

Law Enforcement and Integrity in The Eradication of Criminal Acts of Corruption

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Abstract— Corruption is a disease of society which undermines the welfare of the people, impedes the implementation of development, harms the economy and ignores morale, and therefore must be continually eradicated. Law enforcement in the eradication of corruption can be done through the means of punishment and non-punishment with high levels of integrity. Both of these means require the integrity of the state apparatus, both personally and institutionally, moving from moral and ethical values normalized in statutory regulations.

Keywords— Law Enforcement, Integrity, Corruption

I. INTRODUCTION

The problem of Corruption in Indonesia has become a normal behavior because it continues to occur. Corruption and corruption perception can be considered as cultural phenomena because they depend on how a society understands the rules and what constitutes a deviation [1]. The corruptors are not ordinary people but educated and highly educated, who theoretically well understand the rules or social norms, religious norms especially legal norms that have been explicitly stated in the legislation. In the Corruption Law, the measure of threats against unlawful acts up to the threat of capital punishment, but in reality, the threat seems to be less effective because there are corruptors who repeatedly do it. Corruption has truly become a very chronic disease in Indonesia and according to Pujiarto, it must be eradicated immediately.

The efforts to tackle corruption must be a priority because corruption is seen as being able to disrupt and hinder national development, threaten efforts to create social justice, damage the image of a clean and authoritative apparatus, which will eventually damage the quality of people and their environment.

Recent corruption cases have occurred in many institutions of the state, including prosecutors, courts, police, central and regional House of Representatives, the state-owned enterprise, the central and regional government apparatus has led to public distrust of the state administrators and law enforcement officers. Skepticism to the efforts to eradicate corruption in Indonesia is voiced not

only by the public but also by experts and the mass media. This condition is very consistent with the statement made by Robert Klit Gaard in reference [2], "Corruption is one of the foremost problems in the developing world and it is receiving much greater attention as we reached the last decade of the century. "According to him, corruption has become one of the foremost problems in developing countries, and the problem is increasingly drawing our attention in the last decade of the twentieth century.

II. RESEARCH METHODS

This type of research is carried out using normative legal research methods. Normative juridical research is legal research conducted by examining library material (secondary data), which includes primary legal material, secondary legal material and non-legal material. Research approaches The approaches used in this study are:

- 1) Legislative Approach Legislative approach is carried out by approaching the problem under study using the normative nature of the law, because in this study the law is conceptualized as written norms created by the competent institution or official. Therefore, the assessment carried out is limited to legislation (written) related to the problem under study.
- 2) Conceptual approach The conceptual approach departs from the views and doctrines that develop in the science of law. By studying the views and doctrines that develop in the science of law, researchers will find ideas that give birth to legal understandings, legal concepts, and legal principles that are relevant to the issue at hand, understanding the views These views and doctrines are the backrest for researchers in building a legal argument in solving the issues at hand. In this research, the Law approach is integrated with the conceptual approach.

Legal materials in this study are:

- 1) Primary legal material is an authoritative legal material which means it has authority. The primary legal materials used in this study consisted of the BPK Law, the Anti-Corruption Law, the Police Act, the Criminal Procedure Code, the Criminal Code.
- 2) Secondary legal material in the form of all legal publications which are not official documents.

Secondary legal materials used in this study are law books.

- 3) Non-legal materials are legal materials that provide instructions and explanations for legal materials

The legal material collection methods used in this study are:

- 1) Legal material documents
- 2) Study of legal literature

Therefore, it can be said that this research is a library research. In collecting legal material, the writer traces the case and searches the literature based on the subject matter to be discussed.

III. RESULT AND DISCUSSION

3.1. Law Enforcement

A system maker who wants to pair an existing legal body in a logical analytical scheme must work according to a certain mechanism or method. One of the sets of jurisprudence is the nature, system and philosophical basis of the situation, in which a person invites others to give or to do something. Based on this, the term liability was born or more broadly called legal liability [3].

There is a big commitment from the nation's leaders to prevent and eradicate corruption. This commitment can be seen from the government's support to uphold the corruption law by establishing rules that promote and accelerate the treatment of corruption cases both at the central and regional levels.

A big commitment from the government is not supported by the condition of the system and law enforcement apparatus. The facts show that we have not been able to get out or change from the initial conditions of legal institutions which are still influenced by various interests of political and economic power, while the integrity and poor quality of law enforcement officials have not changed [4].

Nurdjana explained that there were a number of things that caused corruption to not be fully eradicated. These things included the low integrity of law enforcement, the condition of infrastructure facilities for law enforcement for criminal acts of corruption that is not yet in line with expectations, and concerning accountability of performance and budget for law enforcement for criminal acts of corruption.

The definition of law enforcement is different from justice. In the narrow sense, the notion is "Law enforcement", whereas law enforcement in the sense of material law, is termed justice. In English, it is also sometimes distinguished between the concept of "court of law" and a "court of justice", even with the same sense, the Supreme Court in the United States is referred to as the "Supreme Court of Justice" [5].

Furthermore, according to reference [6], five factors greatly influence law enforcement, and these factors are closely interrelated so that it is the essence of law enforcement and is a benchmark of the effectiveness of law enforcement. These five factors are:

1. The legal factors itself, especially the law.
2. Law enforcer factors, namely the parties who make and apply the law.
3. Factors of facilities that support the rule of law.
4. Community factors, namely the environment in which the law applied.
5. Cultural factors, namely as a result of creative works and feelings based on the human initiative in the community of life.

Based on the description above, it is clear that the factors that can influence law enforcement vary. However, from the overall factor, the human factor that runs law enforcement is very dominant to determine whether law enforcement is successful or not.

3.2. Personal Integrity and Institutions in Eradicating Corruption

Personal Integrity

Corruption is a deviant act. The theory of deviant behavior (Differential Association Theory) from Edwin H. Sutherland explains that deviant/criminal behavior is taught and studied in interactions with other deviant/criminal people, such as crime techniques, reasons, motives, rationalization, and so on. The researchers cite several theories in the occurrence of criminal acts of corruption, as follows:

1. Vroom Theory the relationship between a person's performance with the ability and motivation possessed. A person's performance is a function of his ability and motivation. It is shown by the level of expertise (skill) and level of education (knowledge) they have. Thus, with the same level of motivation, a person with higher skills and knowledge will result in a good performance. A person's motivation will be influenced by the expectation of the person concerned and the values contained in each of his personality. If he hopes to be rich, then two possibilities will be done. If the value is positive, he will do things that do not violate the law to become rich. But if he is a person who has a negative value, then he will try to find all ways to get rich. One of them is by doing corruption.
2. Maslow's Needs Theory describes the hierarchy of needs from the most basic (bottom) to the highest, is self-actualization. The most basic needs of a human being are food and clothing (physical needs). Furthermore, security needs are housing or shelter, social needs are in groups, communities, nations. The three lowest needs are the prime needs of every person. After the main needs are met, a person's needs increase to the need for self-esteem that is the desire that we are valued, behave laudable, democratic and others. The highest need is the need for recognition of our abilities, for example, the need to be recognized as a head, director or mayor who is obeyed by his subordinates. If someone considers that the highest level needs are the basic needs, then

whatever he will do to achieve them, including committing to criminal acts of corruption [7].

3. Klitgaard's theory in reference [7] that corruption is a crime of calculation is not just a passion. A person will commit corruption if the results obtained from corruption are higher than the penalty obtained with the little possibility of being caught.
4. Theory of Jack Bologne (GONE). Greedy, related to greed and apostles of corruption. Corruptors are people who are dissatisfied with their situation. Opportunity, a system that provides opportunities for corruption. Needs, mental attitudes that never feel enough, are always loaded with needs that never end. Exposes, sentences handed down to perpetrators of corruption that do not give the deterrent effect of the perpetrators and others.

Corruption can not be separated from individuals who are in the state administration. The individual is an important part of preventing corruption both in carrying out duties and obligations as well as preventing acts of corruption committed by other individuals in one institution. An individual can not be separated from 2 (two) things, namely personality and personal abilities.

a. Personality.

Personality refers to controlling one's attitudes to act, think, and feel, especially when he is in contact with others or responds to a situation. Personality includes habits, attitudes, and characteristics that a person has when dealing with others. In general, what is meant by personality is the nature reflected in the attitude of a person who distinguishes from others.

Over the years, many researchers have tried to formulate a variety of theories that best describe human personality. One well-known theory is the Big Five Personality Theory by Warren Norman. The emergence of this theory is inseparable from the various debates and researches among experts and researchers, and after several decades, researchers conducted consensus and agreement on the Big Five theory by classifying human personality into 5 factors namely Neuroticism, Openness, Conscientiousness, extraversion, dan agreeableness.

These five factors are a summary of the 35 factors that were proposed by Cattell before and then summarized into 5 factors by Norman [8].

Thus, in Norman's view, there are 5 (five) main factors of human personality, namely:

1. Extraversion. This factor identifies individuals who have the characteristics of high intensity of interpersonal interaction, and individual ability to have fun.
2. Agreeableness. This factor examines the quality of the individual's personality in thoughts, feelings, and deeds. Individuals who have this personality are usually cooperative and trustworthy.
3. Conscientiousness. This factor examines motivation, position and the ability to organize something in achieving goals.

4. Neuroticism. This factor identifies individuals who have characteristics prone to psychological problems such as stress, easy to feel sad, have excessive encouragement.
5. Openness. This factor identifies the openness of individuals to seek, appreciate and explore new experiences.

The elements that affect a person's personality will determine his way of thinking, to act and to behave. F.G. Robins argues that five factors constitute the basis of personality, namely nature, prenatal environment, individual differences, environment, and motivation.

b. Personal Ability

The ability according to Chaplin is the power to do things. Robbins suggests several forms of ability, namely intellectual ability and physical ability. The ability of the apparatus to work it simply means skill, ability, and dexterity. According to this perception, it can be seen that the ability of the implementing apparatus is related to an ability that a person must have in the form of quality consisting of expertise and skills.

The personal integrity of the state administrators is closely related to the integrity of the state governing body. When individuals become part of a structure, the structure plays an important role in personal integrity. A person's personality is difficult to change, but it can be controlled so that the negative thing can affect personal behavior as part of the structure can be overcome. Therefore, in relation to personal integrity, the researcher considers that several strategies can be carried out in efforts to eradicate corruption, namely:

Improvement in the selection of state apparatus acceptance. The state administration apparatus is the entrance to the implementation of the functions of a state administration institution and has an important role in combating corruption. In the previous discussion it has been explained that personally, individuals have personalities and abilities that will influence the behavior of the individual. Personality and ability are very important in supporting efforts to eradicate corruption before a person is accepted as a state administration apparatus, the personality and ability of a candidate for state administration apparatus are the main factors that must be considered at the time of selection.

The pattern of acceptance and selection of clean state apparatus by independent institutions, providing positive work motivation through reward and punishment, as well as controlling through supervision and sanctions will give birth to behaviors that appear to have commitment, professionalism and responsibility for state administrators. The discussion on eradicating corruption must depart from the discussion on personal integrity as Satijpto Rahardjo's view that the discussion of law enforcement which only adheres to the requirements stated in the legal provisions will only obtain an empty stereotypical picture and will only be filled if it is associated with concrete implementation by humans individually.

From the above view, the authors argue that the discussion regarding personal integrity as a basis for eradicating corruption is an urgent matter because someone is part of an institution, in his position a state administrators tend to carry out their duties and obligations according to their interpretations against certain factors as outlined above. before that is personality and ability.

Institutional Integrity

To be able to realize the integrity of state administrators in eradicating corruption, some things the researchers focused on were leadership, regulating behavior in institutions, improving the quality of human resources.

1. Leadership

A leader in a state governing body is a leader who is formal (formal leadership) that is leadership that is knotted in one position and to him is given a rational authority (relief). The authority granted by a leader of a state governing body lies within the limits governed by legislation and internally governed by a code of ethics.

To be an effective leader, a leader must have social support and have the ability to resolve conflicts and problems that occur in a group. Another view put forward by Peter F. Drucker, is that effective leaders are not good at making speeches and portraying themselves to be liked, effective leaders are reflected in their work rather than their attributes. In relation to the eradication of corruption, the role of the head of the state administration agency is very urgent to regulate and direct the state administration apparatus to work based on statutory regulations.

2. Clear Behavior Settings

Morality and ethics are two things that are very important in an institution which is a combination of personalities that have different personalities, abilities and behaviors. However, as an organization, the standards of the organizing apparatus of the state administrators need to be established as a guideline for ode state apparatus officials in carrying out their duties and responsibilities and become a reference from the ranks of the leadership to provide reward and punishment.

In implementing the function of the institution as a controller of the state administration apparatus, there are 2 (two) standards of behavior that must be determined, namely the code of conduct and the code of ethics. Ethics and Morals are factors that cause state administrators to perform less well and have less responsibility for their duties and performance

In realizing the figure of the government that is responsible to the government. The ethical problem is a problem that must be seen in the context of the system. Ethics do not happen by themselves. Ethics is basically a series of attitudes, beliefs and feelings about something that is embraced and carried out by a nation at one time.

Integrity between Institutions

In paragraph 1 Article 1 of Law No. 28 of 1999 concerning state administrators that are clean and free of corruption, collusion and nepotism, states that what is meant by state administrators are state officials who carry out executive, legislative and judicial functions, and other officials whose functions and main tasks are related to state administrators in accordance with the provisions applicable laws and regulations. Then Article 2 states that state administrators include:

- a. State official at the highest state institution
- b. State officials at high state institutions
- c. Minister
- d. Governor
- e. Judge
- f. Other state officials in accordance with the provisions of the legislation in force
- g. Other officials who have strategic functions in relation to the administration of the state are in accordance with the laws and regulations.

More clearly, Article 2 is explained in the explanation section specifically Article 2 number 6, what is meant by 'other state officials' in this provision, for example, the Head of Representative of the Republic of Indonesia abroad who is an Extraordinary and Plenipotentiary Ambassador, Deputy Governor , and / Mayor. Then in the explanation of Article 2 number 7, what is meant by "Other Officials who have strategic functions" are officials whose duties and authority in carrying out state management are prone to corrupt, collusion and nepotism practices, which include:

- a. Directors, Commissions and other structural officials in State-Owned Enterprises and Regional-Owned Enterprises.
- b. Bank Indonesia Chairperson and National Bank Restructuring Agency.
- c. Higher Education Leadership
- d. Echelon I officials and other officials who are equated in the civil, military and police environments
- e. Prosecutor
- f. Investigator
- g. Clerk of court,
- h. Project leaders and treasurers.

Provisions in Law No. 8 of 1999 shows that the state administrators have a large number so that in an effort to eradicate corruption, two forms of integration between state administrators are needed, namely through coordination and synchronization which will lead to the eradication of corruption.

Integrity with the Community

Community participation in eradicating corruption is contained in Law Number 31 of 1999 concerning Eradication of Corruption, which is further regulated in Government Regulation Number 71 of 2000 concerning procedures for the Implementation of Community Participation and the awarding of awards in preventing and

eradicating corruption. The community has an important role in fighting corruption, including:

- a. Role as a feeder or supply information where the community takes the initiative to report, disclose and provide information to law enforcement officials about the possibility of corrupt practices
- b. Role as a trigger. The low initiative of law enforcement officials in exposing corruption cases has given rise to long disappointment from the community. This freeze is often breached by providing information about allegations of corruption to the mass media so that it is widely known. This becomes very important as a strategy to form public opinion or perception that in one place strong corruption is suspected.
- c. Role as a controller (supervisor). Within limitations, the community still has extraordinary energy to oversee the process of investigating corruption cases that are being carried out by the authorities. Demonstration activities, with opinions. Public discussions, hearings and so on are a means that often used by community groups to encourage the acceleration of handling corruption. Ensuring that the eradication of corruption goes according to expectations is a step that cannot be ignored by law enforcement officials amid a law enforcement situation that has not changed much.

To be able to continue to increase the role of the community in eradicating criminal acts of corruption, one of the laws must be consistent in its implementation. Namely Law No. 13 of 2006, concerning the Protection of witnesses and Victims (LPSK). The protection of witnesses, therefore, is an important thing, bearing in mind that witnesses often obtain both intimidation and pressure from various parties. This guarantee of protection is to provide a guarantee for witnesses to uncover the facts without any pressure from any party.

Therefore, eradicating corruption in Indonesia requires a strategy that puts the integrity of the administration of the country both personally and institutionally, supported by the participation of the community.

IV. CONCLUSION

Corruption eradication can be done through the means of punishment and non-punishment. Both of these means require the integrity of the state administration apparatus both personally and institutionally based on moral and ethical values and normalized in the regulation of the legislation. To improve personal integrity, it is necessary to improve the mechanism of acceptance and selection of state administrators, increase motivation through proper payroll and reward systems, as well as internal control with consistency in applying sanctions for state administrators who commit irregularities in carrying out their duties and obligations.

To improve institutional integrity, it is necessary to improve the leadership system in state institutions, setting standards of behavior, improving the quality of human

resources, coordination and synchronization between institutions, openness, and networking of public participation. All efforts to improve the personal integrity and integrity of the state governing body must be performed by making changes in several laws and regulations that do not support these efforts.

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REFERENCES

- [1] N. Melgar, M. Rossi, and T. W. Smith, 'The perception of corruption', *Int. J. Public Opin. Res.*, vol. 22, no. 1, pp. 120–131, 2010.
- [2] L. Busse, N. Ishikawa, M. Mitra, D. Primmer, K. Surjadinata, and T. Yaveroglu, 'The perception of corruption: A market discipline approach', *Emory Univ. Atlanta*, 1996.
- [3] F. M. Suseno, *Etika Masalah-Masalah Pokok Filsafat Moral*. Yogyakarta: Kanisius, 1985.
- [4] A. Syamsuddin, *Integritas penegak hukum: hakim, jaksa, polisi, dan pengacara*. Penerbit Buku Kompas, 2008.
- [5] D. M. Subroto, *Peran polisi dalam pembangunan*. Jakarta: Sinar Persada, 2001.
- [6] S. Soekanto, *Beberapa catatan tentang psikologi hukum*. Bandung: Citra Aditya Bakti, 1993.
- [7] A. Romli, *Teori dan kapita selekta kriminologi*. Bandung: Eresco, 1992.
- [8] O. P. John and S. Srivastava, 'The Big Five trait taxonomy: History, measurement, and theoretical perspectives', *Handb. Personal. Theory Res.*, vol. 2, no. 1999, pp. 102–138, 1999.