

The Role of Communities In Preventing The Criminal Acts of Corruption In The Village Government Administration

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Abstract—The emergence of Law No 6 2014 about Village has changed the paradigm which starts with “state-driven village development” into the new paradigm “community-driven village development”. It is realized that the village head discretion in managing fund prone to abuse. Many legislation in the criminal acts of corruption is not sufficient to prevent corruption because of that it should be developed a system that able to build anti-corruption behavior by involving the communities. It needs principles of accountability, transparency, communication, and participation in the fund management and village government. The article used statute approach, the previous researches are analyzed prescriptively.

Keywords—*village government, role, communities, criminal act of corruption*

I. INTRODUCTION

Most Indonesian communities live in rural areas which structurally and administratively have great role in the development of the country. According to The Central Bureau of Statistic year 2004-2013 the villages amount in Indonesia about 80.714 villages. Through Village Law, the objective is not only the village but the communities live at the village also. Image of traditional values given to the rural communities such as “don’t appreciate time”, “lack of hard work”, “no have achievement mental” [1] should be disappeared with the prevail of Village Law. Related to the minor valuation to the village communities can be understood because the attitude and the values are the “deposition” of disappointment come from the village problems which come from the structural policies that weaken the villages.

The spirit which is mandated by Law No 6 2014 about village (then called as Village Law) to make the village as the development subject. Because of that, the spirit clearly stated in the general explanation of Village Law number 10 about Village Development and Village Area: “Village development aimed at improving the village communities welfare and human life quality and poverty alleviation through the provision of basic needs, infrastructure and facilities construction, local economic potential development, and the sustainable use of natural and environmental resources. So, the Law use 2 (two) approaches, that is “state-driven village development” and “community-driven village development” which is integrated into Village Development Planning” But actually in the fact, many village heads are indicated conduct abuse to the village fund. It is the time for the communities emerge as the ‘law enforcer’, that is participating in

overseeing the village fund. Because if the supervision only depends on the law enforcer apparatus only limited effort.

II. RESEARCH METHODS

The research is normative research that used statute approach and prescriptive analysis[2]. *Maintaining the Integrity of the Specifications*

III. RESULT AND DISCUSSION

A. *Spirit of Law No 6 the Year 2006 About Village*

Village governance policies contained in the Law No 6 the Year 2014 about village recently considered as a policy which brings new hope in the effort to improve village communities welfare. The several policies such as big-budget allocation for village aimed at improving the village budget in development, services, coaching, and village community empowerment. Then with the fixed income and the allowance to the village head and the apparatus.

In the effort to embody the village as the development subject, then the village head as the governmental implementer given wide authorities. At another side, the apprehensiveness about the easy abuse for the fund so criminal acts of corruption will move from local office to the village apparatus, including the village head as the power supreme in the village. This apprehensiveness in the prevail of the village law, which is new relative, has been proven. Task force receives continuously the societal complaints about the abuse of the village fund from all the corners of the country. Up to now, it is received 932 reports enter into the Task Force of Village Fund. Finally, the presumptions increase when the Pamekasan Regent and other officials were arrested in the sting operation (OTT) of Corruption Eradication Commission (KPK) to several officials in Pamekasan Regency on August 2, 2017. In the relation, WanaALamsyah the ICW researcher stated:

“.....there was a phenomenon is called “local elite capture” in which leaders at the village level misused village funds disbursed from the central government. According to the report, village funds were among of the top five sectors prone to corruption. In 2016, the government allocated Rp 47 trillion (US\$ 3.5 billion) for the village fund program. The number of corruption cases at local government levels was also on the rise owing to a lack of participation from villagers and poor monitoring, Wana said. “Villagers

should be involved in the process of planning and managing the village funds to prevent corruption,”[3].

Prevention and handling effort for criminal acts of corruption that only depend on law enforcer such as police and KPK is a just limited effort. Because of that it can be understood if in the Criminal Acts of Corruption Law regulated about the role of society in conducting supervision and reporting if know the indication of criminal acts of corruption.

Village Law philosophically has given the role for societies as contained in the participation principle. Decentralization which was started in 2001 gives new hope that government will be managed with good governance principle but even bring new actors and change the operands modus of corruption at the local level and improve the opportunities for the officials to do corruption[4]. With fiscal decentralization up to village level and without underestimating the Village Consultative Body as the institution which does the supervision function and implementation of village government, supervision ‘out’ of village apparatus still needed. Because in the fact, the posts of Village Consultative Body often filled by the village head family, if not family then the conflict between village head and BPD will fill the operation of village government. (Atmoko, 2014.) of course, needs distinct handling that involves the community participation in supervising the village fund and the village government implementation.

B. Role of communities in the village government

World Bank defines corruption, as quoted by Devi [5] that is: “The abuse of power to obtain private benefits and includes payments of bribes, embellishment, favoritism, inappropriate use of influences, irregular payments in public contracting. Corruption is one of the issues related to government, law, religion, and politics”.

In the effort to prevent and eradicate criminal acts of corruption then one of aspect that should be given emphasis is law supremacy. Law enforcement issues are echoed massively, but it should be followed up with active, real, and concrete actions. At the regulation level, at least 10 (ten) regulations from TAP MPR up to presidential instruction about corruption eradication have been issued and many supervisory bodies made. At the societal layer, almost all institutions are supervised, there is Indonesia Corruption Watch, Government watch, Procurement Watch, Parliament Watch, Presidential Watch, and Bali Watch.

. In this relation relevant with the opinion of L. Santoso that:

“So far the societies tend to understand that corruption is only juridical problems, and only can be approached with legal approach. Corruption actually relates with behavior that is supported by cultural mentality and thinking that make “wealth” and “power” as the main thing, as the instrument to enrich themselves not to serve the public interest. Corruption occurs because the doer considers that the owned power, including the power to manage finance,

is a blessing for the life. Power is not mandated that should be accountable for to the God and the public. Because of that, the power orientation tends to give emphasis to the desire fulfillment to get wealth than then desire to give public benefit...”[6].

Ongkhokham (1983) analyzed corruption from the historical aspect, where the concept of corruption emerge with the separation between personal finance of official with the official finance. Before the presence of the separation, it occurs that personal financial interest together with the official interest. It emerges in the traditional state such as Mataram. The state need for money caused by the financial system at the time lack efficient in collecting the tax. The most efficient and widely used is by selling post at the rich person. The post selling called asvenalty of office and is the prevalent practice before the 19th century. So rich person who buys the post will try to get as much as possible benefit from the post bought and it is considered as usual[7].

Based on the explanation above it can be understood if concluding that corruption is tradition so difficult to eradicate. Because the fact in the field showed that our agrarian societies tend to deliver something bad indirectly. Especially Javanese that able to cover their disappointment through feign and this ability is considered as the life excellence, as high art and with the positive value, various cultural obstacles that have the role in inhibiting the corruption eradication and fertilizing the corruption opportunities [6].

Along with the thought above, it should be noted the opinion of [8]:“...Although regulations are arguably a necessary condition for fighting corruption, they are not a sufficient condition. Almost all countries have anti-corruption laws on their books, yet the incidence of corruption among countries varies widely, without correspondence to the strength or number of existing rules. Anti-corruption drives that are limited to regulations may paradoxically increase opportunities for corruption, through breeding regulations and red tape. More fundamentally, though, they fail to distinguish clearly between rules and the motivation for following rules. Fighting corruption demands focusing on motivations and opportunities, not the rules themselves “.

Research of Woodhouse was 12 (twelve) before the emergence of Village Law (Law No 6 the Year 2014). The research is funded by the World Bank based on communities with the fund of Rp. 370.000.000,00 (three hundred and thirty million rupiahs) for infrastructure development and small loan at more than 20.000 villages nationally. The research goals are: (1) to change the massive corruption condition in the village by breaking the monopoly of information, resources, and access to justice (2) to prevent corruption in the projects itself by decreasing the project structure incentive toward corruptive behavior [8].

One of Village Law principle is the participation principle. Relate to participation, the opinion of O'Connel (1999) as quoted by Teguh who stated that communities should ensure the need to implement rights and duties in balance. In this context, the thing should be done is improving the societal

awareness about what thing that they can do for collective goodness [9].

Relate to the societal role in overseeing the village fund, there is should be the commitment between villagers and the apparatus that developing village is mutual interest. This commitment not found at all village, there are village heads who want to use the village fund as efficient as possible and for mutual welfare. There are also many villagers who unwilling to “oversee” how the fund managed without aware that they actually have rights to participate in the planning, usage, and the report to the government. Research done by Lucas [10], in the conclusion stated that the infrastructure development project of Bandar Agung failed to fulfill the participation and accountability goals because of the power monopoly at the village head and collusion with the higher authority. All inhabitants know about corruption, but they are not part of power circle at the Bandar Agung village, should care about what they say to who. Because of that, it needs villager empowerment in the village.

Relate to the matters then the regulation of Village law also based on empowerment. Relate to empowerment, Yang (2005) as quoted by Teguh stated that it needs mutual trust between public administration (village head and village apparatus) and villagers to improve the public involvement (communities) in public administration (village government), where the trust has four dimensions:“(a) trust of citizens to fellow citizens; (b) trust of citizens to the elite; (c) trust of the elites against fellow elites; and (d) trust of the elites to citizens. In addition to the trust that must build between the public administrator and the community and vice versa, there are a number of things that must consider in order to raise public awareness to participate in government activities” [9].

While relating to the trust, Teguh quote the Michel opinion, stated that the trust relates with the mutual vision and several other attributes to embody the effective partnership between government (village) and the communities. The attributes are (a) compatibility among the participants based on mutual trust and respect (b) benefit for all partners (c) power equality with partner (d) communication channel (e) adaptive ability and (f) presence of integrity, patience, and willing to solve problems [9].

Fund from World Bank is followed with requirements aimed at socializing how to create the system that able to prevent the corruptive behavior. The requirements such as: simplify financial format so able to understood by villagers, transfer fund to the village bank account, oblige all financial transaction signed by 3 (three) governmental apparatus (sub-district), all transaction detail should be posted at the village announcement board, require regular village meeting to calculate the project fund where the inhabitants have right to suspend the fund liquidation further if awkwardness [8].

Besides the society is given right to report to the police if found the corruption indication. It is regulated at the article 41 Law No 31/1999 jo. Law No 20/2001 (Criminal Acts of Corruption Law), states as follows:

- (1) Society has the role to help effort to the prevent and eradicate criminal acts of corruption.
- (2) The role of society as given in paragraph (1) embodied in the form:
 - a. Right to find, obtain, give information about the presumption of criminal acts of corruption;
 - b. Right to get service in finding, obtaining and giving information about the presumption of criminal acts of corruption to the law enforcer who handles the criminal acts of corruption;
 - c. Right to give suggestion and opinion to the law enforcer who handles the criminal acts of corruption case;
 - d. Right to get the answer for questions about the given report to law enforcer at least 30 (thirty) days;
 - e. Right to get legal protection in case:
 - 1) conduct the rights as given in letter a, b, c.
 - 2) asked to present in the investigation, depth investigation, and in the trial as the witness suitable with the stipulation of the applicable legislation.
 - 3) society as intended in paragraph (1) has right and responsibility in the effort to prevent and eradicate the criminal acts of corruption
 - 4) right and responsibility as intended in paragraph (2) and paragraph (3) are implemented based on the principles or stipulation determined in the applicable legislation by obeying to the religious and other social norms.
 - 5) stipulation about the implementation procedure and the social role in preventing and eradication criminal acts of corruption as intended in the paragraph is regulated further with the governmental regulation.

The stipulation above based on the viewpoint that by giving right and duties to the societies in the corruption eradication as something helpful and also the positive thing in the effort to prevent and reveal the corruption cases occurred in the society. Besides that, the eradication of corruption criminal acts is not only the affairs for government or law enforcers. It is difficult for KPK to handle the criminal acts of corruption that are systemic [10]. So each person should participate in the eradication of criminal acts of corruption. People as the taxpayer has right in asking the accountability of state management.

Woodhouse in their recommendation to create the anti-corruption system for the person in charge (village apparatus) should be limited in case of discretion, monopoly, presence of accountability, information distribution, transparency, and societal participation.

C. Protection form

It is realized that to open or giving information about the indication of criminal act of corruption to the authorities need special braveness. Realizing the matters the government issued Governmental Regulation Number 71 year 2000 about the Procedure, Societal Role and Award Giving in Prevention and Eradication of Criminal Acts of Corruption (PP No 71/2000). Several things need to be given attention in PP No.71/2000 as follows:

1. Legal status

Implementation procedure of societal participation in prevention and eradication of criminal acts of corruption in Governmental Regulation No 71 the Year 2000 about the Procedure, Societal Role and Award Giving in Prevention and Eradication of Criminal Acts of Corruption. Article 2 paragraph (1) in the Governmental Regulation stated that each person has right to find, obtain, and give information about the presumption about the criminal acts of corruption and give suggestion and opinion to the law enforcers and or the commission about the criminal acts of corruption.

Explanation of Article 5 paragraph (1) PP No 71/2000 determines what is the legal status of someone when delivering opinion report or suggestion to the law enforcer or commission are guaranteed as fixed will not change become the suspect. The stipulation is fair because if the suspect status is not guaranteed then the expectation to get participation and societal involvement in the eradication of criminal acts of corruption will be vain.

2. Security feeling

Legal protection about the security feeling will be charged to the local police. The protection from threats to the informants.

3. Compensation

Article 7 paragraph (2) PP No 71 / 2000, determines that compensation given to those have merits in giving help to facilitate and smooth the prevention of criminal acts of corruption in the form of charter or bonus. The procedure in giving award the form and function is determined with the Minister of Justice and Human Right No M. HH-04.KP.07.05 the Year 2009. In article 8 it is regulated that the determined premium at most 2 (two) per mil from the state lost brought back to the state.

IV. CONCLUSSION

Based on the explanation above, the effort to eradicate the criminal acts of corruption will not succeeds without creating

the system that able to decrease the opportunities to create corruptive behavior. Anti corruptive behavior can be built and need societal participation. In the village autonomy era, the people should aware and empowered about the planning, management, and use of village fund. So the principle in the Village Law can be implemented well, the societal participation improvement.

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