cause fear in society, so that officials and employers remain doing KKN process.

6) Ineffective Monitoring

In modern management systems there is always an internal control instrument is in build in every work unit, so the slightest deviation will be detected early and automatically also made repairs. Internal control at each the unit is not working because the official or related officer is corrupt. Some information in many mass media, to overcome it formed the Inspector General and the Regional Supervisory Board tasked with internal audit.

7) No Leaders Example

When the economic recession (1997), the state of the Indonesian economy slightly better than Thailand. But

leaders in Thailand set an example to their people in a pattern life is simple and the only word with deeds, so born moral support damn material from community members and employers. In a relatively short time, Thailand has experienced its economic recovery. In Indonesia there is no leader who can made an example, then not only the state economy that has not been recovery even the order of life of the nation and the state is getting closer to the brink of destruction.

8) Culture Conducive Society KKN

In an agrarian country like Indonesia, society tends to be paternalistic. With thus, they participate in KKN in everyday affairs such as taking care of ID cards, SIM, STNK, PBB, SPP, enrolment of child to school or university, apply for work, and others, because it mimics what officials, political elites, community leaders, religious leaders, whom the community believes to be a deed wrong.

#### **D. Factors Affecting Law Enforcement**

Ongoing law enforcement is certainly influenced by various factors:

1) Legislation

The legislation should be clear and contain the substance of the material that can be meet the sense of justice and benefit the community. Between laws and regulations not to be in conflict or out of sync with each other. This matter will lead to legal uncertainty as well as difficulties in community life.

2) The factor of the law enforcement apparatus, in this case is the mentality. Many cases are not resolved in accordance with the principles of justice and truth, because law enforcement officers do not perform their duty properly. Bribery case which occurred in the environment of law enforcement officers ranging from police, prosecutors, and judges, who in this case not a secret anymore. There are several police officers,



prosecutors and judges who were tried because of bribery and corruption cases. Surely the last hope or support in law enforcement is on law enforcement apparatus. However, if there are mental law enforcement agencies like it, and unprofessional, then do not expect law enforcement to walk with good. This factor is very dominant in determining success or failure of enforcement success law in Indonesia.

- 3) Factor means or facilities that support law enforcement process. Areas of facilities and facilities are of course very influential in enforcement law, such as laboratory equipment, a tool that helps prove monitor camera (CCTV), electronics, transportation equipment and so forth.
- 4) Community factors, namely: the environment in which the law is enacted public awareness has become an important factor in law enforcement. For achieve a high level of awareness, it is necessary to socialize legislation intensely in society. Once the community is aware of the rules certain, then can be expected to raise awareness and then manifest in real action. philosophical basis of the legislation on the implementation of capital punishment.

#### **E. The Importance of Law Enforcement in Indonesia**

According to the 1945 Constitution Amendment Article 1 paragraph (3): Indonesia is a State of Law. As a rule of law, the interests of the people must be getting protection from the government, as mentioned in paragraph IV of the 1945 Constitution Amendment: "... to establish a Government of the State of Indonesia that protects the whole Indonesian nation ... ". The protection is then the rights of the citizens countries governed and translated into various laws and regulations. Citizens are entitled to live safe, peaceful, peaceful, protected from various acts crime. In the event of a crime, then law enforcement officers must immediately act in accordance with the authority possessed. With the action by

the enforcement officers' law, the crime is not expected to expand. When law enforcement is not good as it is now the crime is growing, corruption is increasingly prevalent, bribery cases happen everywhere, drug abuse, etc. can only be controlled from a penitentiary. Finally, as well as any legislation that is there ultimately depends on its law enforcement officers.

#### **F. Facts of Law Enforcement of Corruption Crime**

There are several law enforcement facts that directly show contradiction resulting in deviations from the principle of equality before the law (equality before the law) article 27 of the 1945 Constitution, among others put forward in the following description:

##### 1) Cherry Pick of Law Enforcement Against the Head of Region

In law enforcement proceedings against corruption in general, and against PBJP violations there is a fact of practice selective law enforcement. Not only is this against the rule of law all citizens have the right to be treated equally before the law but also treated differently. As for the cause of treating the law of the police and prosecutors is not only due to frequent corruption cases is seen as a case of bringing 'blessings', especially for lawyers (see Advocate Law No. 18/2003 on Advocates), but it is also due to the existence of Corruption Law and KPK Law. The attitude of dualism within eradication of corruption crimes as stipulated in the Criminal Act

##### 2) Corruption and KPK Law

As for several reasons and facts and that selective logging and treatment not equal before the law-by-law enforcement may be filed as follows. First, the practice of law enforcement in selective logging against the defendant or suspects occurred when both police, prosecutors, and power parties' society, as civil society movements let perpetrators of crime not only free to

roam even a candidate for regional head, but also after getting a judge's decision even if they can return occupy certain public office. This usually happens when the defendant, suspects and / or convicts can be used as sources of ATMs by they are able to pay unscrupulous law enforcers.

Secondly, the treatment of law enforcers becomes unequal or selective due to logging the nature of the KPK Law which deliberately contains the grouping of enforcement processes laws into two categories. The first category is corruption causing state losses under Rp 1 billion to be processed by the Police and Prosecutor. In the model of corruption crime enforcement this model is impressed community that law enforcement officers, both at the central level and level the area has a flexible space for procrastination and procrastination investigation. As a result, the corruption perpetrator of this model is not only the absence of legal certainty in its action but with the delay invited dissatisfaction for the community.

While the second category of corruption is the act of someone who has causing state losses more than one (1) billion in jurisdiction of authority the legal process through KPK. In cases handled by the KPK, the impact is enough to make a terrifying shock to the defendant, the suspect and condemned. KPK is much more assertive and is seen as an enforcement agency the most trusted law in this country. For example, some cases involve members of the central legislature (DPR), ministers (former), and about 7 (seven) the case of the Governor which in addition has been awarded a binding and partial decision still in the legal process, as well as the Regents and Mayors.

3) Authority of the Head of Region Determines the Project Beneficiary

Head of Region has a chance in KKN more open because can determine which staff will be the head of the project,

where the practice of bribery and gratuities are not easily tracked. However, when community participation is quite effective in disclosure of corruption crimes it also provides positive assistance in processing corruption crimes by local government staff.

The authority of local government in financial accountability accepted, both for the benefit of public services in general and in particular Pilkada is also not easily avoided because the authority to the region to receive APBD as well as money from other sources remain a no sufficient for the needs of the three Pilkada costs are too high. So, if compared between budget allocations according to the rules of legislation with its basic needs are very lame. This can be seen juridically how much right or financial assistance may be received by the Chief Candidate Area or Deputy is actually very lame. For example, if on average Pilkada as stated by responder in Jakarta, that the cost of Pilkada in the district level spends about Rp 5 billion, then the real cost is ten (10) times bigger than the actual.

4) Permission from the President hinders the examination

The nature of this selective logging behaviour by law enforcers is contradictory in addition contrary to the principle of equality before the law. but also contrary to Presidential Instruction No. 5 of 2004, on the Acceleration of 'Combating Corruption. Because, in fact the law enforcement process to be hampered when state officials, such as Ministers, Governors and Regents can only be judged if they have obtained a vote of permission from the President. As mentioned in Law Number 32 Year 2004 regarding Regional Government. In relation to the above matters, the investigation action against the Head of Region and The Deputy Regional Head shall be stipulated in Article 36 and shall read as follows:

- a. Investigation and investigation action against the regional head and deputy the regional head shall be

- held after the written approval of the President demand for the investigator.
- b. If written approval as referred to in paragraph (1) is not granted by the President within 60 (sixty) days at the latest since the receipt of a request for investigation and investigation may be made.
  - c. Further investigation proceedings with detention are required written in accordance with the provisions referred to in paragraphs (1) and (2).
  - d. Matters excluded from the provisions referred to in paragraph (1) are: a. is caught red-handed in committing a crime; or b. presumed to have been commits a criminal offense that is threatened with capital punishment or has commits a criminal offense against state security.
  - e. The investigation action as referred to in paragraph (4) after it is done shall be obliged reported to the President no later than 2 (two) times 24 (twenty-four) hour.

The process of issuing permits by the President is also often an obstacle to the process law enforcement for police, prosecutors and the KPK and even issuing permits often published not in accordance with article 36 verse at (2). Because many of the permits are published by the President exceeds the 60-day provisions

##### 5) Light Sanctions Don't Make Perpetrators Deterrent

In the theory of criminal law, that legal sanction is imposed on the offender evil is not only seen as a law that causes suffering physically and psychologically and restricted freedom of civil rights and political rights, however it is also hoped that the perpetrator of the crime will be deterred or cured so as not too willing to re-do. In the context of the crime of corruption, for example from 154 accused of corruption filed on the green table, more than half were convicted light sentence by the judges. Corruption monitoring institution in Indonesia.

Indonesia Corruption Watch (ICW) notes that throughout 2009, from 154 corruptors who are brought to the table. 81 of them or more than 50 percent only sentenced to one year in prison by a panel of judges. The bitter pill will eradicate corruption in Indonesia's earth is reflected in the many corruptors who sentenced punishment by the judge who handles the case.

Based on ICW's records, during 2009, from 199 cases of corruption with 378 the defendants who were examined and convicted by courts throughout Indonesia, as many as 224 defendants (59.26 percent) were acquitted by the court. Only 154 the defendant (40.74 percent) was finally convicted. From the decided amount There are a variety of different levels of punishment received by the guilty perpetrators of corruption. A total of 82 defendants (21.69 percent) were sentenced under one year jail. Meanwhile, the verdict above 1.1 years to two years there are 23 defendants (6.08 percent). And, sentenced 2.1 years to five years as many as 26 defendants (6.88%) and sentenced 5.1 years to ten years as many as six defendants (1.59 percent): Surprisingly, there is only one defendant convicted above ten ear (0.26 percent). More alarming, there are 16 defendants in the case corruption convicted trial (4.23 percent). How about the cases that handled by the Corruption Eradication Commission (KPK)? If a suspect is corrupt in a public court often convicted of free or too light, in the Corruption Court just the opposite. According to ICW's records, out of 31 corruption cases dealt with During 2008, no corrupt person was acquitted. On that basis, it is directly or indirectly that the enforcement situation which is selective, slow in the investigation and investigation because it is slow the issuance of Letter of Licensing, and the lightness of the punishment appears indirectly negatively correlated with PBJP. So, the tendency of the main issues of government SBY, related to the fight against corruption

as it continues to be spurred by President den Susilo Bambang Yudhoyono (SBY), "Reality on the ground, combat troops are on the front line still do a lot with half a day. In public court. Many corruptors receive only mild penalties, some even convicted under one year. Regarding unequal penalties for these state money robbers, ICW called, general court as a 'paradise' light sentence for corruptors (Jawahir Thontowi. Law Enforcement and Government Diplomacy SBY Bandung 2009). The verdicts imposed by the Tipikor judges were on average four years two months of imprisonment. It's still not too heavy and lacking - it produces a deterrent effect fear. The punishment rate is certainly far below the maximum penalty which according to several articles in the Act on Eradication of Acts Criminal Corruption (PTPK) Number 31 Year 1999 which amended by Law Number 20 In 2001, the punishment could reach 20 prisons, even imprisonment lifetime.

6) Protection of Whistle Blower and / or Witness Reporter

There are aspects of law enforcement that are often lupus from the attention of law enforcement considering they are domiciled as people who actually have contribution to the issue of enforcement of any violation or action corruption against PBJP. Wind blower or important information giver about corruption Whistle Blower and reporting witnesses are very important but because of the lack.

Their livelihoods do not have the courage to report the actual circumstances. The facts on the ground indicate how many witnesses, mainly the head of Dina, as subordinate to the head of the Region became the victim convicted of corruption. This is not only due to the construction of corruption criminal charges always based on the existence of formal evidence, documents, witnesses, particulars and recognition, but also based on the paradigm of conservative or law juridical

dogmatists, so that the real culprit can be spared of criminal liability. Not easy evidence the basis of prosecution by the Police and Prosecutors are often made into arguments law enforcement officers to quickly follow up the investigation and investigation, and prosecution.

In this context it is in addition to the need for Witness Protection Act and The victim is intended for everyone who hears or experiences himself a criminal case of corruption feels secure from various threats as it is provide information for the purpose of investigation, investigation, prosecution and examination in the Court. Subject to the provisions of Article 10 paragraph (1) of Law 13/2006 then Witness, Victim and Reporter can't be prosecuted

legally whether criminal or civil in respect of a report, a testimony that would, medium, or has been given, but interesting is the Explanation of the Reporting Parties in: Law 13/2006 which enjoys the status of "safe" as stipulated in Article 10 paragraph (1) only limited to the Reporting Party providing information to law enforcement regarding the occurrence of a crime.

#### **4. CONCLUSION**

Corruption deals with power because with that power the ruler can abusing his power for his personal, family and cronies. Corruption always maturing and flourishing in the public sector with tangible evidence that with it is the power that public officials can suppress or blackmail the seekers of justice or them which require government services. Corruption in Indonesia is already classified destructive crimes, not only the State's finances and the economic potential of the State, but also has devastated the socio-cultural, moral, political, and legal pillars and security national efforts to eradicate corruption through law enforcement justice now seems to still require a great struggle. Because of the crime corruption is an extraordinary



crime that is different from ordinary criminal offense, then the effort that must be done requires that system integrated and outstanding too. As extraordinary crime eradication of corruption, requires the extraordinary political will so that the President as head of State becomes an important figure in mobilizing and coordinating the role of the Police, Prosecutors, Courts and KPK power, so that the practice of corruption, such as bribery, price bubbles, gratuities, and other misuse of authority are done by civil servants and / or officers state officials, both at the central and regional levels can be narrowed down the space through enormous and integrated means of enforcement.

#### **5. DECLARATION OF CONFLICTING INTERESTS**

The Author declares that there is no potential conflict of interest in the research, authorship, and/or publication of this article.

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