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## JURIDIC REVIEW ERADICATION OF CORRUPTION CRIME IN INDONESIA BASED ON A JURISDICTION AND MORALITY APPROACH

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**Abstract:** This article proposes to review the handling of corruption cases legally and morally in Indonesia. Efforts to eradicate corruption have not been able to be resolved optimally because they are scattered sporadically in Indonesia. Barriers are occurring structural, cultural, instrumentals and management. Prevention and eradication of corruption must be emphasized as the moral responsibility of the Indonesian nation. Prevention of corruption must be carried out systematically by strengthening regulations and conducting international cooperation on the issue of corruption as a crime against human rights throughout the world, especially in Indonesia. That aspect of law enforcement in eradicating corruption requires the role of all parties involve<sup>12</sup> achieving the target of eradicating corruption that is endemic in Indonesia, there are four factors that cause corruption; political and legal factors, historical factors, social and cultural factors, and economic<sup>8</sup> stors. Concrete solutions in eradicating corruption are needed by Indonesia to redesign public services, strengthen transparency, supervision and sanctions on government activities related to the economy and human resources, increase the empowerment of supporting instruments in preventing corruption and to ensure law enforcement is free from corruption. The strategy of eradicating corruption must be built with the will of all parties who want to eradicate corruption itself, by not giving the slightest tolerance in the act of corruption itself. In realizing an effort to eradicate corruption itself, it takes determination in fulfilling the prerequisites in terms of existence, driven by political ability and will as well as a strong commitment from all parties, transparent and accountable in its implementation, available and balanced resources and capacities.

**Keywords:** Corruption Prevention, Normative, Morality.

### 1. INTRODUCTION :

Corruption has been conceptualized and is able to influence decisions that have an orientation to enrich certain individuals.<sup>1</sup> Corruption often occurs due to irregularities in authority and involvement of more than one person and is carried out in congregation. Authority is the main reason for an official to be caught in a corruption case. This is very worrying because corrupt behavior is carried out by people in the government bureaucracy. As a result, society experiences a shortage of figures who demonstrate good behavior. Over the years, despite increasing regulations, their implementation has not provided strength and firmness in eradicating corruption.

This is due to the reluctance to process violations of criminal acts of corruption committed by state officials. Subordinates seem to turn a blind eye to being afraid of higher so that they end up holding on to the principle that all this time higher is happy, they won't do anything. This situation makes acts of corruption continue to take root in the bureaucracy which in the end provides an example for the public to also practice corruption in the form when they carry out legal administration to get excellent service from the government.<sup>2</sup>

The emergence of imitation, omission and normalization of culture and supported by environmental conditions, shows that even though the government is well-maintained, there is still omission of corruption<sup>3</sup>. Therefore, the realization of clean and clean governance and good governance cannot be achieved. Based on data from the Corruption Eradication Commission (hereinafter referred to as KPK), generally, corruption occurs because of bribery<sup>4</sup>.

<sup>1</sup> Gunardi Endro, "Menyelisik Makna Integritas dan Pertentangannya dengan Korupsi", dalam Jurnal Integritas KPK, Edisi 03, Nomor 1, Maret 2017, p.131

<sup>2</sup> Shuriye, Abdi Omar & Jamal Ibrahim, Daoud 2010 Islamic perspective of quality administration, Australian Journal of Islamic Studies 01 (01): 49-27.

<sup>3</sup> Ria Casmi Arrsa, Rekonstruksi Politik Hukum Pemberantasan Korupsi Melalui Strategi Penguatan Penyidik Dan Penuntut Umum Independen Kpk, Jurnal Rechts Vinding, Volume 3 Nomor 3, Desember 2014, hlm. 1

<sup>4</sup> Cindy Rizka Tirzani Koesoemo, Eksistensi Komisi Pemberantasan Korupsi (kpk) dalam penanganan Penyidikan dan penuntutan tindak pidana korupsi, Jurnal Lex Crimen Vol. VI/No. 1/Jan-Feb/2017, hlm. 1



Corruption crimes handled by the KPK are based on the type of case (2004-Jun 2019). Bribery is 17 type of corruption case handled by the Corruption Eradication Commission (KPK). 661 cases or 65% of the 1,007 corruption cases handled by the KPK were bribery cases. Based on data from the Corruption Eradication Commission (KPK), in 2018 there were 168 bribery cases and is considered the highest number compared to previous years. Then, in the first six months of 2019, there were 97 bribery cases or more than half of the same cases found last year.<sup>5</sup>

Even though many corruption actors have been arrested by the KPK and served as punishments, this has not stopped state officials or private parties from harming state finances. In fact, the number of corruption crimes has actually increased. In 2018, there were 199 corruption cases, while during January-June 2019, there were 120 or more cases, which was half of the total corruption last year.<sup>6</sup>

## 2. RESEARCH METHODOLOGY

Regarding the problem of the object of research that is the target of certain sciences, in this case the science of law, as according to Ronny Hanitijo Soemitro "every science has its own identity, so there will always be differences. The research methodology applied in every science is always adapted to the science that is the parent".<sup>7</sup> So this research is a normative juridical research, namely legal research that aims to find methods, norms or *das sollen*.

Normative research is carried out on theoretical matters on legal principles related to law enforcement in terms of corruption in Indonesia. The main problem in this research is one of the central problems of criminal policy (criminal and sentencing issues). Therefore, the approach cannot be separated from a policy-oriented approach.

## 3. RESEARCH RESULTS AND DISCUSSION:

### a) Pererantasan Korupsi Melalui Pendekatan Normatif

Indonesia is a state of law as stated in the third amendment of the 1945 Constitution of the Republic of Indonesia Article 1 paragraph 3. As a state of law, public interests must be protected. As in paragraph IV of the 1945 amendment: "... ..to form an Indonesian government that protects all Indonesian people ..." Everyone in Indonesia has the right as a constitution guaranteed to live safely, peacefully, and free from all crimes. Suryani emphasized the importance of law enforcement as the only pillar to reduce the number of corruption crimes which are classified as extraordinary crimes.<sup>8</sup>

Corruption is very much against the rules of the juridical form, the moral values of the nation, and the national ideology. Without realizing it, the impact of corrupt behavior has damaged the economy, the democratic sovereignty system, the realization of prosperity, and justice. Even though various policies have been carried out by the government to eradicate corruption, if there is no awareness and firmness of government officials, corruption will not disappear.<sup>9</sup>

The concept of the rule of law is shown by the act of the rule of law, which means that every person or government as a source of law whose power must be based on applicable law. Equality before the law means that everyone is considered equal without any difference from the various stratifications of life. The explanation of the Clean and Free of Corruption, Collusion, and Nepotism Law on Indonesian State Administrators Number 28 of 1999 is absolute. Clean and well organized State Government will achieve National goals easily.

This is stated in the Elucidation of the 1945 Constitution which states that the spirit of the Government is important. The criminal practice of acts of corruption, collusion, and nepotism due to behavior that crystallizes in government officials so that the impact of corruption is not only carried out by State Organizers, between State Organizers, but also State Organizers with other parties such as families, businessmen, and the Community. Finally, there has been damage to various aspects of social, national and state life. If this condition is allowed to drag on without any control, it will threaten the existence of the Unitary Republic of Indonesia<sup>10</sup>.

The massive effect of corruption destroys the mentality of the next generation; that is the loss of role models for adults who should set a good example that can be imitated by the current generation; destroying the mindset of generations; The next generation thought that all problems could only be solved with bribes. As a result, the life of the future nation's successors will be on the verge of darkness. The legal politics of a country with massive corruption practices has an impact on the authoritarian system of government. It is strange if this condition occurs in Indonesia,

<sup>5</sup> Taufik Rinaldi, dkk, *Memerangi Korupsi Di Indonesia Yang Terdesentralisasi Studi Kasus Penanganan Korupsi Pemerintahan Daerah*, (Jakarta: Justice for The Poor Project World Bank 2020) hlm 7.

<sup>6</sup> Edi Setiadi, *Penegakan Hukum Pidana Terhadap Kasus-Kasus Korupsi Dalam Menciptakan Clean Government*, *Jurnal Mimbar* No. 4 Th.XVI C 13 - Des. 2000 - 305, hlm. 1

<sup>7</sup> Ronny Hanitijo Soemitro, *Bahan Kuliah Metodologi Penelitian Hukum*, Badan Penerbit UNDIP, 2001, p. 8.

<sup>8</sup> Purwaning M. Yanuar (2007), *Pengembalian Aset Hasil Korupsi Berdasarkan Konvensi PBB Anti Korupsi 2003 Dalam Sistem Hukum* Indone 4. Bandung : Alumni, hlm. 10

<sup>9</sup> Irena M. DiNitto (2000). *Social Welfare, Politics and Public Policy*. Boston: Allyn & Bacon, hlm. 2.

<sup>10</sup> Robert Klitgaard 82-85., *Membasmi Korupsi (terjemahan)*, Terjemahan (Jakarta: Yayasan Obor Indonesia, 2005).



which is democratic but authoritarian. In the end, people are tired of losing trust in the government and don't want to obey the daily rules that should be practiced accordingly. Corruption practices are the cause of bureaucratic instability and excessive budget administration. We also often encounter very poor forms of service; working hours are not taken seriously and therefore fail to meet the expectations of the people who need good public services.

The constitution formed by a country exists to limit power so that it is not arbitrary. Corruption is an extraordinary crime because it can threaten the sustainability of the nation. Besides that, it also threatens the stability and security of the state and the whole society, hinders the social and economic development of society, politics, and can even damage democracy, values, morality and increase the state's debt.

#### b) Eradication of Corruption Crimes Through a Moral Approach

Corruption, collusion, and nepotism are clearly forms of betrayal of God who has created humans as caliphs whose purpose of creation is to spread goodness.<sup>11</sup> However, what has happened has actually damaged their personality due to chronic deviant acts of corruption which means that within them they no longer have the human side of the corruptors being questioned seeing the losses caused such as poverty and unemployment which are increasingly rampant due to acts of corruption, collusion and nepotism that seem to have ingrained in the mentality of the corrupt.

The third precept of Pancasila, Unity of Indonesia, has clearly stated that corruption, collusion, and nepotism are very detrimental and damage the unity and integrity of the Indonesian state because of the many criminal acts of corruption that continue without strong law enforcement by the Indonesian people.<sup>12</sup> In the fourth precept of Pancasila, Citizens, led by collective wisdom in representation, it turns out that corruption is not in accordance with the noble culture of the Indonesian nation which upholds the democratic values of deliberation and consensus. , collusion and nepotism are known to be very damaging to the values of democracy itself.<sup>13</sup>

The fifth precept of Pancasila, social equality for all Indonesian people, corruption, collusion and nepotism has clearly been proven to tarnish the sense of justice of the Indonesian people with very destructive practices among the elite by seeking maximum profit without thinking about the overall interests of the Indonesian nation and state. With the Pancasila principles related to corruption, collusion and nepotism, the Indonesian people are expected to avoid all forms of corruption without exception, because Indonesia is a country that upholds the law as the main guideline in carrying out the life of the nation and state, in Article 1 Paragraph (3) of the Constitution 1945 which states that "Indonesia is a state of law". A rule of law is a country based on statutory regulations; a country that can take care of its people well, is able to create prosperity and eliminate inequality in people's lives.<sup>14</sup>

On the other hand, people must comply with applicable regulations and must not violate the rule of law. Causes of Corruption in Indonesia According to Arifianto (2004) that there are three theories that are the key to dealing with corruption in Indonesia, they are explained as follows: First, mainstream economic theory explains that the state often acts as a monopoly on state wealth in economic activity. Second, the theory of patrimonialism; this theory argues that corruption can act as a way to increase political integration between ethnic groups, parties and factions in government. Third, the theory of the kleptocratic state; This theory states that endemic corruption resides in a regime controlled by a state leader whose goal through his position is only to enrich himself. Harold D. Laswell in Who Gets What, When, How says that: "Politics is a matter of who gets what, when, and how".

The causes of corruption include two factors, namely internal factors and external factors. Internal factors are the causes of corruption that come from the individual itself while external factors are factors that cause corruption due to external factors. Internal factors consist of moral aspects, such as lack of faith, aspects of honesty, shame, attitudes or behaviors such as a consumptive lifestyle. External factors from economic aspects such as insufficient income, political aspects such as political interests, gaining and maintaining aspects of power, management & organization, lack of accountability and transparency, legal aspects, seen in the poor form of legislation and weak law enforcement and social aspects, namely the environment that encourages the proliferation of corruption itself. In fact, there are many ways to significantly stop corruption, such as strengthening anti-corruption education in schools, strict supervision of financial transactions, mental revolution of the Indonesian people and so on.

However, very few efforts have been made by various parties to eradicate corrupt practices because they are still rooted in the culture of feudalism in our society which leads to corruption that is increasingly rampant everywhere.

<sup>11</sup> Rodi Wahyudi, Hubungan Perilaku Korupsi dengan Ketaatan Beragama di Kota Pekanbaru, dalam Jurnal Integritas KPK, Edisi 02, Nomor 1, Agustus 2016, hlm.191

<sup>12</sup> Izzan, Korupsi Di Indonesia Dalam Perspektif Hukum Pidana Islam, Jurnal Ilmiah Islam Futura Vol. 14, No. 2, Februari 2015

<sup>13</sup> Mawindi, Dwi Satriani Begi, Paradigma Hukum Pidana Islam dalam Pembaharuan Hukum Pidana Nasional (Studi terhadap Kaidah Insaniyah dalam Formulasi RUU KUHP), Panggung Hukum, Jurnal Perhimpunan Mahasiswa Hukum Indonesia Cabang Daerah Istimewa, Vol.1, No.1, Januari 2015

<sup>14</sup> Madiasa Ablisar, Relevansi Hukuman Cambuk Sebagai Salah satu Bentuk Pemidanaan Dalam Pembaharuan Hukum Pidana, Jurnal Dinamika Hukum Vol. 1, 4 No. 2 Mei 2014



One of the countermeasures that is considered effective is the mental revolution that is carried out for the Indonesian people totally and consistently, but there are still many community organs that do it not understand and do not know what and how to interpret the mental revolution which is expected to change the negative behavior order of the Indonesian people which is still far from expectations. all parties who hope that negative behavior such as corruption can disappear from Indonesia.

#### 4. CONCLUSION :

Several efforts to prevent corruption through formal juridical aspects: institutional legal compliance in the implementation of corruption eradication in Indonesia. In an effort to strengthen the implementation of law enforcement. Moral aspect: character building among the young generation of the Indonesian nation. That is the younger generation as agents of change who can control the wheels of government in accordance with the conscience of the people which is in line with the constitution of the Indonesian nation. Aspects of the ideology of Pancasila: by instilling the values of Pancasila and implementing anti-corruption education in any environment in society. The government, law enforcement, and society also need to be active in realizing Indonesia as a corruption-free place that supports the spirit of national progress with the ideals of being free from corruption.

Anti-corruption education studies can be carried out with a positivistic approach to evaluate the achievement of perceptions about the anti-corruption movement. People already know that corruption is bad, sinful, harming others, but there are still many who violate it. This is evidence of awareness and action being harmonious.

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