

The Effectiveness of Corruption Eradication: Integrated System Approach

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Abstract

The eradication of corruption must be done comprehensively. Therefore, the conventional legal approach has been inadequate in dealing a systematic and widespread modus operandi of corruption and extraordinary crimes. This research uses normative-research method. This research was conducted in Makassar as the Capital of South Sulawesi Province and Mamuju City as the Capital of West Sulawesi. The results shows that corruption eradication as an integrated manner has not been effectively maximized, because it is not supported by sufficient human resources, qualified and moral. To create an integrated anti-corruption eradication effectiveness, it is suggested repressive and preventive actions be undertaken simultaneously and integrated, supported by sufficient human resources, qualified and morally supported by adequate means and costs as well anti-corruption communities. In addition, to eradicate corruption as the embodiment of immoral behavior, it is suggested that moral education and anti-corruption embed shameless cultural values to corrupt as national programs and national movements to create the same motivation, perception and spirit in eradicate corruption.

Keywords: Corruption, Criminal Law, Integrated System

1. Introduction

At the practical level, corruption has become a social phenomenon and illegal acts. The corruption is increasing from year to year, both the quantity and the quality. The increasing of corruption can be seen, for example, on the number of perpetrator and the amount of corrupt money that can be known, not including the corruption that many occur and not revealed (*hidden crimes*). It is known that the impact of corruption as an iceberg (*the iceberg model*) in the middle of the ocean. Likewise, in the effort to eradicate corruption, there is always a cynical tone that the eradication of corruption is done selectively or law enforcement is weak. The increasing of quality (of course in the negative sense) can be seen in the ways and forms of corruption that also continue to grow and the courage of perpetrators who are constantly looking for new ways to corrupt.

By the increasing of quantity and quality in corruption, then corruption is no longer seen as an ordinary crime, but it has been classified as extraordinary crime. Therefore, in the effort to eradicate corruption cannot be done ordinarily, it is needed an extraordinary way for the action and efforts to eradicate it.

In the current form of corruption, Dirdjosiswono (1984:77) suggests that the forms of corruption have become no longer classifiable as the *White-Collar Crimes*, but more than have been formed an embryo of organized crime. Several authors gave a different picture of corruption, as Ermansjah Djaja (2010:11) describes corruption as a disease; corruption in Indonesia has evolved in three stages: elitist, endemic and systemic. In the elitist stage, corruption is still a typical social pathology within the elite/official sphere. In the endemic stage, corruption penetrates the reach of the broader society, and the critical stage is when corruption becomes systemic, that is, when everyone in the system is affordable for corruption. It is possible that the disease of corruption in this nation has reached the systemic stage.

Until now, the development of corruption has been a result of the system of governance that is not orderly and not well supervised because the legal basis used also contains many weaknesses in its implementation. Supported by a weak system of *checks and balances* between the three powers, then corruption is institutionalized and approaches a culture that is almost impossible to eliminate. Almost all members of the community cannot avoid the "obligation" of giving tribute when dealing with government officials, especially in the field of public services. It does not seem to give any graft is a sin for those with an interest in government affairs.

As described above, it is clear that the eradication of corruption must be done comprehensively. Therefore, the conventional legal approach has been inadequate in dealing a systematic and widespread modus operandi of corruption and extraordinary crimes. On the basis of this, the strategy of corruption eradication in Indonesia should use 4 (four) approaches namely; legal, moralistic and faith, educative and socio-cultural. The legal approach plays a very strategic role in corruption eradication.

Thus, a new legal approach is required that places the interests of nation and State or the economic and social rights of the people above the interests and rights of the suspect or defendant. The new legal approach is in line with the provisions of Article 29 of the Universal Declaration of Human Rights of the United Nations which assert that restrictions on the rights of individuals may be justified as they are aimed at protecting broader rights originated in the form of law. The success of the approach is not solely measured by the success of the legislation product but must also be accompanied by consistent law enforcement measures that are both

moralistic preventive and proactive repressive.

The moralistic and faith approach are the limiting signs to straighten up the steps of law enforcement and strengthen the integrity of State administrator to always uphold justice based on the Almighty God in carrying out law enforcement tasks against corruption. The educative approach complements both above approach and functions to mobilize and improve peoples' reasoning power so as to understand comprehensively the background and causes of corruption and its preventive measures. The socio-cultural approach works to build a society culture that condemns the criminal act of corruption by conducting a widespread and equitable public campaign to all corners of the country. The empowerment of public participation aims to foster an anti-corruption culture among the public from the level of kindergarten education to the higher education. These four approaches are the key to success in eradicating corruption that must be implemented synergistically.

The shift in effectiveness as the authors point out above draws the author's attention to writing this dissertation, in the hope that there is a solution that can be used to eradicate corruption in an integrated and simultaneous manner between preventive and repressive corruption eradication.

2. Method of the Research

The type of research is normative-research method. The type of normative juridical is done qualitatively by relying on library research (Soekanto, 2006). Through library research, data and information can be extracted in accordance with the principles of rational, critical, objective, and impersonal, whether it comes from legal materials of primary, secondary, and tertiary.

This research was conducted in Makassar as the Capital of South Sulawesi Province and Mamuju City as the Capital of West Sulawesi. The population in this research at the District Court of Makassar, the District Attorney of Makassar, the District Court of Mamuju, the District Attorney of Mamuju, the High Court of South Sulawesi and West Sulawesi and the High Attorney of South Sulawesi and West Sulawesi. The sample of research was five prosecutors who investigating corruption cases and five judges who tried corruption case.

3. The Effectiveness of Corruption Eradication in Integrated System

Actually, the establishment of a special institution to eradicate corruption in Indonesia is not something new. However, the establishment of a special body with a vast authority, in addition to investigating and prosecuting in corruption cases, it should be noted as an aspect of reform in law and Indonesia's criminal justice system.

The political will to form such a special body cannot be separated from the background of thought to overcome the problem of corruption eradication that cannot be implemented optimally. The existing law enforcement agencies, which have been tasked and authorized to handle corruption cases, have not functioned effectively. While, the corruption itself has in such a way took place in society, and has been done systematically and widespread, in the end it felt have violated the social and economic rights of society, as part of human rights. The consequences of such corruption, including corruption among law enforcers themselves, create doubts, or even distrust and apathy towards the effectiveness of the functioning of the Indonesian criminal justice system in eradicate corruption.

Criminal justice is a process in which there are several agencies (bodies) or law enforcement agencies and their apparatus that work in accordance with the duties and authorities of each. Therefore, criminal justice can be understood as a process concerning the activities of the criminal justice body. Activity within the process itself is a gradual and continuous activity, starting from investigation, prosecution, trial inquiry, and ending with the execution by judge.

The ongoing activities are each conducted by different law enforcement agencies administratively and structurally. The investigation activities are conducted by the police, and prosecution by the prosecutor. While, the trial inquiry are conducted by the court, and the execution by judge is conducted by correctional institution. However, functionally these law enforcement agencies are one another must cooperate within the framework of the system, namely the criminal justice system.

In Indonesia for decades, the criminal justice process has been marked by the dualism of investigative authorities. In general, the law places the investigation authority on the police force, so in practice emerges the term "*sole investigator*". That is, the police are the only means of law enforcement country that is authorized to conduct investigations in every criminal case. Article 6 paragraph (1) of the Criminal Procedure Code determines: investigators are (a) the police of the Republic of Indonesia; (b) a certain civil servant official who is specifically authorized by law. Meanwhile, the law also still recognizes the existence of the authority of investigation of specific criminal acts on the prosecutors' office under the provisions of the special criminal law itself (Article 284 paragraph (2) of the Criminal Procedure Code).

Functionally, the occurrence of such collisions of investigative authority, it describes a tendency that put forward the way of thinking that is centric institution. Such thinking is obviously undesirable, and can undermine the operation of criminal justice as a system. In addition, centric way of thinking, it is enough to give an idea that the concept of "integrated criminal justice system" has not been implemented in the criminal justice

process, because the desired concept is the creation of close cooperation between the criminal justice subsystems itself.

In the context of the integration of the criminal justice process should be avoided self-stance that may damage the work or proceeding of criminal justice as a system. Independence occurs when a subsystem considers other subsystems as separate environments, so they do not work together as a system. They are merely paying attention to or thinking about the work of their own institutions, regardless of how the work of agency affects the work of other agencies. Such an attitude is referred to as a centric and fragmentary, which is not desired in the conception of “integrated criminal justice system.”

Various conflicts among law enforcement agencies as described above can be said to have become a phenomenon that significantly colored the journey of the criminal justice process in Indonesia. This phenomenon must be recognized, because each agency is administratively and institutionally stands alone. Therefore, each agency has its own way of working or method of implementing its duties and authority in accordance with the prevailing provisions.

The condition are becoming increasingly unfavorable in the prevailing legal culture, where law enforcement officers have not had the same vision and perception in applying the applicable legal provisions, so that each has its own view according to the field of duty. Sometimes, it is possible that the legal culture is crippled by other factors outside the law. And the formulation of the judicial and the police laws are inexplicitly, which tend to overlap in formulating the authority of the investigation.

To minimize the likelihood of such collisions, theoretically it is noteworthy that 3 (three) forms of approach in the criminal justice system are proposed by Antasasmita, (1996: 17-18) are normative, administrative, and social approaches. The normative approach is an approach that views the four law enforcement apparatus (police, prosecutors, courts, and prisons) as the implementing institution of the prevailing laws and regulations, so that the four apparatus are an integral part of the law enforcement system solely.

The administrative approach views these four law enforcement apparatuses as a management organization that has a working mechanism, both horizontally and vertically in accordance with the organizational structure prevailing within the administrative organization. While the social approach views the four law enforcement apparatus as an inseparable part of a social system, so that society as a whole is partly responsible for the success or failure of these four law enforcement apparatus in performing their duties.

4. The Relevance of Shame Culture in Effort to Eradicate Corruption

4.1. Corruption as the Embodiment of Immoral Behavior

One notions of corruption as the author describes in the literature review is the view of Syed Husain Alatas. He argues that corruption is an immoral manifestation and a drive to obtain something by theft and deception methods.

This is as the writing posted in the guest room of the District Court of Mamuju that corruption is a moral disease. This is also as the results of interview with the prosecutor Salahuddin, as Kasipidsus of State Attorney of Mamuju (interview June 30, 2014) who argued that the main cause of corruption is the morality of greedy, consumptive, shameless and luxurious lifestyle practice. Despite many causes of corruption that can be mentioned such as lack of salary, weak supervision, ineffective law, weak law enforcement etc., but bad morality is the most significant cause of corruption. Therefore, he went on to argue that the first and foremost that must be improved is the morality of officials in order not to do corruption. If the officials have good morals we can be sure we can eradicate corruption at least minimized, so the predicate as one of the most corrupt countries can turn into a State that eradicates corruption.

Depart from views and the above interview it is clear that the most fundamental causes of corruption are immoral or immoral actions or contrary to good morality. Indeed, in broad measure we can mention the causes of corruption is a system of mismanagement of the State, low civil servant compensation, greedy officials, law enforcement is not working, the punishment is mild to corruptor, ineffective supervision, the lack of exemplary leaders, the conducive community to corruption and others. Nevertheless, all causes of corruption mentioned above are born of immoral personality.

As corruption is an immoral manifestation, then the most fundamental to be improved is morals. This is as significant principle in combating crime in general and corruption in particular, that to combat crimes including corruption must be sought its causes and eliminated so crime in general and corruption in particular cannot be eradicated or minimized unless we can find the cause later and then eliminated.

The word *moral* by Proespodjo (1999:18) comes from the Latin *mos* or *mores* meaning habits. In the Greek used *ethics* derived from the word *ethos* meaning habits. Both the moral and ethical are intended to study human habits consisting partly of conventions such as ways to dress, procedure, etiquette and the like.

In the habit (moral/ethical) there are more fundamental habits, derived from something inherent in human nature, such as telling the truth, shame to do evil (including corruption), pay debts, respect for parents and so forth. These acts are not merely habits but right act, and if they deviate from them they are wrong. It is

not derived from the arbitrary decision but derived from a certain principle in the nature of human. If man accepts these things, then he becomes good. Either in the fullest sense or integral. It means not good in this or that, in this field or that, but good as a human being. If a person is good as a human, surely he will never do evil, including corruption because corruption is evil, immoral/moral, bad, depraved, dishonest, dirty work and greed.

Since the role of morals is very important, so to create a good human being in the sense of either wholly or integrally, then the following the author will put forward 6 (six) stages in moral development by Lawrence Kohlberg (K. Bertens, 2002: 78-85). Lawrence Kohlberg is a scholar who spends a lot of time and energy to learn the phenomenon of morality from a psychological point of view. This American psychology professor first worked at the University of Chicago and later at Harvard University where he led the *Harvard's Center for Moral Education*. For us Kohlberg's study is particularly interesting, since he views the conscience-based behavior as the last and highest stadium and a long development in the field of moral.

In all his work Kohlberg acknowledges his dependence on Swiss psychologist Jean Piaget (1896-1980). Throughout his career as a Piaget psychologist studied the development of human knowledge (which he called "*genetic epistemology*"). In the broader framework, he wrote the book also on the development of moral considerations of children. This last line of research is continued by Kohlberg. Especially the notion of "stage" in moral growth is taken from Piaget. But in two ways he expanded Piaget's effort. On the one hand, in his research he did not limit himself to the child alone. He did his research on people aged 6 to 28, most of whom he had followed from childhood to adulthood. That is, after a period of time he investigates the same person, in order to determine his moral development. On the other hand, he expanded the cultural horizon by engaging in his research subjects from other countries and cultures than the United States, where he himself lived. He conducted research also in Malaysia, Taiwan, Mexico, and Turkey. Kohlberg believes that his research results are trans-cultural and not limited to a particular culture.

The method of Kohlberg as follows. He (with his aides) poses some fantasy moral dilemmas to the subjects of study. "Fantasy" in cases is not occurs concretely, but in principle they can happen. For the dilemmas there is no solution in the child's environment, so they must seek their own solutions. So it is impossible for them to report only what they witnessed in their surroundings, they must convey their own moral decisions.

With this, Kohlberg wants to get answers to two questions: how children solve the moral dilemma and what reasons are put forward to justify the solution. The first question concerns the content of moral decisions, while the second question concerns the structure or its form. It may be that two children confronted with a moral dilemma, give the same answer about the first question, but the answer is totally different about the second question. In the case of a child stealing money belonging to his mother, for example, two children can equally judge that it should not be. But they can also be very different in giving reasons why the act is not allowed. One can answer: "it cannot be, because I will be punished if caught". Others can answer: "it cannot be, because we must respect property rights". What interest to Kohlberg as a psychologist are not primarily different moral judgments, but the structure or form of those differences and their development.

Kohlberg found that a moral development of child takes place in 6 (six) stages, but not every child develops just as quickly, so that the stages are not certain to be related with a certain age. It could happen that a child is fixed in a stage and will not grow again. It is not necessary that a child is entirely at a certain stage. It could be that most of it is at a stage, but for some it is still in the previous stage and/or for some already at a later stage.

According to Kohlberg, 6 (six) stages in moral development can be associated to each other in three levels so that each level includes two stages. The three levels are pre-conventional, conventional and post-conventional. But moral development does not begin with the life of a human being. According to Kohlberg, during the first years there was no moral life in the true sense. If a child differentiates between good and bad, it just happen accidentally and rarely such a distinction based on moral norms or authority. Moral judgment on the child does not yet have a clear structure. Hence, it can be said that the three levels were preceded by a pre-moral period. Kohlberg began his research on children about six years old.

4.2 Shame Culture and Guilt Culture in Eradicate Corruption

In cultural anthropology has been distinguished between two kinds of culture: *shame culture* and *guilt culture*. Shame culture is entirely characterized by shame and there is no known guilt. While in guilt culture there is guilt. According to this view, *shame culture* is a culture where senses such as "respect", "reputation", "status", and "prestige" are strongly emphasized. When people commit a crime, it is not considered a bad thing, but something to be hidden for others. The greatest catastrophe happens, if a mistake is known to others, so the offender loses face. Must be avoided that offender should not be condemned by others. Not that evil is itself important; the important thing is that evil will not be known. If evil are known, the offender becomes "shame". In shame culture, the sanctions come from outside, which is what other people think or say. It is clear that in shame culture there is no conscience.

In contrary, guilt culture is a culture in which senses such as "sin", "guilt", etc. are very important.

Even if a crime will never be known by others, the offender feels guilty too. He regrets and feels uncomfortable for the act itself, not because someone else is denounced or cursed, not because of an outsiders' response. In guilt culture, the sanctions do not come from outside, but from within: from the persons' mind. It is understandable that in such guilt culture the conscience plays a very important role.

The experts who argue this difference argue that most cultures are shame culture, while the guilt culture is small. On our opinion, most cultures called "primitives" (like Indian tribes in America) and almost all Asian cultures are shame culture, while Western culture in Europe and America is a guilt culture. They explaining that shame culture are Static, lagging in economics, no have absolute moral norms and characterized by "mass psychology."

In contrast, guilt culture, especially when individualized sense of guilt is capable to conduct change progressively (including phenomena such as industrialization), has absolute moral norms, and caring for the welfare and dignity of the individual. In this case, they point to the opinion of the great sociologist Max Weber (1864-1920), that "Protestant ethic" (in the sense, special values for him marks Protestantism, such as simple living, saving, hard work, etc.) is an important factor in the development of Industrial capitalism in Western Europe and North America. The phenomenon described by Weber, according to them, is a clear example of guilt culture.

For some time the distinction between shame culture and guilt culture was taken solely, especially by American anthropologists. But now the validity of the distinction is highly questionable. Here, we mention some elements of criticism. The famous anthropologist Clifford Geertz, for example, considers the concepts of shame and guilt is too close to one another to be clearly distinguished. Milton Singer, an anthropologist from the University of Chicago, has presented a careful and balanced critique. He denied that for the shame, its sanctions always come from outside. There is also an unconscious shame and therefore limited to ones' inner state. It is difficult to accept that cultures categorized as shame culture are always static and underdeveloped. An example that denies that assumption we can point to Japanese culture. Singer came to the conclusion that in fact shame and guilt exist in most cultures and that as far as greater shame or guilt in a culture it does not mean that so far the culture is more backward or more developed.

For us, the conclusion of cultural anthropology has relevance as well, because it shows that conscience plays a role in almost all cultures. But if there is no shame culture and guilt culture in pure form, in the sense shame culture or guilt culture solely, then there is no objection to acknowledge that one culture is more focused on shame culture and other culture more focused on guilt culture. And in this connection it can be acknowledged also that conscience plays a greater role in one culture than in another.

The relevance of shame culture (*shame culture and guilt culture*) to eradicate corruption is the creation of a moral person who is motivated to perform positively, do good all the way, and be afraid to do things that are not praiseworthy (crime in general and corruption in particular).

It should be pointed out that the moral person must know shame and the shame people must know good thing in the sense of good in whole and integrally. If a person is shy, then even if there is a deviation of evil behavior that is not good or disgraceful acts he must then realize (shame) and make a good change. Therefore, if compared between Commercial Sex Workers (CSWs) and corruptors, it is not excessive to say that CSWs is still shy. It is evident that if they are caught in the operation of the Civil Service Police Unit or the State Police, she still covers their face when caught by the camera, while the corruptor is not ashamed when arrested by the police, prosecutors or the Corruption Eradication Commission. Corruptor just waved, thumbs up, smiling with joy and even laughing like a celebrity in front of his fans.

In interview with several Judges in the High Court of South- and West Sulawesi, related to the relevance of shame culture to eradicate corruption, among others, with Judge Dr. Padma D. Liman, SH., MH; Iksan, SH., MH and Joko Siswanto, SH., MH (interview 16-17 July 2014) each of them said the following:

- Dr. Padma D. Liman, SH., MH: the shame culture has an important role to eradicate corruption. We can imitate the success of Japanese in eradicating corruption with a shame culture. The Japanese are better suicidal than caught or caught in corruption. If he holds a certain position and is caught or caught in corruption then he will step down from the position. Shame culture needs to be instilled through formal and non-formal education and religious education.
- Iksan, SH., MH: the shame culture must be attached to all human beings born from conscience. A person who is corrupt is a shameless person even who does not believe in and does not piety. Besides the role of shame culture to eradicate corruption also the role of religion is not less important so that someone distanced themselves from doing evil including corruption.
- Joko Siswanto, SH., MH: shame culture should be an example of a leader like China providing coffins for corruptor. He emphasized that in addition to Japan, the Netherlands and Scandinavia are success to minimize corruption because instilled a shame culture through education at all levels and served as a national movement. This should be an example in Indonesia to eradicate corruption, namely the national movement to instill shame values on all citizens to not corrupt.

In relation to the role of shame culture to eradicate corruption both principles that exist in shame culture and guilt culture, then according to the opinion of the writer there needs to be a positive step through the integration of anti-corruption education curriculum. So many corruption cases occurring in Indonesia seems to require the government, especially the minister of education to include anti-corruption curriculum into education in Indonesia which is expected to make learners become citizens who have good morality, strong and consistent commitment to defend the Unitary State of the Republic of Indonesia.

Good morality, strong commitment and consistent to the principles and spirit of nationalism in the life of society, nation, and state. One way is through strengthening the national character through anti-corruption education early. The Corruption Eradication Commission itself said that in implementing Anti Corruption education is expected all levels of education ranging from primary education to universities have implemented anti-corruption education. In cooperation with the Ministry of Education, also in order to build the Ministry of Education become one of the pilot ministries that are also anti-corruption, so that later will be imitated by many other agencies.

Anti-corruption education is a policy to prevent and eliminate opportunities for corruption. Prevention is meant is how to increase the individual's awareness to not do corruption or shame to do corruption as an immoral act and how to save money and state assets not to be misused. Accentuation of anti-corruption education in schools is also an attempt to save and restore the "reputation" of educational institutions that are now inclined to be part of the practice of corruption. Even many "educated" people are trapped in the wrong syllogistic mindset, resulting in a permissive pattern of attitudes toward corrupt behavior.

In addition, the implementation of *training of trainer* anti-corruption for structural and functional personnel for education managers in local government, it is expected to support the accountability of quality improvement and quality assurance of education as well as realize the implementation of government in free-corruption areas.

5. Conclusion

Corruption eradication in an integrated manner has not been effectively maximized, because it is not supported by sufficient human resources, qualified and moral. The corruption is so complex and beyond the reach of criminal law, the use of criminal law to eradicate corruption is only a symptomatic treatment and not a causative, the functioning of criminal law to eradicate corruption that is integrated requires a variety of supportive tools and large costs. Shame culture and guilt culture in effort to eradicate corruption is the creation of a moral person who is always motivated to perform positively, to do good in whole, dignified prestigious and honorable and afraid to do things that are not praiseworthy (evil in general and corruption in particular).

To create an integrated anti-corruption eradication effectiveness, it is suggested repressive and preventive actions be undertaken simultaneously and integrated, supported by sufficient human resources, qualified and morally supported by adequate means and costs as well anti-corruption communities. In addition, to eradicate corruption as the embodiment of immoral behavior, it is suggested that moral education and anti-corruption embed shameless cultural values to corrupt as national programs and national movements to create the same motivation, perception and spirit in eradicate corruption.

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