

Corruption Eradication In The Perspective Of Criminology

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Abstract: This research aimed to find out the substance of corruption as an extraordinary crime and the efforts that can be taken in eradicate corruption. This research is in the field of criminal law. This study is a normative-empirical research; a legal research that its study is statutory provisions (in abstracto) is linked with the field application (in concreto). The results of research showed that: 1) the substance of corruption is an evil act or reprehensible by law qualified or labeled as a form of corruption. Acts of corruption assessed as an extraordinary crime because of its systematic and wide-ranging impact, and contrary to the interests of the country in general. 2) the arrangement of corruption involves two major aspects of prevention and prosecution aspects. Establishment of legislation was based by desire to bring state enforcement are clean and free from corruption as a policy basis. 3) Efforts to eradicate corruption can be divided into two, i.e prevention, and curative. Prevention undertaken by government and law enforcement agencies is still low, so it needs to be further improved. Criminal sanctions imposed on the corruptor, also tend to just apply the minimum criminal sanctions. Types of corruption are most prevalent in Southeast Sulawesi, Indonesia is corruption related to acts of abuse of authority or position.

Index Terms: Criminal Law, Corruption, Criminology

1 INTRODUCTION

Corruption crime is so devastating make the Indonesia are entered into one of the most corrupt countries in the world. Based on ratings assigned by Transparency International (TI) in 1999, Indonesia was ranked the top-five of most corrupt countries in the world. Then in 2004, TI survey repeated and Indonesia still ranks fifth of most corrupt of 146 countries surveyed. The result of TI survey is also show that the Indonesia was at first the most corrupt country in Asia. Basically, the government has made various efforts to eradicate corruption. The government has even established a special institution, namely the Corruption Eradication Commission (KPK) to deal with corruption, but until now it seems corruption is still difficult to be eradicated. Corruption as deeply rooted in every facet of national life. In fact, it regarded that corruption has become part of the culture of the nation. The others believe that corruption is like an endemic disease that has spread throughout the level of government bureaucracy. According to M. Busyro Muqoddas as Judicial Commission Chairman, a map of corruption in Indonesia is not only systemic but also endemic. This case as the research of Kompas on last July 2008 describes the distribution of corruption that exists in 23 of 33 provinces in Indonesia from Sabang to Merauke. It shows that corruption is an endemic disease. Thus, Busyro Muqoddas not yet come to the conclusion that corruption as a nations' culture. Corruption is classified as an extraordinary crime. Because mode and systematic techniques, destroy the system of national life, both in the economic, political, social, cultural and even to the moral decay of society as well as mental. Economic loss due to corruption is reflected not optimal economic development by the government.

While losses in the field of socio-cultural and moral, it appears from the change in the public mindset that seems to assume that corruption is a natural thing and lawful. Even, sociologists Raimon Aron suggests that corruption will ultimately invite the revolution, as well as being a powerful tool to discredit the government, if any corruption cases that arise are not able to be resolved. The corruption in Indonesia is not only at the national level but also in the local. Southeast Sulawesi province is one of the provinces in Indonesia, which is not free of corruption. Based on data from ICW, in the year 2013 there were as many as 8 of corruption cases handled by law enforcement officials in Southeast Sulawesi. This shows that the eradication of corruption cannot be focused only at the central level, but also need to be at the regional level, provincial and district or city. As described above, it is understood that corruption eradication is something that is very important in realizing the ideals of national development, as well as in maintaining the viability of the state and nation. But corruption is not easy and can be addressed immediately. Satjipto Rahardjo argued that corruption eradication is no longer possible to use the usual ways of acting and thinking, but it should be the opposite with extraordinary acting and thinking. According to Andi Hamzah that corruption eradication is cannot only rely on the renewal of the law only, but it should be followed by efforts systematically and comprehensively ranging from the aspect of prevention to prosecution. Therefore, it is needed a depth understanding of what causing the corruption and how to eradicate. The basic question from the perspective of criminology is how the corruption. What factors are causing the corruption, as well as the efforts what can be done to eradicate the corruption. To gain a better understanding in answering these questions, it is necessary to further study, both in terms of prevention and its prosecution. This study will focus on a wide range of crimes of corruption in Southeast Sulawesi. The results of this study may be that ideas of both the law enforcement agencies and the local governments in efforts to eradicate corruption.

2. METHOD OD THE RESEARCH

This research was conducted in Southeast Sulawesi. The determination of research site was based on the consideration that in Southeast Sulawesi are also quite many cases of corruption. This research is a criminal law research. This research is a normative-empirical research, as a research that

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its study is statutory provisions (in abstracto) is linked with the application of field (In concreto). Type of research is descriptive, which is explained clearly and systematically. The population in this study is all concerned with law enforcement effort in the eradication of corruption. The sample is part of the population that is determined by purposive technique. Based on purposive technique, the samples in this research were civil servants, entrepreneur and students. Civil servant consists of (1) the police are 5 (five) people, (2) the general prosecutor are 5 (five) people, (3) the judge are 5 (five) people, (4) Prison officers are 5 (five) people. Entrepreneur are 20 (twenty) people, and students are also 20 (twenty) people. Total samples are 60 peoples. The data obtained in the field will be analyzed as the characteristic of data. For data in the form of figures will be made in the form of a table then explained descriptively. The data were analyzed qualitatively, the data collected both secondary and primary data is compiled and analyzed qualitatively to interpret, explain, describe, and systematically arranged according to the research objectives.

3. ANALYSIS AND DISCUSSION

Basically, corruption include many types of conduct or behavior as stipulated in the Criminal Code, Act No. 31 of 1999 on Corruption Eradication, as well as Act No. 20 of 2001 on the Amendment to Act No. 31 of 1999 on Corruption Eradication. The corruption can in the form of bribery, embezzlement in position, extortion, or cheating. This shows that corruption is not only associated with one type of act, but include many kinds of act. Therefore, the substance of corruption is essentially an evil act or reprehensible by law qualify as a form of criminal acts included in the category of corruption. Theoretically, there are many notions of corruption depend on the perspective where a person would perceive it. Corruption can be seen from the perspective of legal, economic, and political. However, to distinguish it from other ordinary criminal offenses, which are not included in the category of corruption, the definition of corruption must be placed in the public domain, so that the understanding of corruption is always related to the public interest. In this case, corruption is an act that is contrary to the public interest or the interests of the state in general. This is one of the basic characteristics possessed by corruption as an extraordinary crime, so it is different from an ordinary theft or fraud is simply subjected at individual persons. Thus, corruption is to be seen in the context of the public interest.

3.1 Substance of Corruption as an Extraordinary Crime

Corruption as an extraordinary crime is a form of crime that has aspects of systemic (systematic crime) through well organized (crime organized), the range of locus and tempus delict is widespread, causing losses and misery in the community, involves many parties from both the public and private officials. In accordance with the conditions of Indonesia today, it appears that the corruption has jeopardized the order of the nation as well as threaten the foundations of national life. Based on General Explanation of Act No. 20 of 2001 on the Amendment of Act No. 31 of 1999 on Corruption Eradication, stated that corruption in Indonesia occurred in a systematic and widespread so that not only losses the state finances, but also have violated the rights of the social and economic society at large. Therefore, the eradication of corruption needs to be carried out in an extraordinary way. Thus, corruption eradication must be done in a specific way,

such as the application of inverted authentication system, as the one charged to the defendant. Based on a General Explanation of Act 30 of 2002 and Act No. 20 of 2001 as mentioned above, it is understood that the impact caused by corruption is so widespread, not only financial loss of the country, but even violate the rights of the social and economic society at large. Related to this, the gaps in the fields of politics and law, lack of transparency and weak of controlling becomes a criminogenic factor that offered the opportunity to perform illegal act such as corruption and collusion, creating a motive for the use of the opportunities, and enable the perpetrator to exploit or use such opportunities. The formulation of the definition of corruption is not explicitly contained in Act No. 31 of 1999 on Corruption Eradication, as well as in Act No. 20 of 2001 on the Amendment of Act No. 31 of 1999. However, based on the provisions contained in the legislation, particularly in Chapter II of Corruption, from Article 2 to 20 of Act No. 31 of 1999 on Corruption Eradication, and also the provisions of Article 5 to 12C of Act No. 20 of 2001, it can be understood that basically the corruption include many types of crime, so that corruption is very difficult to be able to formulated in a form of definition that can embrace holistically about all the types of conduct that are included in corruption category. The types of conduct, as set out in the abovementioned provisions, among others: bribery or give a gift to an official or otherwise, the servants accept bribes or gifts; bribing a judge or a lawyer or otherwise a judge or advocate accept bribes; the servant embezzled money or let embezzlement, falsifying administration book, destroy evidence or allow others to destroy evidence, the servant squeeze, contractors or project supervisor to cheat or to let the cheating going on and some other form of conduct, as stipulated in Act No. 31 of 1999 and Act No. 20 of 2001 on the Amendment of the Act No. 31 of 1999 on Corruption Eradication. Looked from the point of view of the theory of labeling, then such conduct is labeled as a crime that is included in the category of corruption. Even gifts or certain object to the state officials has also been labeled as a corruption. While it may act was carried out voluntarily and without pressure from the authorities concerned, the crime itself is included in the category of gratification, which under certain conditions can be charged with a criminal act of corruption as stipulated in Article 12 of Act No. 20 of 2001 on the Amendment of the Act No. 31 of 1999 on Corruption Eradication. Corruption as a form of bad conduct, evil and destructive, actually has a very broad sense. Forms of corruption can be misappropriation or embezzlement of state funds for personal interests or others. Corruption also means it can be bribed, either in cash, or in the form of certain objects. Corruption is an act that violates the law or norms related to the duties and responsibilities of civil servants or state officials. Besides, the corruption usually involves more than one person. Corruption is not only applicable in the civil service or state officials, but corruption can involve private business organizations. All of these are characteristic or distinctive character of corruption. Based on the description above, it can be understood that the characteristics of corruption are:

- a) Corruption is a form of conduct that is considered bad, despicable, and evil from the point of view of the interests of state and society.
- b) The corruption is carried out in a manner contrary to the law or obligations of the parties committing such acts.

- c) The corruption can be detrimental to state finance and economy in general. Therefore, the corruption contrary to the public interest. The injured party in this case is the state or public interests. This is what distinguishes between corruption and ordinary criminal acts such as theft, extortion, bribery or embezzlement.
- d) The corruption is not only a type of conduct, but include many type of actions is then categorized as a form of corruption.
- e) The corruption is relating to the abuse of authority or power, related to state finances or the economy of country and the public interest.
- f) The corruption can be done either by government officials or state officials or by the other party because the position by means of abusing authority, opportunity or means for them.
- g) The motivation is to enrich themselves or others, or a particular corporation to profit illegally and contrary to the law, both profit in cash or in relation to the access and the use of authority or power.
- h) The impact of corruption is to the state and society. Hence, the corruption should be viewed from the standpoint of public interest, because ultimately it is society that will suffer from the corrupt practices that undermine state finances, power and public service.

Corruption is classified as an extraordinary crime, not just the mode and manner that is systematic, but also the consequences caused by the corruption, destructive system of nation and state life, both in the economic, socio-cultural and even to the moral decay of society as well as mental. Economic losses from corruption may be perceived by the public, mainly reflected not optimal the economic development, besides the results obtained from the various activities of the nations' economy, such as tax becomes smaller than it should be. While losses in the socio-cultural are corrupt practices will lead to discrimination of public service or award discrimination for the rights of the community.

3.2 Causes of Corruption

In general, the causes of corrupt behavior can be classified into two factors: external and internal factors. In external, the cause of corruptive behavior is due to the stimulation from the outside such as the encouragement of colleagues, the chance, the lack of control or weak supervision from a supervisor or other related parties. While in internal, the behavior of corrupt is caused by internal factors such the stimulation or desire from within ourselves to perform corruption. The cause of corruption internally is due to the greed and greedy. A person commit corruption were not caused by the concerned person is poor or income was not enough, but because the person has such great desire to enrich themselves even though in a way that is not true or contrary to law. Besides the causes of corruption internally as well as moral less powerful than state officials or government bodies. Someone whose moral is not strong tend to be easily tempted to engage in corruption. The temptation could come from superiors, subordinates equivalent friends or other parties that provide the opportunity for it. In the opinion of respondents based on the results of research that has been done, then the most prominent of corruption is greed for the parties to do so. In addition, because the chance or opportunity to commit corruption. Respondents' opinions about the causes of corruption are

shown in the following table:

Table 1. Causes of corruption according to respondents' perceptions from civil servants, students, and entrepreneur

| No | Causes of corruption | Civil servant | Student | Entrepreneur |
|----|----------------------|---------------|---------|--------------|
| 1 | Low salaries | 1 | 0 | 1 |
| 2 | Greedy | 4 | 6 | 7 |
| 3 | Chance/opportunity | 10 | 10 | 8 |
| 4 | Weak of supervisory | 5 | 4 | 4 |
| | Total | 20 | 20 | 20 |

Source: Processed Data, 2014

Based on table 1 above, it appears that the most prominent of corruption causes in the perspective of respondents, both from the civil servants, students and entrepreneur is chance or opportunity for corruptor to commit corruption. There are 10 respondents of civil servants, and 10 of students who answered that the cause of corruption is due to chance or opportunity for the corruptor to commit corruption. While, total respondents of entrepreneur are 8 respondents. The openness of chance or opportunity for corruptor to commit corruption is due to weak of supervisory systems. It is included in the category of external factors. The next cause of which is also quite prominent in the perspective of respondents are greedy to enrich themselves, so that the corruptor is willing to do that even in a way that is not true or contrary to law. The number of respondents from civil servants who stated that the cause of corruption is due to the greed is 4 people; while respondents from students are 6 people and entrepreneur are 7 respondents. This indicates that the second thing that quite prominent as the cause of corruption is their greed. Greed is included in the category of internal factors which cause corruption. Thus, one of factors is also quite prominent as the causes of corruption are mental and personality factors. The next cause is also quite prominent in the perspective of respondents, both from the civil servants, students and entrepreneurs is due to the weak of supervision both superiors and other relevant parties. The number of respondents from the civil servants who stated that the cause of corruption is due to the weak of supervision, are 5 (five) people, students is 4 (four) people, while entrepreneurs is 4 (four) respondents. This suggests that the most important factor is also to be considered in efforts to prevent corruption is a factor of supervisory, both internal and other relevant institutions. In the perspective of respondents from the civil servants, students and the entrepreneurs, the lack of salaries of civil servants or government officials is considered the cause of the most vulnerable to the occurrence of corruption. In general, respondents state that the lack of salaries of civil servants or government officials rather than as the main cause of corruption. The number of respondents from the civil servants who answer so is one person only, as well as respondents from the entrepreneur is one person. While the students, no respondents who answered that the cause of corruption because of a lack of salaries of civil servants or government officials. This suggests that the lack of salaries of civil servants or government officials is not the main cause and the most influence on the corruption. Comparison of respondents' response percentage from the civil servants, students and entrepreneur that causes of corruption was shown in the following table.

Table 2. Comparison of respondent's response percentage about the cause of corruption behavior

| No | Causes of corruption | Civil servant | Student | Entrepreneur |
|----|----------------------|---------------|---------|--------------|
| 1 | Low salaries | 5.00 | 0.00 | 5.00 |
| 2 | Greedy | 20.00 | 30.00 | 35.00 |
| 3 | Chance/opportunity | 50.00 | 50.00 | 40.00 |
| 4 | Weak of supervisory | 25.00 | 20.00 | 20.00 |

Source: Processed data, 2014

Based on table 2 above, it appears that the most prominent of corruption in the perspective of respondents is due to the chance or opportunity for corruptor to commit the corruption. This is demonstrated by the average of the highest percentage that is equal to 46.67%. The second thing that most prominent as the cause of corruption is their greed of corruption. This is demonstrated by the average of the percentage that is equal to 28.33%. The next cause is the lack of supervision by the average of the percentage that is equal to 21.67%, and the average of the lowest percentage as corruption is salaries of civil servants or government officials is low. This is showed by the average of percentage which only to 3.33%. Based on the described above, it appears that the most prominent as the cause of corruption is due to chance or opportunity, while the lowest factor as the cause of corruption is the salaries of civil servants or government officials is low. This shows that when seen from a sociological perspective, the etiology of corruption is strongly associated with the lack of supervision or control factors, both formally and informally. Supervision formally in this case carried out by law enforcement agencies including the oversight bodies established by the government formally. While informal control is social control that is run by the community. As stated in the theory of social control by Albert J. Reiss Jr., that the weakening of personal control or social control are relatively the underlying causes of crime. Based on the above description, it is understood that increasing the salaries of civil servants or government officials as an effort to prevent corruption, not the most urgent solution to be done. The most appropriate in this case is to narrow the chance or opportunity to do the crime. This can be done by increasing surveillance by involving various stakeholders and promotes transparency in the management of state finances.

4 CONCLUSION

The substance of corruption is evil or reprehensible act, contrary to the public interest or the interests of state in general. This is a basic characteristic that distinguishes between corruption with general crime that only directed at individuals or individual persons. Corruption as an extraordinary crime is a form of crime that is systemic (systematic crime) and well organized (crime organized), involves many parties from both state officials and private, causing losses and misery extends to the community. The most prominent factor as the cause of corruption is the chance or opportunity as well as greedy of corruptor. While the lowest factor as the cause of corruption is the salaries of civil servants or government officials is low. This suggests that increasing the salaries of employees or government officials in an effort to prevent corruption, not an urgent solution. The most appropriate efforts to improve supervisory and narrow opportunities for corruption.

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