

Corruption As Serious Human Right Violation (Impact To State Administration Construct)

1st Siti Marwiyah
Faculty of Law
DR. Soetomo University
Surabaya, Indonesia
iyat_ss@yahoo.com

2nd M. Syahrul Borman
Faculty of Law
DR. Soetomo University
Surabaya, Indonesia

Abstract—One of appalling diseases in this nation is corruption. Each subject of the nation understand, especially the educated circle that corruption is white collar crime that should be common enemy by all elements of the nation. But unfortunately, although they know that corruption is the common enemy, but in empirical field, or that relate to the attitude and behavior, they have difficulty to reject the abuse of power practice. Many power elites or educated elites dragged into corruption. They use various modus operandi to enrich themselves, family, cronies, including political parties. They even like enter into arena of “horse race” to run quickly or create various accelerative in doing corruption. They run quickly to make prize the people money as much as possible. With the obtained money, they change their social and economic strata, including their political status. The actions can be categorized as the human right violation at serious level.

Keywords—corruption, human right, common enemy, accelerative pattern

I. INTRODUCTION

Corruption still we place as part of “work”, so make us desire or struggle to obtain it. We still proud to be stigmatized as part or segment of those state money abuser than limited income persons with simple pattern who keep the honesty and truth principles.

It can be proven such as just 2 years government make distribution discretion of 1 billion fund to villages, many village apparatus are investigated with accusation of the fund abuse. The case strengthen the assumption that the state fund management that should be for fulfillment of the people rights prone to be abused.

In the social intercourse, human beings in the world have many types. There is someone with high and stable mentality tenacity, although with difficult economic condition will not deviate and break the law in facing his or her social intercourse, but there are also those who fail in adapting with the positive norms, so to adapt with the social intercourse, they use deviant way or break the law. Corruption is one of deviant actions or behavior done by someone or group of person, even clearly called as action which break the law[1]

Reading the phenomenon, it is appropriate to make all days or time to fight against corruptor, the battle from the central to village level. No area even up to the remote place free from the corruptor.

II. RESEARCH METHODS

In this text, a methodology is needed to analyze. Because methodology is a direction guide that will be used in analyzing problems in this article. The research that will be carried out in the writing of this dissertation is legal research, which is included in normative legal research, namely legal research conducted by examining library material or secondary data as a process to find legal rules[2], legal principles, and legal doctrines. to answer the legal issues faced[3].

III. RESULTS AND DISCUSSION

A. Extended Human Right Violation

Corruption, according to Sishartono Hadi is “crime mirror that don’t know time and power. In lowest condition and power, someone or group of persons able to make them as corruptor” Nye, J.S. in “Corruption and political development” defined corruption as deviant behavior from formal ethic rule that relate to someone action in public authority position caused by personal consideration motive, such as wealth, power and status[4]

Village fund which is allocated by government identical with the opportunities and power. Village apparatus get power and opportunities to distribute and account for suitable with the juridical norm.

When they unable to manage opportunities and control their power in accountable way, then it indicates that they are fallen become seed or abuser of state fund.

Special for village fun allocation case, money in about one billion which is allocated should be placed as examination for their intelligence, maturity, and “morality” for their position, not as goo opportunities to abuse it.

Village amount in Indonesia reaches 72 thousands villages. The fund amount for village development reach tens trillion per year, of course it is seductive. If the fund really given, the positive impact very great in “revolutionizing” the society. Revolutionizing the village is fulfilling the societal basic rights or fulfill the strategic need of societal life, so when the right is not fulfilled then it can be said as serious human right violation.

Even so, for the opportunistic community, the authority in managing the village fun relate closely with the political investment in reaching the mass support in election of 2019.

The political benefit shadows the implementation of Law No 6 Year 2014 about village, if it is really abused, then it influences to the democratic construction life or the Indonesian state administration.

Relate to the condition, it is fair if we hope President Jokowi is careful in implementing the village law, because beside the politization “aroma” in fight over authorities of village fund, also the great fund prone to abuse, which the abuse will impact to societal life and state life.

When village fund giving policy not prevail yet, many village head or other apparatus get in touch with policy or attorney relate with the abuse of state fund, even the state fund that is presumed as abused with little amount, or just tens million rupiah, and not in billion rupiahs.

Today condition actually bring benefit for village government, if each element or pillar of government able to manage village fund suitable with the stipulation of the law. With great capital, the village government should has great capital to do many changes toward the societal economic life.

The abuse case at the village zone just as ‘sample’, that corruption has widen to many areas, so this crime impact widely in the society. Because the condition, it is not excessive if called corruption as the serious human right violation. Corruptors able to do their actions to “impoverish” Indonesia.

Predicate as the most corrupt country at various level in the world is usual thing. During the Susilo Bambang Yudhoyono administration, stated that state money either at central or local level is robbed by those who want responsible, it is fair if the nation not surprise. While those who are surprised the corruptors, because afraid to be caught. In Indonesia, it is usual that the thief shouts thief, corruptor shouts corruptor, or robber shouts robber. Collective corruptor, share corruption yield, is something usual. Even it is usual for corruptor to get free decision from court. Law easy to buy, judge and prosecutor make collusion with the defendant. The public prosecutor regulate strategy with the defendant in restaurant is something usual. It is possible the member of legislative body, governmental official, get “thanks money” from the tender winner, or official give tips money[5]

B. Trace various roots

People should not slip to find and steal illicit money, if their have much income or salary. Many people with much salary, still find the way to collect much money as possible. It make important to dissect the corruption root[6]

There are many factors for corruption, such as corporatism. Corporatism in the economic-politic literature equivalent with political practice where government or ruler interact in private (not known by public) with big private sectors (big businessmen). In the closedness, economic or political transaction occurs only for certain interest group involve in it. Usually political transaction or transactional politic or economic like this occurs informally in the obscured legal order or legal order that take side to the small interest group. Collusion like this open room for low to be abused (legal

mafia) so the law like has been handled by certain hands[7].The collusion is pattern (*modus operandi*) which also there is compilation or various interest behind the corruption, also the how big and how wide the corruption.

Corporatism system will always produce instability and people become the party who loss. In practice, corporatism usually together with other practices such as rent seeking done by power elites or elite family. Rent seeking in practice is trading the public post owned by the official to get economic benefit, which in practice has character of ‘corruptive’. The practice can be seen clearly in new order, at the time the capital distribution only be enjoyed by and used by certain few people or businessman (generally the family of Soeharto) and there is monopolistic practice in production[8]. The new order story just as sample that at any regime, the corruption causes relate with the pillars who rule or manage the government.

Muhammad Mustofa, in his book *Cleptocracy*, explains the relationship of family concept in the social order of Indonesia with corruptive action. In Indonesian societies, family is conceptualized as the group not only consist of father, mother and children (nuclear family), but also there is family concept that include all close families and far family, such as grandfather, grand mother, uncle, aunt, and their children, either from father or mother side. In the social order there is demand or expectation to make each individual in the family responsible to the big family member that is not luck[8]. The viewpoint place the problem root of corruption from family, it means the family needs determine the formation of attitude and behavior against religious norm or law such as corruption.

The pattern usually has good benefit. The big family concept can be considered as mechanism that has potential to overcome social problem, such as poverty and unemployment. But, the big family concept also has potential to make conducive situation or advantaged condition for deviant action or power abuse. When there is demand or responsible executed to help each other with family member who is disadvantaged, someone at position where he should give material help (sometime job giving). The condition same with “the expenses higher than income” so the individual should find additional income to cover the shortage. It then make individuals do actions to get additional income with illegal way, such as corruption[8], the additional income then considered as obligatory for self, family and the cronies.

Why corruption can grow well in Indonesia? Many causes. One of them the societal welfare that is low, it caused by low income and salary and mental of Indonesian that want to be rich quickly without work hard. Indonesian culture still money oriented that cause many Indonesian people fight for money without consider the way to get it. Moreover the Indonesian bureaucracy as the heritage from Dutch, that is complicated and open opportunities for corruption. Even today the religious values become faded or reduced make many people seduced with corruption practice[9]. Money or wealth hunt as much as possible is desire in the greed character that is given place to wander liberally.

IV. EVERYONE CAN BECOME A CORRUPTOR

Resistance to corruption should be enforced anytime. From time to time, all day or time should be made as gold momentum against corruption, especially in the country, because beside Indonesia still the corruption champion, also many money abuse that get less serious handling by the law enforcer. The accusation indicated by the obscurity of corruption handling that relate with certain elites.

And also to the corruption in the state, everyone or what is the institution that handle the corruption, include Corruption Eradication Commission (KPK) should be institution that must be controlled, should have no immunity right, or considered as the cleanest institution and can not be seduced by corruption. Why?

History told, at least since new order, that institution formed by government, those that mandated to oversee performance of bureaucracy and law enforcer, not strong enough in oversee the bureaucrat behavior and law enforcer with cleptocrate mental. They are precisely "strong" joint in corruptor zone.

If placed in real, the real terrorist in the country is corruptor, because corruptor is according to Edwind Sutherland called as the doers of "white collar crime", who have special abilities in intellectual, management of power, bureaucracy, sufficient network, and whose targets are calculated systematically.

We have read, that corruption not because of economic difficulty, but dominantly caused by the greed to collect wealth as much as possible without considering the impact to the people.

State money abusers have mental don't want to know because of their action the people live in bad condition, bed economy, low purchasing power, and stimulate other crime such as robbery, violence in household, and the fall of state image in other states viewpoint.

The specialty of the corruptor make other power at the side of truth and justice, difficult to overcome them.

When emerge moral, political, and legal will to eradicate the corruptor, they also prepare the ways to avoid and win the battle. Corruptors organize their power to overcome any political power against them.

Their expertise felt strong "invulnerable" compared with the apparatus ability. Apparatus should mobilize their gun in maximizing the work of criminal justice system for corruption case, often face big wall that make them loss their power.

It can be proven, many law enforcer apparatus (such as prosecutor, police, judge, and attorney) or financial auditor such as Financial Examiner Agency (BPK) become those who trapped in the "Olympiad" become corruptor.

They don't want be left out if they don't take part to take part of state wealth and become corruptor. They make corruptor as state enemy, they themselves become juridical hero that use the articles as instrument to catch corruptor, even

behind the scene, they also become the expert player that get great benefit.

They don't want to be losers in getting or abusing the state financial sources. While the law enforcer, enter themselves in the collaborative field with the suspect or defendant to get 'dividend' from wealth they obtain. Rural communities finally get the impact, never live prosperously, because the village fund become the dividend object by apparatus with corruptive mental.

They promise or accept agreement orally with corruptor without work hard. They also design themselves as the runner, master, wrestler, boxer or 'player' who deftly use the juridical norms as the barter object.

While the auditor also hunt 'blessing' from the excessive money of the corruptor. They take role as the engineer or faker of number, that should be given objectively, then become obscure because has been made suitable with the request. Financial data become invalid, but protected make it separated from the reach of law enforcer, especially if the law enforcer also become part of corruption syndication.

C. Relation Of Corruption With The State Building

The religious circle understand that in the religious perspective, corruption is considered as bad action. In the Islamic perspective, corruption is including as bad action that damage the goodness, life benefit, and life order. The doer considered as conduct big sin. In the wider Islamic thought corruption is action that against the principle of justice, accountability, and responsibility. The action clearly is blotting the state life. Someone or several person that become state pillar slip into the crime have destructed and weaken the state building.

It is impossible to be called as strong government during in the implementation controlled by corrupt official. They should do various way to make the personal or group benefit can be obtained easily, while the state or people interest sacrificed.

Corruption as deviant phenomenon in the social, cultural, societal and state life since long ago is investigated critically for the scientist an philosopher. Greek Philosopher, Aristoteles, followed by Machiavelli, for example, has formulated moral corrupt. Moral corruption refer to various deviation of constitution, so the regime ruler, including in the democratic system, not anymore headed by the law and not serve the people, but serve themselves.

When the state building pillar form and strengthen the corruptive mental, there will be no strong state building. The allurements to build strong state or government just only political campaign that entertain the public when in the reality, the governmental implementation executed based on falsehood and colored by abuse of power.

Corruption is serious power abuse disease whose impact to the porous or even the death of the principles of justice, prosperity, equality, truth, humanity, honesty, and strategic interest of the state.

Not a bit of elitist power or state organizers from executives from the Minister of Ministerial level, Regional Heads to Village Heads, Judiciaries, Legislatives, including political parties, who are dragged into corruption. They use various modus operandi of corruption to enrich themselves, families, and cronies. Their actions also involved elements outside the state administration, namely elements related to the operational policies of the state authorities.

When the pillars that support the activator of the state strengthen the corrupt mentality, and the administration of government is carried out by abuses of power (abuse of power), then it is difficult to get a strong constitutional building.

Corruption as a manifestation of a serious abuse of power will have an impact on the lack of constitutional structures and will not be able to realize social justice, prosperity, prosperity, even in violation of human rights, for all the people of Indonesia as aspired by the founding father as outlined in the state constitution us, and become the hope of all Indonesian people. This will also greatly disrupt the strategic interests of other nations.

IV. CONCLUSION

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