

CRIMINAL POLICY REINTEGRATION BY ANTI-EARLY EDUCATION POLICY CORRUPTION TO ERADICATE CORRUPTION IN REGIONS

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Abstract

Corruption has developed into an *extra ordinary crime* and is increasingly massive at every level of government. Local autonomy that has been actually intended to decentralized the administration of government to realize a clean and authoritative government (*clean and good governance*) actually becomes an arena of decentralization of corrupt behavior. Up to now (since 2004), there have been 434 local heads who have been prosecuted for alleged corruption and other law violations, and 70% have been found guilty. If so, it needs an integrative effort in its eradication by reintegrating criminal policy with anti-corruption early education policies.

Keywords: *corruption, criminal policy, anti-corruption education, local government*

INTRODUCTION

Corruption inevitably becomes a serious problem in Indonesia. It is a chronic disease that occurs almost in all aspects of people's lives (not least in the respectable sphere of education), so the consequences are enormous. Indonesia in its position as one of the developing countries in the world is trying to make improvements in all fields and various aspects to lift its backwardness. With the improvement through the 'idols' called 'development' it turns out that there is a heap of unresolved problems. One of them is the corruption that occurs in the development process carried out by the elements involved in it.

Under these conditions, various titles have been successfully held by Indonesia, among others, as the most corrupt country in the world. Based on the results of International Transparency research [2] in 1995 concerning the level of corruption in a country that was moving forward. Research results [3] it states that Indonesia is ranked 'top' in terms of corruption. With a scale of 0-10 that reflects the most severe corruption to the cleanest level of corruption, Indonesia scores 1.94. Even worse, in the survey it turns out that Indonesia is the only country that scores below 2. [4]

In 1999 Transparency International once announced the results of its research to create a ranking of 99 countries in the world in the Corruption Perception Index (*Corruption Perception Index*). [5] Based on government corruption perceptions of each country in the eyes of the executive senior, investors and academics, the results Indonesia ranks 97 after Nigeria and Cameroon. The ranking is almost the same as the research made by PERC (*Political and Economy Risk Consultancy Ltd.*) which in 1995 and 1996 conducted the same research. According to the research report, Indonesia was ranked the third most corrupt country in Asia, after Vietnam and China. [6]

The evaluation of the world community on the level of corruption in Indonesia through the research shows that the level of corruption in Indonesia is higher than in some countries in the world. Even the distribution of corrupt behavior has spread so sporadically in every segment of government, no matter whether it is a Judicial, Legislative, and even Executive institution. Even more ironic, because the institutions that are expected to be role models in the eradication and prevention of corruption also "take part" in corrupt behavior (in all ministries, in educational institutions, police and prosecutors, even the KPK).

On the other hand, regional autonomy or the decentralization of governance is not the same as corruption autonomy or the decentralization of corrupt behavior. It has been proven that up to now there have been 434 regional heads who have been prosecuted for alleged corruption, and of the 433 regional heads 70% have been proven / convicted of committing corruption. [7] This condition is the focus of various groups of both society and government in efforts to eradicate corruption from various

perspectives. One of them is the eradication of corruption by enforcing the law (in this case implementing the applicable regulations).

We can find various definitions that explain and explain the meaning of corruption. With an emphasis on the study of each individual, corruption becomes broad and not only from one perspective. Everyone is free to interpret corruption. But one key word that can unite the various definitions is that corruption is a despicable act and must be eradicated.

According to Robert Klitgaard, who examines corruption from the perspective of the state administration, defines corruption as "Behavior that deviates from the official duties of a state office because of status benefits or money that concerns a person (individual, close family, own group); or violate the rules of conduct concerning personal behavior."^[8]

The growing practice of corruption at every level of government (central and regional), is also increasingly alarming because many people tend to be permissive to behavior that has the potential to destroy the country. Educational institutions that should be role models in realizing anti-corruption behavior, in fact also become part of these corrupt practices. Therefore, it is necessary to integrative efforts in eradicating it. One effort that must be considered is to reintegrate between the criminal eradication *policy* (penal *policy*) and the anti-corruption early education policy (non-*penal policy*).

RESULT AND DISCUSSION

CRIMINAL POLITICS IN CORRUPTION ERADICATION

Criminal politics or criminal policy (*criminal policy*) is a rational attempt to tackle a crime. Criminal politics is an inseparable part of law enforcement policies in the broadest sense (*law enforcement policy*). And both, namely *criminal policy* and *law enforcement policy* are part of social policy (*social policy*), which is an effort from the community or country to improve the welfare of its citizens.^[9]

In the context of overcoming the occurrence of criminal acts of corruption, criminal politics is directed how pre-emptive, preventive, and repressive a policy is made or formulated to eradicate all the roots that become criminogenic factors of corruption. The policy strategy is in the form of both penal and non-penal policies which must be integrated in integrated with *social policy* in order to realize *social welfare* in accordance with Indonesia's national development goals.

As stated by Robert Klitgaard, Ronald Maclean and Lindsey Parris^[10] that corruption is a global problem, so eradicating corruption has become the number one priority in the world. In other literature as followed by Ahmad Ali that "*Corruption is one of the foremost problems in the developing world, its receiving much greater attention as we reach the last decade of the century*".^[11] Klitgaard as quoted by Wasingatu Zakiyah, then formulated that corruption occurs when there is a monopoly of power in the midst of uncertainty of rules and authority, but there is no accountability to the public.^[12] Chambliss sees corruption as an integral part of every bureaucracy that meets the interests of a handful of rulers, law enforcers, and politicians who are difficult to dismantle.^[13]

Corruption has been rampant, causing tremendous anger on the part of the community and arousing new determination for politicians to eradicate it. In the context of overcoming this corruption, criminal politics must pay attention to the implementation of emergency efforts that are difficult to accept with normal logic, and apply the principle of inverted proof.^[14] Because according to him, 'what is fair and good is the law' (*equum et bonum est lex legum*).

The fundamental question as mentioned in the National Corruption Eradication Strategy al that was issued by BPKP is *why is the phenomenon of corruption in Indonesia getting worse and how should efforts be made to overcome it?* Then in the SPKN three strategies were formulated, namely preventive strategy, detective strategy, and repressive strategy.^[15]

Corruption, once again, becomes a serious problem that must be dealt with on the basis of good criminal policy. Because according to the 8th UN Congress in 1990, "*Corrupt activities of public officials are: (a) can destroy the potential effectiveness of all types of mental programs; (b) can hinder development; and (c) can victims individuals and groups.*

Regarding Criminogen Factors of Corruption in the Regions

Lord Acton once stated "*power tends to be corrupted and absolutely power is corrupt absolutely*". Why does corruption continue to run rampant, even though various legal instruments to deal with it have been issued and everyone is screaming to fight corruption? Some of the reasons put forward as a criminogen factor, including those raised by Klitgaard who argued that the rapid development in international trade and international communication caused the nations of the world to be tempted by high economic gains while limited capacity. He also quoted the opinion of Dipak Gyawali who considered that new economic growth gave birth to new needs, and salaries were eroded by inflation so that to fulfill it, corruption was needed.^[16]

Later in the statement in the Congress of the United Nations, there is an affirmation that the development of a country can be criminogen or increase crime (such as corruption, etc.) if the construction is not rationally planned, the planning is not balanced, ignoring the cultural values and moral, and does not cover integrated community protection strategies . [17]

In addition, in the UN resolution at the 6th congress of 1980 it was mentioned that the main causes of crime in many countries were social inequality, low standards of living, unemployment and illiteracy. Specifically, the problem of corruption, implicitly stated that the existence of a strong desire to obtain high material benefits (beyond the reach of his ability) through business activities, industry and state institutions, is also a criminogen factor.

From the data from research conducted by ICW, it is generally stated that the occurrence of corruption is caused by several factors, including: a system that is conducive to carrying out such deviations, a lack of a strong community control system, and a lack of rules and regulations. Strict legislation. While we know that supervision of this matter is divided into two, namely internal supervision (functional supervision and direct supervision by the leadership) and external supervision (supervision from the legislature and the public). However, for the first supervision it is less effective because of several factors, including overlapping supervision in various agencies, lack of professionalism of supervisors and lack of compliance with legal ethics and governance by the supervisors themselves. And in this regard supervisors are often involved in corrupt practices.

Another factor is, the follow-up of any violations found that are still weak and does not yet show 'interest' by the agency leadership. With so many discoveries that were closed suddenly for no apparent reason. And determined in eradicating corruption and in resolving the existing deviations from all elements not visible. Besides, the lack of adequate accountability system of government organizations local to the community.

Thus, from the standpoint of criminal politics, the strategic problems that must be addressed are social problems or conditions that can directly or indirectly cause a person to commit a criminal act of corruption. This shows that the handling of the eradication of criminogenous conditions is a key point in overcoming criminal acts (especially corruption) from the point of view of criminal politics. This is in line with the United Nations resolution on *crime trends and crime prevention strategies* that *crime prevention strategies* must be based on eliminating the causes and conditions that lead to crime (*crime prevention strategies should be based on the elimination of causes and conditions giving rise to crime*) .

CRIMINAL POLITICAL INTEGRATION WITH SOCIAL POLICY IN CORRUPTION MANAGEMENT IN REGIONS.

The need for integration between the *crime policy* and the overall social policy and national development planning, Sudarto said , quoted Hamdan,[18] that if criminal law is to be involved in efforts to overcome negative aspects of community development / modernization (ie crime prevention), kaka should be seen in the overall relationship of criminal politics or *social defense planning* and this must also be an integral part of the national development plan .

As mentioned before, that development can become a criminogen factor if it is poorly controlled and rationally planned. Social policy (*social policy*) is very closely related to criminal politics or crime prevention policies. Related to this, Hoefnagels quoted Arief, argues that criminal politics is an inseparable part of *law enforcement policy* which is also an integral part of *social policy*. [19]

Therefore, in the era of democratization which is characterized by rampant corrupt behavior as it is today, formulating legal regulations must comprehensively consider various dimensions of social issues, various social interests must be harmonized and harmonized.[20] Thus, in the integral concept between social policy and criminal politics, the crime prevention *policy* will not mean much if the social policy or development policy actually raises criminal factors that can lead to corruption, for example policies poorly controlled government, giving too much authority to a state position, and lack of public accountability responsibilities.

Whatever its form, criminal politics that can be done is to use both penal and non-penal means (prevention *without punishment*). Means of penalties means using the criminal justice system, ranging from criminalization to criminal conduct. While non-penal means are basically preventive measures, starting from the education of the code of ethics to the renewal of civil law and administrative law. [21]

The approach to using penal means is continuously carried out through various efforts to perfect or update the criminal law, attack the criminal justice system, both from the aspect of legislation (criminalization, decriminalization and depenalization), improvement of system facilities, improvement of the quality of human resources in the criminal justice system . The criminal law referred to here, according to Muladi covers material criminal law, formal criminal law and the law of criminal conduct.

Talking about criminal politics (*criminal policy*) in tackling corruption, which includes a penal approach through the criminal justice system, it will automatically be in contact with criminalization, criminal responsibility, and sanctions that should be imposed on corruption, both in the form of *punishment* and *treatment* .

For the prevention of corruption by means of penal, based on the provisions of the Code of Penal (Penal Code) in relation to the threat of criminal sanctions and criminal provisions and conviction in Act Corruption Number 3 T ear 1971 as amended by Undang Undang Nomor 39 tahun 1999, and last amended by Law Undang Undang Nomor 20 Tahun 2002.

Non-penal policies in dealing with corruption are means that are preventive measures, which can be done by modifying existing social policies by listing the weaknesses of each existing *social policy* to be removed and thrown away so that it does not provide an opportunity the slightest for someone to commit corruption.

In preventing this crime, Muladi^[22] differentiate in three categories:

(1) *Primary prevention*; namely a strategy carried out through public policy, specifically to influence the causes of crime (corruption) targeting the community at large,

(2) *Secondary prevention*; is the prevention of the target is those who are classified as potential actors (officials, or the general public who hold certain powers and have the potential to abuse their authority),

(3) *Tertiary prevention*; is prevention that is done to those who have committed a criminal act of corruption so that they do not commit another crime.

Non-Penal Policy in the Control of Corruption in the Regions

Given the limited ability (criminal) in dealing with social problems (such as the phenomenon of rampant corruption), the criminal policy must prioritize or be coupled with other policies (non-penal) such as policies in the field of administration and policies in the field of *technology -prevention* .^[23] Criminal policy strategies for dealing with specific criminal acts (such as corruption) should pay attention to the nature of the problem. If the nature of the problem is closer to problems in the economic field, then it is preferred to use non-penal sanctions (eg disciplinary measures).

Regarding this non-penal policy, historically there has been much thought put forward by experts about the need not to apply criminal sanctions against someone who commits a crime. Understanding determinism for example states that people do not have free will in doing an action because it is influenced by their personal character, psychological factors and environmental factors of society. Thus, crime is actually a manifestation of an abnormal mental state of a person, therefore the perpetrators of criminal acts cannot be blamed for their actions and cannot be subject to criminal acts .^[24]

In his speech Gramatika even stated that the 'social protection law' must replace the existing criminal law. Because the main purpose of the social protection law (*social defense policy*) is to integrate individuals into the social order and not the punishment of their actions. Social protection law requires the elimination of criminal liability. So the teachings of Gramatica reject the conceptions of crime, crime and crime.

However I do not agree with the thought and doctrine of Gramatica and determinism. Particularly in tackling corruption, corruption must still be seen as a crime that harms the interests of the community, but its handling does not have to be by means of punishment (criminal is *ultimum remidium*), but can be done with non-penal efforts. Included in the prevention of corruption, non-penal approach must be prioritized by eliminating all criminogenous conditions from every social policy and the relativity of social life.

In this non-penal approach, there is prevention that is pre-emptive (prevention by eliminating the evil nature of a person), and prevention that is preventive (ie prevention by eliminating someone's opportunity to commit a crime). In the case of overcoming this corruption act, the oversight and restriction of the authority of a person holding power is preferred.

ERADICATION OF CORRUPTION THROUGH ANTI CORRUPTION EDUCATION CURRICULUM INTEGRATION

The many cases of corruption that occur in Indonesia seem to require the government, especially the minister of education, to include an anti-corruption curriculum in education in Indonesia which is expected to make students a citizen who has a strong and consistent commitment to defend the Unitary State of the Republic of Indonesia.

A strong and consistent commitment to the principles and spirit of nationalism in the life of society, nation and state based on the Pancasila and the 1945 Constitution, needs to be improved continuously to provide a deep understanding of the Unitary State of the Republic of Indonesia.

Historically, the state of Indonesia had been created as a K State with a Republican form. The Unitary State of the Republic of Indonesia is a state of people's sovereignty based on the Godhead, just and civilized humanity, Indonesian Unity and popularity led by wisdom in consultation / representation, and by creating a social justice for all Indonesian people.

In its development since the Proclamation of August 17, 1945 until the end of the 20th century, the people of Indonesia have experienced various events that threaten the integrity of the country. For this reason, an in-depth understanding and a strong and consistent commitment to the principles and spirit of nationalism in social, national and state life are based on the Pancasila and the 1945 Constitution. The Constitution of the Republic of Indonesia needs to be embedded in all components of the Indonesian nation, especially generations young and students as the next generation of the nation.^[25]

Indonesia must avoid an authoritarian system of government that encompasses the rights of citizens to carry out democratic principles in the life of society, nation and state. Democratic life in everyday life in a family environment, study groups, communities, P Governing and organizations, non-governmental organizations need to be known, understood, internalized, and applied for the realization of the implementation of the principles of democracy. In addition, it is also necessary to instill awareness in defending the country, respect for human rights, national diversity, environmental preservation, social responsibility, obedience to the law, compliance with paying taxes, and anti-corruption, collusion and nepotism attitudes and behavior. Citizenship Education Subjects are subjects that focus on the formation of citizens who understand and are able to exercise their rights and obligations to become intelligent, skilled, and characterized Indonesian citizens mandated by the Pancasila and the 1945 Constitution.

Corruption is a classic problem that has been around for a long time. Historian Ong Hok Ham mentions that corruption exists when people begin to do a separation between personal finance and public finance. According to Ong Hok Ham, financial separation does not exist in the concept of traditional power. With the word *la in* corruption began to be known when the modern political stem is known.

The conception of corruption only arises after the separation between the personal financial interests of a State official and the financial position. This principle emerged in the West after the French revolution and in Anglo-Saxon countries, such as the United Kingdom and the United States, arising in the beginning of the 19th century. Since then the misuse of authority for personal gain, especially in matters of finance is considered an act of corruption.

Democracy that emerged in the late 18th century in the West saw officials as people who were given authority or authority, because they were trusted by the public. Abuse of that trust is seen as a betrayal of the trust given. The concept of democracy itself is a system of society formed by the people, managed by the people and intended for the people.

Pancasila The Source of Anti-Corruption Values

Pancasila is actually a source of anti-corruption values. The problem is the direction of our ideology now as at a crossroads. Other values that we profess make corruption everywhere. Corruption occurs when there are meetings when and opportunities. However, because the values of wisdom local are being abandoned, that there are values of the capitalist, so be encouraged person to act of corruption. Time to Pancasila as the basic philosophy back country revitalized and becomes "prinsip prima" together religious norms. As a prime principle, Pancasila values and religious norms are the basis for all Indonesian people to do good.

Antasari Azhar (when he was chairman of the KPK) assessed the implementation of values according to the principle of Pancasila which was increasingly distorted, this was seen in many cases of corruption. Of the 30 seconds of corruption, 28 articles in the intercourse concern behavior. So that if the values of Pancasila have been forgotten, their behavior will become corrupt. The problem now is what if 60% of the 300 districts in Indonesia deal with the KPK because of problems of deviant behavior. What does not stop this republic? Therefore, let us commemorate the birth of Pancasila to motivate again the path of true values. In essence, we struggle with a good government service, that is a clean government (including from corruption) and authoritative. By doing so, our stamp as one of the most corrupt countries, removed.

When compared with the most interesting way in prison they are filled with fewer than us in Indonesia. Fill our prisons more than them. This is clear evidence to eradicate corruption. But why is it still called the most corrupt country compared to Singapore. Evidently, it is concerned with the perception of citizen in the public service in accordance questionnaire agency Transparency International to the public. So, the government with its clean and authoritative officials, is a

government with good public services, including in terms of population administration services, investment and so on.

Anti-Corruption Softskills Education

On October 4, 2010, the Ministry of National Education (Kemdiknas) targeted Anti-Corruption education which is part of Character education to be implemented in the 2011 school year. At that time, the Minister of National Education explained that a joint discussion and trial had been carried out by the Corruption Eradication Commission (KPK (Corruption Eradication Commission)) the importance of Anti-Corruption education.^[26] In addition, it has also been agreed to form a technical team in discussing existing anti-corruption education content to be integrated into the learning process.

Start how to prepare the methodology, preparing teachers who will convey the material anti-corruption and anti-corruption training of teachers also strengthened again, to how you later how to evaluate it , it's been structured with working with various *stakeholders* there . Anti-corruption education it will not be a subject that will add to the burden of students. Education's anti-corruption more oxygen, he could enter, penetrate into every subject, for each subject, and subjects anything can *comply* with corruption education. This is called internalization *soft skill* in every learning process which tends to prefer the *hard skills*.

The Corruption Eradication Commission itself said that in implementing this Anti-Corruption education all levels of education, from basic education to tertiary institutions, had already implemented Anti-Corruption education. Commission with MONE, also in order to build Kemdiknas become one of the pilot ministries as well as anti-corruption, so it will be widely copied by other agencies.

In addition, the implementation of a corruption of *training of trainers* for structural and functional personnel in the management of education in local governments, is expected to be able to support accountability in improving the quality of education quality assurance implementation while realizing the administration of government in regions that are free of corruption.

CONCLUSION

The eradication of corruption has been a long-standing issue since the reform movement in 1997/1998, but until now it has not been able to eliminate corruption, what has happened is actually the development and behavior of corruption. Sign in on any formal institutions that *postscript* using public money. Therefore, it needs synergistic and integrated efforts in its eradication.

The renewal of *criminal policy* while integrating with anti-corruption education policies in the world of education is expected to be able to support the prevention of the emergence of corrupt practices. The success of Anti-Corruption Education is believed to be able to build the nation's character to support the improvement of the quality of education and at the same time support the optimum administration of government which will lead to the quality of national education. Thus, it is expected that the product of the world of education in the form of "educated people" will be truly educated and anti-corruption which will color the life of the nation and state that are aspired together.

In turn, it is believed to have a positive impact on the implementation of national education that is clean, honest, fair, transparent, productive, creative, innovative, responsible, and accountable. And *mutatis mutandis* will also support the realization of *clean and good local governance* in Indonesia.

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- [2] Transparency International is an international institution under the University of Goettingen, Germany, domiciled in Berlin with more than 50 branches worldwide. Its main mission is to build coalitions to fight corruption in international business transactions involving governments, the private sector and international development institutions
- [3] Published in Der Spiegel magazine, 10 July 1995
- [4] Other countries classified as corrupt in this survey are China (2.16), Pakistan (2.25), Venezuela (2.26) and Brazil (2.70) while Indonesia's neighboring country, Singapore, is classified as a country with a clean reputation of corruption (9.26). Whereas Malaysia has a better score than Indonesia (5.28)
- [5] Just to illustrate, Indonesia's ranking in the CPI: 41 of 41 countries (1995), 44 of 54 countries (1996), 45 of 52 countries (1997), 80 of 85 countries (1998), 96 of 99 countries (1999), 85 out of 90 countries (2000), 88 out of 91 countries (2001), 96 out of 102 countries (2002), 128 out of 133 countries (2003), 135 out of 145 countries (2004), 140 out of 159 countries (2005), 134 from 163 countries (2006), 110 (113) out of 178 countries (2010), and 100 (105) out of 182 countries in 2011. Next see <http://www.transparency.org>.
- [6] Now China is known as a very successful and prospective country in the eradication of corruption in Asia, even at the world level.
- [7] The Ministry of Internal Affairs' latest release on April 14, 2012 as conveyed by the Head of the Ministry of Interior's Information Center, Reydonnyzar Moenek.
- [8] Robert Klitgaard, *Eradicating Corruption*, (Jakarta: Yayasan Obor Indonesia, 1998), hl. 31
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- [16] Robert Klitgaard, Ronald Maclean-Abaroa and Lindsey Parris, *Prosecutors* h lm. 9-10
- [17] Barda Nawawi Arief, *Bunga Rampai Criminal Law Policy*, (Bandung: Citra Aditya Bakti, 1996), p . 10
- [18] Hamdan, *Criminal Law Politics*, (Jakarta: PT RadjaGrafindo Persada , 1997), p . 6-7
- [19] Barda N. Arief, *Anthology...* hlm. 4-5
- [20] Muladi, *Demokratisasi, Human Rights and Law Reform in Indonesia*, (Jakarta: The Habibie Center, 2002), hlm . 201
- [21] Muladi, *Demokratisasi Rights ...* hal.156
- [24] Muladi and Arief, *Theories and ...* p. 150
- [25] A partial excerpt from the Speech of the President of the Republic of Indonesia on the commemoration of the 2009 Pancasila Magical Day
- [26] The KPK itself has published Anti-Corruption Education Modules from elementary, junior high to high school levels, which are arranged according to each grade level. Some schools also add as local content.