

LAW ENFORCEMENT AGAINST CORRUPTION ERADICATION COMMISSION BASED ON LAW NO 19/2019

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Abstract : Efforts to eradicate corruption have been carried out for a long time using various methods, sanctions against perpetrators of corruption have been intensified, but almost every day we still read or hear news about corruption. The dangers of corruption in Indonesia are equated with other extraordinary crimes, namely terrorism, drug abuse, or serious environmental damage. In fact, corruption with this status is on a par with extraordinary crimes based on the Rome Statute, namely crimes of genocide, crimes against humanity, and crimes of aggression. This study aims to analyze the role of the Corruption Eradication Commission in law enforcement against Corruption Crimes in Indonesia Based on Law no. 19 of 2019 concerning the Corruption Eradication Commission and efforts to overcome the occurrence of corruption in Indonesia. This study uses a normative juridical method, namely by referring to legal norms contained in laws and regulations and court decisions as well as legal norms that exist in society. The results of the study show that in seeking to eradicate corruption, there are several aspects that need to be addressed, namely the mentality and character of civil servants, policy makers, law enforcers and members of the public. In addition, law enforcers are required to implement a good control system and management system.

Keywords : Corruption Crime, Corruption Eradication Commission, Law No 19/2019

Abstrak : Upaya pemberantasan korupsi sudah dilakukan sejak lama dengan berbagai cara, sanksi terhadap pelaku korupsi semakin diperketat, namun hampir setiap hari kita masih membaca atau mendengar berita tentang korupsi. Bahaya korupsi di Indonesia sama dengan kejahatan luar biasa lainnya, yaitu terorisme, penyalahgunaan narkoba, atau kerusakan lingkungan hidup yang serius. Padahal, korupsi dengan status tersebut setara dengan kejahatan luar biasa berdasarkan Statuta Roma, yaitu kejahatan genosida, kejahatan terhadap kemanusiaan, dan kejahatan agresi. Penelitian ini bertujuan untuk menganalisis peran Komisi Pemberantasan Korupsi dalam penegakan hukum terhadap Tindak Pidana Korupsi di Indonesia Berdasarkan Undang-Undang No. 19 Tahun 2019 tentang Komisi Pemberantasan Korupsi dan upaya penanggulangan terjadinya korupsi di Indonesia. Penelitian ini menggunakan metode yuridis normatif yaitu dengan mengacu pada norma hukum yang terdapat dalam peraturan perundang-undangan dan putusan pengadilan serta norma hukum yang ada dalam masyarakat. Hasil penelitian menunjukkan bahwa dalam upaya pemberantasan korupsi, ada beberapa aspek yang perlu dibenahi, yaitu mentalitas dan karakter aparat sipil negara, pengambil kebijakan, penegak hukum, dan masyarakat. Selain itu, penegak hukum dituntut untuk menerapkan sistem pengendalian dan sistem manajemen yang baik.

Kata Kunci : Tindak Pidana Korupsi, Komisi Pemberantasan Korupsi, UU No 19/2019

INTRODUCTION

Corruption is often seen by society as an act that is opposed and condemned, reviled and cursed, and described as an immoral act related to greed, greed of a group of people by using state assets and against the law, abuse of office and other actions that are seen as obstacles and interference in building the country (Makarao, 2005). The effort to eradicate corruption has become a global problem, no longer national or regional. Symptoms of corruption exist in every country, especially developing countries which have almost become a *conditio sine qua non* (Makarao, 2005:23). There are efforts, especially the pressure of the people so that corruption is completely eradicated so that if necessary an emergency law is used, such as a serious sentence, a system of reversing the burden of proof, exempting the handling of corruption from government agencies to an independent body whose credibility and integrity are guaranteed.

Therefore, the criminal act of corruption can no longer be classified as an ordinary crime but has become an extraordinary crime. Likewise, efforts to eradicate it can no longer be carried out normally, but extraordinary methods are required. Government institutions that handle corruption cases have not functioned effectively and efficiently in eradicating corruption. Corruption in Indonesia is widespread in society. Its development has continued to increase from year to year, both in terms of the number of cases that have occurred and the amount of financial losses to the state as well as in terms of the quality of criminal acts committed systematically and the scope that has penetrated all aspects of people's lives.

In this world there is not a single country that is free from acts of corruption, because corruption is an integral part in the history of the development of human civilization and is one of the oldest types of crime. However, we can distinguish acts of corruption from one country to another from the intensity and *modus operandi*, which really depends on the quality of society, customs and law enforcement system of a country.

In order to realize the rule of law, the Government of Indonesia has laid a strong policy foundation in efforts to combat corruption. These policies are contained in statutory regulations, including in the Decree of the People's Consultative Assembly of the Republic of Indonesia No.XUMPR/1998 concerning State Administrators who are clean and free of corruption, collusion and nepotism, and Law No.28 of 1999 concerning State administrators who clean and free from corruption, collusion and nepotism, as well as Law No. 31 of 1999 concerning eradication of criminal acts of corruption as amended by Law No. 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning eradication of criminal acts of corruption.

Pursuant to the provisions of Article 43 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001, this special agency, hereinafter referred to as the Corruption Eradication Commission (KPK in Bahasa Indonesia), has the authority to coordinate and supervise, including conducting investigations, investigation, and prosecution. Meanwhile regarding the formation, organizational structure, work procedures and responsibilities, duties and authorities as well as membership are regulated by law. As for the law regarding the KPK, it is regulated in Law no. 19 of 2019 concerning the Corruption Eradication Commission. The regulation of the authority of the KPK in this law is carried out carefully so that there is no overlap of authority in the various agencies.

The authority of the (KPK) in carrying out investigations, investigations and prosecution of corruption includes criminal acts of corruption which:

1. Involve law enforcement officials, state administrators, and other people who have anything to do with criminal acts of corruption committed by law enforcement officials or state administrators.
2. Receive attention that is troubling the public, and/or involves state losses of at least 1,000,000,000.00 (one billion rupiah).

In carrying out the duties and powers of investigation, investigation and prosecution, the KPK follows the procedural law stipulated in the applicable laws and regulations and Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning Eradication The Corruption Crime Act also contains a separate procedural law as a special provision (*lex specialis*).

Factors of Law Enforcement, apart from coordination between the law enforcers themselves, such as the relationship between investigators and the Public Prosecutor, in the pre-prosecution above, are no less important than the facilities and infrastructure factors. As for one of the factors of law enforcement is the parties that form and apply the law. Laws and regulations (legislation) are a form of legal politics of state institutions designed and ratified as laws against corruption. Partially, it can be concluded that the Indonesian government and people have not been serious about fighting and eradicating corruption in this country. Selective cutting. That is the opinion of several legal practitioners and observers regarding the government's actions in dealing with corruption cases recently. The echo of eradicating corruption seems to be a powerful weapon to be embedded in the speech texts of state officials, speaking as if they are clean, anti-corruption (Makarao 2005).

During the 1970s, the New Order government formed a Corruption Eradication Team, but this did not work effectively either. This is due to too much power interference in the investigation process being carried out by the Corruption Eradication Team. Responding to rampant corruption at that time, in 1971 Law No. 3 of 1971 was formed concerning Corruption Crimes. However, this law was still weak in dealing with corruption issues until Law Number 30 of 2001 was enacted concerning the Eradication of Corruption Crimes, which in essence provides for higher criminal penalties for perpetrators of corruption. However, in practice, this law has been ineffective.

This condition made a bad view of state institutions, law enforcement officials, be it the police, prosecutors, judges, to lawyers or lawyers. Moving on from the description above, it can be concluded that the development of corruption in Indonesia over the past fifty years has shown a very alarming condition, even though efforts to eradicate corruption have been carried out (Sastrawidjaja, 1990). However, corruption is not decreasing, it is actually increasing, both in terms of quantity and quality. The motive is increasingly sophisticated, namely carried out in an organized and neat manner, both when committing acts of corruption and when facing investigations by law enforcement officials. In the past era, corruption occurred in the working relationship between the private sector and government agencies, so now corruption has penetrated into the legislature and judiciary.

Research, seminars, discussions as well as coverage in the mass media, both print and electronic, often reveal that corruption in Indonesia has reached a very serious and apprehensive condition and cannot be tolerated anymore, is deeply rooted and entrenched. Corruption in Indonesia occurs at all levels, be it legislative, executive, judicial, private, even in the education sector. It is not surprising that Indonesia continues to hold the record as the most corrupt country in Asia after Vietnam and is even in the top ten in the world. In connection with the problems mentioned above, this research is aimed at answering the questions of what is the role of the KPK in law enforcement against Corruption Crimes in Indonesia based on Law no. 19 of 2019 and what efforts have been done to solve the corruption issues. The results of this research will contribute to the implementation of Law No. 19 of 2019 concerning the Corruption Eradication Commission and are expected to contribute ideas to prevent criminal acts of corruption.

RESEARCH METHODS

In connection with the problems that have been formulated previously and related to existing theories, this research method uses the Normative Juridical method, namely by referring to legal norms contained in statutory regulations and court decisions and norms legal norms that exist in society (Marmudji, 2005). In addition, the authors also use qualitative research methods. This research is included in the type of empirical research, namely research on law which in its implementation, if it is related to the theme/concept, is normative in the processes, principles and procedures used. However, basically this research is not entirely normative considering the cases discussed in this paper occurred in the actual scope. This research is analytical descriptive in nature, by describing the applicable laws and regulations and associated with legal theories. Through this method the researcher also describes and describes the facts that have actually occurred as a reflection of the implementation of statutory regulations and legal principles

associated with legal theories and the practice of their implementation in uncovering criminal acts of corruption in Indonesia.

The primary data used is data obtained directly from sources in the Ministry of Law and Human Rights, the Corruption Eradication Commission (KPK), the District Court, the High Court, the Indonesian Supreme Court and the Indonesian Attorney General's Office. Secondary data, namely data obtained from official documents, books related to the problem focused in this study. In collecting data, the researcher uses the library research method (Library Research) by studying and reading books, magazines, other printed media and related laws and regulations as well as other reading materials related to this research, in order to obtain a theoretical foundation as a basis for conducting this research. Data analysis in this study was carried out in the following steps: (1) Analysis during data collection and analysis of research data includes; (a) make a decision regarding the type of study to be obtained and limit the scope of the study, (b) develop questions, (c) plan the stages of data collection by taking into account the results of previous observations', (2) Analysis after data collection and developing mechanisms for the categorized data.

RESULTS AND DISCUSSION

The Role of the Corruption Eradication Commission (KPK) in Corruption Crimes

Corruption in Indonesia has taken root and become entrenched, and has even reached a point that can no longer be tolerated. In this era, corruption committed by government officials in the form of abuse of office has caused countless losses to the state and it is certain that at this time the number of criminal acts of corruption continues to increase. In general, the above abuses are carried out in the form of bribes (bribery) or illegal receipt of commissions (kickbacks) committed by holders of "power" in society, both government (public power) and economic power.

This is basically obtained from the community, so its misuse will have a very broad impact. The emergence of obstacles in preventing and eradicating it from the status of the perpetrator, the crime of corruption can be categorized as "offences beyond the reach of the law". This typology of crimes is called "invisible crime", a term indicating the existence of a difficult procedure in terms of proving and the high level of professionalism of the perpetrators. This kind of crime often takes refuge in the principle of legality as a principle that is firmly held in the enforcement of criminal law in Indonesia.

The above situation has received much scrutiny from various parties, both within the national scope and from foreign institutions. Transparency International (TI), for example, in a 1998-2003 study, Indonesia was in the top 10 most corrupt countries in the world. Similarly, Political and Economic Risk Consultancy (PERC) in its research in 1997 stated that Indonesia is the most corrupt country in Asia, and in 2001, Indonesia fell in rank to become the 2nd most corrupt country in Asia after Vietnam. In fact, according to the 2006 Corruption Perception Index (CPI) released by Transparency International Indonesia (TII) in November 2006, Indonesia is ranked 7th out of 163 countries as the most corrupt country. This position rose 1 rank from 2005 which was in the 6th position of the most corrupt country out of 159 countries.

Judicial corruption occurs due to actions that result in the independence of the judiciary and legal institutions as long as judges or other law enforcement officials seek or receive various kinds of benefits based on their abuse of power. That was the recommendation issued at the 2000 Center For The Independence of Judges and Lawyers biennial conference. From the reality above, it seems difficult to eradicate corruption if law enforcement officials who are supposed to eradicate corruption are also involved in corruption cases. This is one of the considerations and the rationale for the birth of Article 43 of Law no. 31 of 1999 which stated the need to form a Corruption Eradication Commission (KPK) which later gave birth to Law no. 19 of 2019 concerning the Corruption Eradication Commission, hereinafter referred to as the UU-KPK. The KPK itself is a state institution which in carrying out its duties and authorities is independent and free from the influence of any power (Article 3 UU-KPK) with the aim of increasing the effectiveness and effectiveness of efforts to eradicate corruption (Article 4 UU-KPK).

The Dilemma of Law Enforcement of Corruption Crimes in Indonesia

Law enforcement in Dutch is called *rechtstoepassing* or *rechtshandhaving* and in English *law enforcement* includes macro and micro meanings. Macro in nature includes all aspects of community, nation and state life, while in the micro sense it is limited to the process of examination in court including the process of investigation, investigation, prosecution up to the implementation of criminal decisions that have permanent legal force.

Law enforcement occupies a strategic position in law development, especially in a legal state and according to Jeremy Bentham (2006), law enforcement is central to the protection of human rights. In law enforcement, the driving force is needed which includes elements of the police, prosecutors, judiciary, and correctional institutions, in addition to legal advisors (advocates or lawyers). Upholding law and order is an absolute requirement for efforts to create a peaceful and prosperous Indonesia. If law is upheld and order is realized, then certainty, a sense of security, peace or a harmonious life will be realized. This is the mandate contained in the medium-term development program launched by the government.

In a democratic country, this is commonplace and should be addressed in an ethical manner, although it is no longer a secret that it is impossible for law enforcement that only relies on criminal instruments to tackle and eradicate crime. This is because the criminal instrument is only symptomatic, while the emergence of crime is influenced by various factors that stimulate it.

Conceptually, the core of law enforcement lies in the activity of harmonizing the relationship of values that are spelled out in the rules and embodied in the attitude of action as a series of elaboration of values to create, maintain and maintain social peace. Disruption to law enforcement can occur when there is a discrepancy between the triad, values, norms, and patterns of behavior. The disturbance occurs when there is a mismatch between paired values, which manifests itself in opposing rules and patterns of behavior that are not directed which disturb the peace of life.

The Complexity of Problems in Law Enforcement of Corruption Crimes

There are 2 things that become problematic in law enforcement, the first concerns the legal system and the second is factors outside the legal system. Regarding the structure of the legal system, in practice the *das Sollen* and *das Sein* are not always in line. When entering the implementation-soisological level, it can be seen that there is a marginalization of the role of law in the arena of struggles for people's lives which results in the infertility of the role and function of law. The product of the legislation is called the "primary rule of obligation". The weaknesses are (i) there is no certainty, (ii) it is static and (iii) it is not efficient. To synchronize it requires implementing regulations, which are referred to as "secondary rules of obligation".

The exception granted by the KUHAP gives authority to the Attorney General's Office to conduct investigations and prosecutions of corruption crimes, with the issuance of Law no. 2 of 2002 concerning the Indonesian National Police and Law no. 30 of 2002 concerning the Corruption Eradication Commission (KPK), the authority to investigate and prosecute is no longer fully the authority of the Attorney General's Office. Consideration of giving this authority to the Indonesian National Police and the KPK to carry out investigations, even against the KPK by Law no. 30 of 2002 gave special authority to carry out self-prosecution without going through the Attorney.

Corruption practices that occur in Indonesia have also made Indonesia's position worse off in the international community. The reform era, which should have provided more opportunities and hopes for reversing the various deviations and abuses that have occurred so far, has in fact expanded corrupt practices not only to the executive branch but also to the legislature and judiciary. Likewise the implementation of regional autonomy has increasingly fostered corruption practices involving not only regional apparatus, but also regional legislative institutions.

In 2006, there was a setback in the field of law enforcement on corruption, which was marked by, first, the emergence of resistance by corruptors through legal channels, a judicial review of Law no. 30 of 2002 concerning the Corruption Eradication Commission (KPK) to the Constitutional Court, specifically the provisions of Articles 53 - 62 of the law above regarding the

existence of a Corruption Court which is considered contrary to Article 24 paragraph (3) of the 1945 Constitution.

Problems outside the legal system, among other things, firstly because the *modus operandi* of criminal acts is so sophisticated (sophisticated, meaning that the method of operation or way of carrying out or carrying out an action is supported by experience and is very neat, so it is difficult to detect it early. Second, the legal subject or the perpetrators are quite professional, meaning that the perpetrators are experts in their fields, the disciplines they possess are relevant to the object of the crime, such as crimes in the banking environment, the legal subjects are experts on the ins and outs of banking, crimes concerning electricity, the legal subjects master the technical aspects of electricity. Third, the object is complicated, meaning that both evidence and evidence are difficult to obtain, perhaps due to the long delay between the incident and the knowledge of the crime. For example, in corruption cases, it is difficult to obtain witnesses, documents and obtain money from the proceeds of crime. Fourth, it is difficult to track down the perpetrators of criminal acts who run away when the court's decision does not yet have permanent legal force, considering that the defendant is out of detention because the term of detention has ended or his detention has been suspended while the trial process is in progress. Even though he had been banned for all days and tried, the convict was able to flee abroad, using traditional routes or falsifying travel documents, so that he was not detected by immigration officials.

Law Enforcement Efforts in Corruption Crimes in Indonesia

The slogan: "prevention is more important than eradication", in addition to health slogans has also been used in general for things that can cause unwanted aspects, although sometimes it is not realized carefully about the nature of the meaning or anti of the word "prevention". The meaning of prevention is to create obstacles or obstacles so that corruption does not occur. To be able to inhibit corruption, it is necessary to have a thorough understanding of all the factors that cause corruption and all the things that support or influence it. The development of the "mental and character" (soul) of the Indonesian people during the New Order period (1965-1998), seems to have gone unnoticed, even though it was reminded in the lyrics of the national anthem "Indonesia Raya", among other things "... wake up your soul, wake up your body. ..." All of this is intended to build nobility, noble deeds, keep away from despicable actions. But lately it all seems to be disappearing, because people's efforts are focused on getting money, as if money is everything.

Seeing the fact that a large amount of state money is in "bad credit" and "Bank Indonesia Liquidation Assistance" (BLBI)", it is truly unreasonable that the state/government is not capable of realizing Article 34 paragraph (1) of the 1945 Constitution 4th amendment which reads: "The poor and neglected children are cared for by the state." Affirmation of the Enforcement of Law Number 3 of 1971 and Law Number 31 of 1999 in article 34 A stated that acts of corruption that occurred before the Law Number 31 of 1999 was promulgated, examined and decided based on the provisions of Law Number 3 of 1971 with the maximum prison sentence provisions that are advantageous for the accused, the provisions in Articles 5, 6, 7, 8, 9 and 10 of Law Number 20 Year 2001 and Article 13 of Law Number 31 of 1999, with the provision of a maximum imprisonment for criminal acts of corruption whose value is less than IDR 5,000,000.00 (Five Million Rupiah) the provisions referred to in Article 12A paragraph (2) of the Law apply Number 20 of 2001.

Considering the weak quality of human resources in law enforcement agencies in Indonesia, while waiting for strengthening efforts, the community can still contribute to efforts to eradicate nepotism. The method is the provision of social sanctions that are usually carried out by the community in responding to someone who is considered to have violated the norms or adherence to the values that live in society. How is this social sanction implemented? There are many ways available in society, it's just a matter of whether we are willing to use them or not. As long as our law cannot truly protect everyone fairly, as long as the law can still be distorted for the benefit of those in power or their groups, or those who are able and willing to pay, then we need to apply these social sanctions so that people will feel them. After the steps above have been carried out, alternative strategies for eradicating nepotism need to be implemented so that criminal acts of

nepotism can be identified quickly and precisely to be followed up immediately and can be legally processed. These strategies include:

1. Improving the complaint system from the public regarding government functions and its follow-up.
2. Enforcement of certain financial transaction reporting obligations.
3. Reporting of personal wealth of incumbents and political functions.
4. Establishment of an anti-nepotism agency.
5. Investigation, prosecution, trial and punishment of major corruptors.
6. Determining the type or group of corruption is prioritized for eradication.
7. Application of the concept of reverse proof.
8. Research and evaluation of the process of handling corruption in the criminal justice system on an ongoing basis.
9. Implementation of an integrated monitoring and evaluation system for the settlement of corruption crimes.
10. Publication of corruption cases and their analysis.
11. Re-arrangement of the implementation of the duties of investigators and civil servants.

In addition to the agenda above being carried out, also the need for Bureaucratic Reform, most developing countries pay civil servants very cheaply. Officials supplement their income with additional work or from bribes. Recent studies have found an equivalent relationship between the salary of civil servants and the level of corruption. Civil servant reform usually requires a sustained effort, especially if corruption is deep-rooted and systemic.

If civil servants are underpaid (Goh, 1997), then only those who are willing to accept bribes are interested in working in the public sector. Payment of civil servant salaries must be adjusted at least in balance with the same position in the private sector. The recruitment system is made transparent and with clear mechanisms and criteria. then the dean government will be closer to reality and corrupt practices in Indonesia can be reduced to a minimum level.

CONCLUSION

Based on what the author has stated in previous chapters, the writer can conclude that in seeking to eradicate corruption, there are several things that need to be observed and addressed, including the mentality and ethics of ASN, policy makers, law enforcers and community members. Apart from that, law enforcers are required to have a control system and a good management system. It is hoped that policy makers can consider the welfare of civil servants and from the community's point of view, it is hoped that there will be good behavior and public awareness not to do things that can lead to criminal acts such as bribing the civil servants.

The role of the Corruption Eradication Commission (KPK) in law enforcement is an absolute requirement for efforts to create a peaceful and prosperous Indonesia. If law is upheld and order is realized, then certainty, a sense of security, peace or a harmonious life will be realized. This is the mandate contained in the medium-term development program launched by the government. In a democratic country, this is commonplace and should be addressed wisely, although it is no longer a secret that it is impossible for law enforcement that only relies on criminal instruments to tackle and eradicate crime. This is because the criminal instrument is only symptomatic, while the emergence of crime is influenced by various factors that stimulate it.

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