



The Role of CEC in the Implementation of Anti-corruption Policy in Public Finance

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Abstract. Corruption in Indonesia is still very massive. Corruption is an extraordinary crime, which causes negative impacts on various sectors. One of the negative impacts of corruption is public financial losses. There are two approaches for overcoming corruption related to public finance. The first approach is through the prevention of corruption. The corruption prevention approach is carried out when corruption has not yet occurred. The second strategy in eradicating corruption is through a law enforcement approach. The law enforcement approach is carried out when corruption has occurred. The corruption prevention policies are carried out through the improvement of a good governance system. While law enforcement agencies carry out the legal action policy, public financial losses are returned through law enforcement processes and trials in corruption criminal courts. Many corruption cases occur in public sector organizations, especially those related to the procurement of goods and services. The procurement of public goods and services is financed from the burden of public finance, which consists of the state budget and local government budget. The Corruption Eradication Commission (CEC) of the Republic of Indonesia is an extraordinary institution responsible for preventing and eradicating corruption in Indonesia. This article illustrates how the CEC implements the prevention and eradication of corruption in Indonesia, especially related to the public finance security framework. The result shows that, from the law enforcement perspective, asset recovery still needs further improvement. Meanwhile, public procurement should be more integrity controlled from a prevention perspective.

Keywords: Anti-Corruption · Public Finance · Law Enforcement · Prevention · CEC

1 Introduction

Corruption have negatively damaged economic and social problems [1]. Corruption also causes public financial losses [2]. Public finance is finance obtained from tax and non-tax; as well as how the government's policy of spending the state's finances on various sectors and programs [3].

The phenomenon of corruption in Indonesia is like an iceberg. What appears on the surface is a little, but underneath is still very much [4]. When we look closely, since the

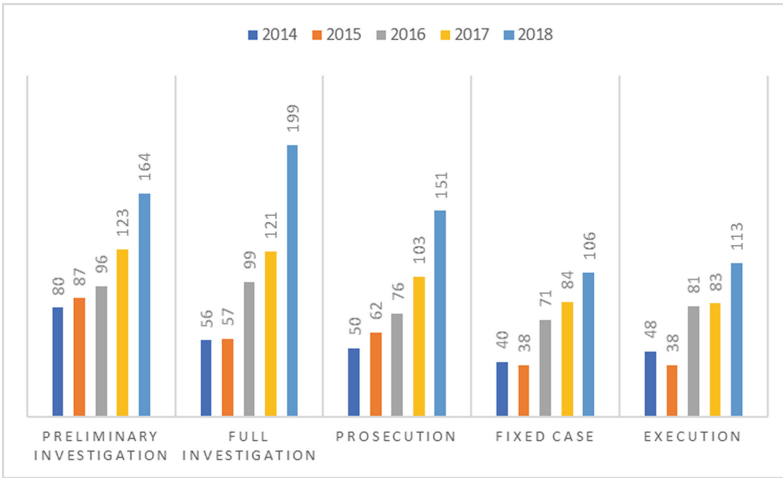


Fig. 1. Corruption cases based on legal action.

CEC was established until now, the number of corruption cases tends to increase yearly. This appears in the following Fig. 1.

The graph shows that the amount corruption cases increase from year to year. There are five steps of law enforcement. The first step is initial investigations, which describe in dark blue colors. The second step is an investigation which is marked with orange colors. The third step is prosecution, which is marked with grey colors. The fourth step is fixed (“*inkracht*”), or the decision of a judge with permanent legal force marked with yellow colours. The last step is execution (carrying out court decisions with permanent legal force), marked with light blue colours.

The corruption that causes harm to public finances occurs in public institutions [5]. The bar chart below illustrates the case of corruption based on public institutions from 2014 until 2018.

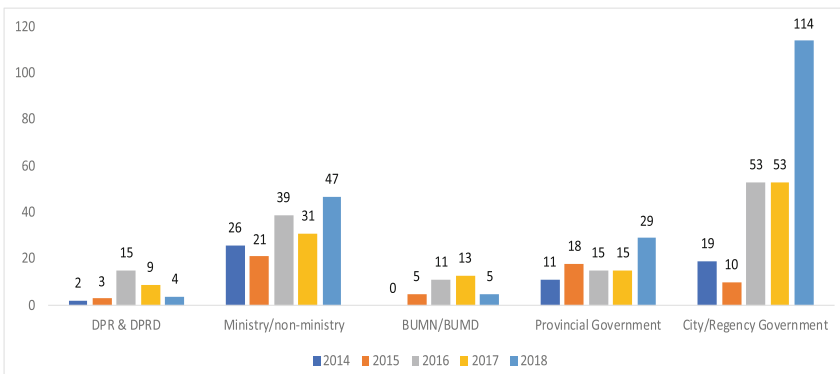


Fig. 2. Corruption cases based on public institutions.

Figure 2 depicts that from 20014 to 2018, the city/local governments are the most corrupt institutions. This condition is affected by decentralization policy and significant fund transfers from the central government to the regions, while the control and monitoring is weak [6].

According to Dikmen and Çiçek [7], the pandemic has triggered the case of corruption in procuring public goods and services. The main reason for this is because of ease or convenience in procuring public goods and services, so corruption increases. These conveniences include direct appointments without going through an auction process [8]. One example of case corruption in Indonesia was the social assistance corruption case in 2020. In this case, the Ministry of Social Affairs conducts the procurement of public goods and services in the form of procurement of necessities through direct appointments. The other view was conveyed by Bîzoi and Bîzoi [9], that public procurement was high in corruption, especially in the healthcare and social sector during the pandemic of COVID-19. According to Farzanegan and Hofmann [8], health projects are vulnerable for being corrupted during the pandemic. The main reason for this is that the public budget was revised to deal with the pandemic of COVID-19. Due to the large budget provided and also flexible for making procurement, so the potential for corruption was also enormous [10].

Based on Law Number 31 of 1999 jo Law Number 20 of 2001, criminal acts of corruption can be classified into seven types of corruption, as follows:

- Related to public financial losses;
- Concerns about bribery;
- Concerns about extortion;
- Concerning fraud;
- Concerns about embezzlement in office;
- Concerns about conflicts of interest in procurement;
- Concerns about gratuity.

There are seven types of corruption, so this article will focus on corruption that concerns public financial losses; that is, how the anti-corruption policy can save the public's financial losses. The CEC has tried to take preventive and legal actions to save public finances. As a result, according to the annual report of CEC 2021, the CEC had saved 120, 04 trillion rupiahs of public finance. This amount is related to:

- Saving potential state losses from asset recovery/control, the realization of infrastructure, facilities, and utilities; regional original revenue receivables that are potentially uncollectable; and asset certification at about IDR 118.09 trillion;
- Saving potential state financial losses from the study of improving governance at about IDR 1.52 trillion;
- Legal action at the amount of IDR 238.9 billion;
- Grants and usage status determination at about IDR 177.9 billion;
- Non-tax revenue in the amount of IDR 10.7 billion;
- The gratuity income determined by the CEC belongs to the state in the amount of IDR 2.4 billion.

In a legal action, executions are one solution that the Corruption Eradication Commission (CEC) has carried out related to the public finance security framework. Execution

is the final stage of the law enforcement process [11]. At the execution stage, the most difficult is not the execution of the person to jail but the execution of the judge's decision relating to the return of public financial losses [2]. In 2021, the CEC had saved the public financial losses due to corruption amounting to IDR 238.9 billion. This amount may seem significant, but compared to the amount of money that has not been returned (IDR 868.05), this figure is still petite. Meanwhile, in the prevention process, the CEC had encouraged the improvement of public services and procurement. Cases of corruption that often occur are the procurement of public goods and services [12]. According to Psota et al. [12], the way to reduce corruption in procuring goods and services is by increasing healthy competition and implementing e-procurement. However, corruption in the procurement of goods and services is still common. The primary key is organizational integrity, not only just in the e-procurement process [13].

According to Karsenda and Salain [14], the concept or strategy of eradicating corruption is divided into two types: prevention and repression or law enforcement. A similar point of view stated by Kidd and Richter [15], that the anti-corruption policy is divided into 2 (two) main policies, namely through repression effort and prevention channels. The repression path is an anti-corruption policy through law enforcement by finding evidence and searching for perpetrators of criminal acts of corruption. Furthermore, the perpetrators of these criminal acts of corruption were prosecuted in court to take responsibility for their actions by serving their sentences and compensating the public for financial losses [11]. In contrast, the prevention approach is an anti-corruption policy through making better system and education. In other word, this corruption prevention approach is carried out through efforts to improve the system, including implementing good governance and education of anti-corruption values [16]. The CEC plays a pivotal role in the prevention and repression of corruption. These two anti-corruption approaches will be further discussed in discussions.

2 Research Methods

This study uses qualitative research methods. A qualitative research method is a form of research that is more aimed at understanding a meaning related to specific values. Besides that, there is a particular emphasis on the process of describing, interpreting, and using multiple approaches. In this article, the method describes the phenomenon of corruption and the CEC's strategy for eradicating corruption through two types, namely prevention and repression. Data collection techniques were carried out through literature reviews, case studies, and interviews. Data analysis was carried out through triangulation and case study analysis.

3 Findings and Discussion

Corruption comes from the Latin language "corruptio", which means rottenness, depravity, dishonesty, can be bribed, immoral, crime, bad deeds such as embezzlement, accepting bribes, and deviations from purity [15]. Corruption has enormous destructive and negative impacts on various public life and the nation, including detrimental to the country's economy and public finance [2].

One form of corruption acts that the CEC often handles is corruption related to public financial losses. The corruption related to losses of public finance is regulated in article 2 and article 3 of Law Number 31 of 1999 about eradicating corruption. Article 2 of the Law has 2 (two) paragraphs, which are:

Paragraph (1) “Every person who unlawfully commits acts of enriching himself or others who are a corporation that can harm the state finances or the economy of the country are sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and the longest 20 years and a minimum fine of two hundred million rupiahs and a maximum of one billion rupiahs”.

Whereas article 3 of Law number 31 of 1999 is as follows: “Anyone who has the purpose of benefiting himself or another person or a corporation abuses his authority, opportunity or means because of his position or means available to him because of his position or authority which can be detrimental to the country’s finances or the country’s economy, is punishable by life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and or a fine of at least fifty million rupiahs and a maximum of one billion rupiahs” [17].

One example of the corruption cases that have the most detrimental to the public finances is the case of procuring an E-National ID Card. In this case, the country’s financial loss reached 2.3 trillion rupiahs. The CEC has made efforts to recover public financial losses. The legal process action starts with an initial investigation followed by conducting investigations, prosecutions, and executions. In the phase of initial investigation stage, the CEC received complaints from the public about the occurrence of criminal acts of corruption. In addition, the CEC also received complaints from other institutions, such as the Supreme Audit Agency, on alleged corruption. The particular team reviewed the complaint and reported it to the CEC. When the review results show sufficient preliminary evidence of the alleged occurrence of a criminal act of corruption, the CEC will proceed to the investigation stage. At this stage of the investigation, there was already evidence of alleged perpetrators of corruption as well as the provisions of the legal aspects that were violated. After the filing of the corruption case is sufficient, the alleged perpetrators of corruption are brought to justice in the corruption court. This stage of the court corruption case trial is called the prosecution process. In this case, the suspect changes status to the defendant. The judge presides throughout a corruption case in a corruption court. If the judge decides the defendant is guilty, the defendant will be sentenced. Punishment for perpetrators of corruption consists of corporal punishment and punishment in compensating for public financial losses. Prosecutors carry out executions of judges who have permanent legal force [14].

The final stage of law enforcement is execution [15]. According to Pavlidis [18], the main problem of law enforcement is execution which is returning financial losses and asset recovery. He said that taking action against corruption aims to maximize the return of state financial losses and asset recovery. A similar point of view stated by Esoimeme [19], asset recovery is the most challenging part of the execution process. Asset recovery is returning of state assets that have been corrupted. Based on the financial statement of CEC 2020, the amount of assets or non-tax receivable is IDR 868.048.019.601. Most of this amount comes from the perpetrators of corruption, which indicates that the amount is still high (more than 860 billion rupiahs). Further, according to Pavlidis [18], the

most challenging asset recovery is the weak legislation and sanctions. It means that not all countries comprehensively regulate asset recovery, and sanctions violations are still weak. For example, if someone has become a convict and is required to compensate the public's financial losses, then the public's financial losses cannot be replaced immediately. It is because of the confiscated assets in the form of fixed assets such as vehicles. Converting fixed assets into cash needs time; sometimes, even the value of those assets goes down [19].

Since the law enforcement policy has more towards policies oriented toward the past, the corruption prevention policy will view the future [13]. Corruption prevention can be done by making a better system and implementing good governance. System improvements are intended to minimize one's space and opportunities for corruption. System improvement is strongly influenced by governance [13]. When the system and governance are sound, the opportunity for corruption is narrow [20].

According to Yi [16], the principles of good governance are accountability and transparency. In terms of governance, accountability is equated with answerability, blame-worthiness, liability, and the expectation of account-giving [21]. Transparency is the principle that guarantees access or freedom for everyone to obtain information about the administration of government and public services [21]. Furthermore, public participation is another main characteristic of good governance [22]. Public participation plays a pivotal role in eradicating corruption. The public can participate in the form of reporting corruption for public officials or government employees to the CEC. In addition, societies can monitor public services using state budgets [10].

Community behaviour is very influential in preventing corruption [13]. Human nature is strongly influenced by society. For instance, if people consider their attitude normal, they assume that the behaviour is correct. Corrupt behaviour is the seed of the occurrence of criminal acts of corruption. Examples of corrupt behaviour are cheating at school during exams, grabbing queues, and violating traffic rules [1].

Besides, according to Pulay [23], integrity is a critical success for preventing corruption. Integrity is a trait or condition that shows complete unity so that it has potential and ability for reflecting honesty. Integrity is reflected in good and right behaviour in any circumstance [4]. The success of preventing corruption is not only determined by the integrity of the individual, but also by the integrity of the organization [23].

The implementation of prevention corruption, the CEC has carried out which includes are:

- The obligation of public officers to announce their wealth to the CEC. The problem with the wealth report is that some public officials still have not fully reported their wealth. This is because of weak sanctions for officials who do not report their assets comprehensively.
- Controlling of gratuity, especially for public officers or government employees. Gratification control is intended to reduce gratuities related to positions and contrary to their obligations.
- Encouraging public agencies to implement e-procurement of goods and services. According to Kohler and Dimancesco [24], transparency and accountability are the key success factor of good e-procurement. E-procurement is the procurement process of government goods/services whose implementation is carried out electronically and

based on the web or internet by utilizing communication and information technology facilities, including electronic public auctions [7].

- The implementation of employee recruitment is free from corruption, collusion, and nepotism. However, as stated by Manacorda [25], bribery and conspiracy in recruitment are still common in some developing countries. As a result, human resources who become employees are not the best and are vulnerable to corruption [15].
- The implementation of e-budgeting and involving the community in monitoring the state budget. According to Khasiani et al. [10], control of the public budget is very necessary to comply with planning or designation and avoid corruption.
- The implementation of a code of ethics for every government employee and public services officer. The regulation of the code of ethics is intended to maintain the integrity of the officials and public finance officers. The code of ethics also aims for employees to maintain their attitude and dignity of the organization so that they always have a good attitude and compliance with regulations [26].
- The management of public finance should be professional, transparent, and accountable. Professional, accountable, and transparent public financial management will determine the success of corruption prevention in securing public finances [5].

According to Psota et al. [12], one of the most common corruptions related to public finance is the process of procuring goods and services. This corruption happens because of the markup or conspiracy between goods and services providers and procurement officials. The main reason for these occurs, the CEC had promoted e-procurement in order to avoid meetings among related parties. However, E-Procurement does not guarantee to eliminate corruption. In fact, moral hazards are more dominant than just implementing e-procurement in public procurement. Organizational integrity plays an important role in preventing corruption [23]. It means that every public organization must implement and strengthen integrity control.

4 Conclusion

The anti-corruption policy can save public financial losses through two approaches: law enforcement and prevention. The law enforcement approach is carried out through efforts to investigate corruption suspects and prosecute those accused of corruption. Furthermore, the judge will make a guilty verdict and stipulate that the perpetrators of corruption must undergo punishment and replace the public financial losses to the state treasury. The main problem of the repression approach is related to optimum asset recovery. Meanwhile, the prevention approach is carried out by improving systems and implementing good governance. The most considerable risk of corruption in public finance is public procurement. Good morale and a good governance system are the keys success of corruption prevention. No matter how good the system is, if the users and actors of public financial management do not have suitable moral hazards, the system will be less effective and less optimal. Therefore, prevention first is the most preferred because it is better to prevent corruption than to take law enforcement.

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