

BUREAUCRATIC REFORM AS AN EFFORT TO PREVENT CORRUPTION IN INDONESIA

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ABSTRACT

This study discusses the fight against corruption through bureaucratic reforms. It argues that the eradication of corruption must touch bureaucrats and provide reliable instruments to prevent corruption. Fighting corruption seems to be one of the major concerns of governments around the world including the Indonesian government and the Indonesian people. Reform of the government bureaucracy is part of efforts to strengthen the state because, through bureaucratic reform, the role and scope of state intervention through the government is redefined to respond to the challenges of the times. Bureaucratic reform is also not just simplifying the bureaucratic structure, but changing the mindset and cultural patterns (cultural set) of the bureaucracy to share roles in governance. Bureaucratic reform is a planned transformation, which focuses on institutional changes and has an impact on changes in bureaucratic management and culture at the level of government implementing institutions in the executive field, both national and regional levels.

Keywords: Bureaucratic Reforms, Preventing Corruption, and Corruption Eradication Commission.

INTRODUCTION

Corruption has become a global problem between countries. Even Corruption has been placed as one of the organized and transnational crimes based on the United Nations Convention Against Transnational Organized Crime (UNTOC) (Yusuf, 2013). The Indonesian society is being devastated by corruption, especially corruption committed by state officials or state apparatus, this can be seen from data from the corruption eradication commission or Komisi Pemberantasan Korupsi (KPK) in the last 5 years based on profession/position, which shows that corruption committed by public officials is higher than private officials, especially when viewed from the data the heads of institutions/ministry and echelon 1, 2 and 3 officials are quite high, namely 125 cases handled by KPK, especially with the arrest of 2 ministers in President Jokowi's cabinet in 2020. This has increased the data on corrupt public officials.

In current developments, the eradication of corruption is focused on three main issues, namely prevention, eradication, and asset recovery. This development means that the eradication of corruption lies not only in preventing and punishing corruptors but also includes actions that can restore state financial losses as a result of these extraordinary crimes. This has become tough work for criminal law experts, administrative law experts, and government experts because although cumulative criminal sanctions have been regulated with special minimum and maximum specific criminal rules, there are also quite a variety of criminal sanctions imposed by

judges. does not have a positive effect on preventing and eradicating criminal acts of corruption, namely not reducing the level of perpetrators and the level of types of corruption, so that one of the efforts that must be made is not only to fix the model of criminal law enforcement but also to collaborate with fixing the state administrative law and no less important is the improvement of the bureaucratic system, which is now being echoed by the term bureaucratic reform.

To reform the bureaucracy and apply strict state administrative law, the fundamental issue that must be discussed is, What is the form of collaboration between criminal law and state administrative law through bureaucratic reform efforts to prevent opportunities for corruption in the bureaucracy?

RESEARCH METHODS

This research uses a normative juridical method, with a multidisciplinary approach, covering criminal law, state administrative law, and government/administrative science. The analysis used is juridical-qualitative, namely by reviewing the applicable law in Indonesia through laws and regulations related to the issue of eradicating corruption among the state apparatus through the preventive function of criminal law by optimizing the concept of bureaucratic reform, so that a comprehensive strategy is needed from elements of legal substance, legal structure and legal culture of the state apparatus so that it is hoped that it will prevent the occurrence of criminal acts of corruption among the state apparatus. These problems will be analyzed using available legal materials, both primary legal materials as the main materials, secondary legal materials, and tertiary legal materials as complementary materials for primary legal materials and secondary legal materials. Data obtained from research results, both primary data (field data) and secondary data (library data) will be processed using qualitative juridical methods, taking into account the hierarchy of legislation, legal certainty, and legal harmonization both horizontally and vertically.

RESULT AND DISCUSSION

The Long Road to Corruption Laws Enforcement in Indonesia

Corruption is not a new crime, but a very complicated old crime. Corruption does not only occur in Indonesia, corruption also occurs in other countries (Susila & Dharma-Jaya, 2006). Nowadays corruption is considered an international problem. Therefore, in addition to eradicating crimes of terrorism, narcotics, and psychotropic crimes, eradicating corruption is one of the issues that always receives more attention than other crimes. In general, this crime does not only result in state financial losses, but can have a very broad impact, both in the social, economic, security, political, and cultural fields. If corruption has become a "culture", then this crime can damage the democratic values and morality of a nation. Therefore, according to Romli Atmasasmita, corruption in addition to suffering the people also violates the economic and social rights of the people (Atmasasmita, 2002).

It is not enough just to understand the crime of corruption that is increasingly being carried out by state officials as a crime that is detrimental to state finances, but what is more important to understand is as a violation of the social and economic rights of the community at large, destroying the social order of the community, so that the eradication of the crime is not only how the perpetrators of the crime are deterred and punished severely, but much more important is how the eradication effort can restore public trust and restore the social rights and economic rights of the community to a stable condition (original condition) (Atmasasmita, 2006).

Related to the above, Marwan Effendy argues that previous efforts to eradicate corruption include the establishment of agencies/teams/commissions such as (Effendy, 2005; Atmasasmita, 2014):

1. In 1967 the Corruption Eradication Team (TPK) was formed. From 1967 to 1982 the TPK was controlled by Attorney General Sugih Arto;
2. Commission Four (K4) January-May 1970 chaired by Wilopo;
3. The Anti-Corruption Commission (KAK) in June-August 1970 consisted of Force 66 members such as Akbar Tanjung, et al.;
4. Control Operations (based on Presidential Instruction No. 9 of 1977) consisting of the Menpan, Pangkopkamtib, and the Attorney General assisted by officials in the Regions and the National Police Chief;
5. The Corruption Eradication Team (the Year 1982) was chaired by M.A. Mudjono;
6. Based on Government Regulation Number 19 of 2000, a Joint Team for the Eradication of Corruption Crimes (TGTPK) was formed, chaired by Adi Handoyo;
7. The Commission for Examining the Wealth of State Organizers (KPKPN), chaired by Yusuf Syakir;
8. Community social institutions that care about corruption, such as Indonesian Corruption Watch (ICW), Indonesian Transparency Society (MTI), KONSTAN;
9. In addition to these agencies, there are also financial and government oversight institutions or institutions established based on the Constitution or other laws or regulations issued by the government such as the Supreme Audit Agency (BPK), Coordinating Minister for Economic Affairs Wasbang, BPKP, Inspector General, Inspectorate General, Supervisory Board of Non-departmental Institutions, Provincial Bawasda, and Regency/City Bawasda.

The Indonesian government has issued various regulations that can be used as the basis for the government's efforts to prevent corruption, namely:

1. Law Number 31 of 1999 as amended by Law No. 20/2001 on the Eradication of Criminal Acts of Corruption (Corruption Law);
2. Law No. 7/2006 on Ratification of the United Nations Convention Against Corruption;
3. Law No. 15/2002 as amended by Law No. 25 of 2003 on the Crime of Money Laundering (UU TPPU) and lastly amended by Law No. 8 of 2010.
4. Law No. 1/2006 on Mutual Assistance in Criminal Matters.

The goal is that the criminal sanctions imposed will not only provide a deterrent effect or awareness of mistakes for the perpetrators but also provide a preventive effect or lessons for the community (potential perpetrators). The repressive function carried out through cumulative criminal sanctions has been implemented and several perpetrators have served sentences, but the goal to punish has not yet been realized, as evidence is the increasing level of corruption in

Indonesia, this can be proven by the release of the Perception Index Corruption (CPI) in 2020 released by Transparency International (TI), namely Indonesia got a score of 37 with a rank of 102 out of 180 countries surveyed, meaning that in the public sector the level of corruption is still relatively high, including corruption related to procedures clear and public accountability, abuse of public resources, professionalism of civil servants, independent audit.

Based on the data from Transparency International (TI) above, it turns out that the repressive function imposed has not had a positive effect in reducing corruption, so that if you look at the concept of punishment as outlined in the corruption law, namely Law no. 31 of 1999 in conjunction with Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which is already adequate, is not commensurate with the expectations of the purpose of punishment, namely returning the perpetrators to society as good citizens, and protecting the public from the possibility of repeating criminal acts by prioritizing the precepts contained in Pancasila (Maryani, 2015). One of the reasons that can be seen the failure of the purpose of punishment is (Romli, 2008):

1. The execution of court decisions is not carried out in front of the public, whereas in some countries efforts to provide a deterrent effect for perpetrators and efforts to optimize the prevention function for the community are the implementation of criminal sanctions carried out in public, especially for the execution of the death penalty and/or the imposition of sanctions. Social work.
2. In Indonesia, the provisions for implementing criminal sanctions for corruptors are the same as for other convicts, which only refers to Law no. 12 of 1995 concerning Corrections in conjunction with the Criminal Code in conjunction with the Criminal Procedure Code, so that in practice the development efforts for corruptors are only more about personality development without providing independence development because independence development is not sufficient to be implemented, this is because, in Law no. 12/1995 on Corrections, efforts to foster independence are more about skills development, so it is not suitable when applied to corruptors who already have established competence/soft skills so that the solution offered by researchers from the results of the research is changing the type of prison sanction into social work sanctions and fines. without giving subsidy sanctions (alternative fines become confinement sanctions), because this will provide an opening for the convict to take subsidiary sanctions rather than fines, and this is proven in the field, that many criminal acts choose a subsidiary sanction of imprisonment.
3. The imposition of criminal sanctions until now has not been able to inhibit the rate of corruption, because there is a phenomenon that the perpetrators are not afraid of sanctions, and psychologically perpetrators of corruption always assume that they are experiencing a disaster or a test.
4. In ensnaring the perpetrators of corruption, judges mostly use Article 2 and Article 3 of the Corruption Law, which has an impact on the imposition of criminal sanctions, the average sentence imposed is 2 years and 2 months. And explained in Law Online, based on the results of ICW's 2015 monitoring of 524 corruption cases with 564 defendants who have been sentenced by the court, as many as 294 defendants were proven to have violated Article 3, and 97 defendants violated Article 2 of the Anti-Corruption Law. Judges have never imposed capital punishment on perpetrators of corruption, judges are more likely to ensnare perpetrators with Article 2 or 3 of the TPK Law, which sanctions are only between 2 years and 4 years in prison so that prevention effort does not get a positive response. This is evidenced by the increasing number of perpetrators of corruption every year, and the increasingly diverse professions of criminals, although corruption among ASN still has a very high level, this can be seen from the description of the data made by ICW (Table 1).

No	Modus	No. of Cases	State's Loss Value	Gratification Value	Illegal Levies Value
1	Embezzlement	47	Rp. 233,7 Billion	-	-
2	Mark Up	33	Rp.509 billion	-	-
3	Fictive activities/projects	26	Rp. 376.1 billion	-	-
4	Fictive reports	14	Rp.48,4 billion	-	-
5	Illegal fees	12	-	-	Rp 44,6 billion
6	Abuse of power	9	Rp. 78,6 billion	-	-
7	Abuse of budget	8	Rp. 2,6 billion	-	-
8	Bribery	6	-	Rp. 1,1 billion	-
9	Shortcuts	6	Rp. 8,5 billion	-	-
10	Share manipulation	4	Rp. 16,9 trillion	-	-
11	Gratification	2	-	Rp. 19,1 billion	-
12	Double budget	1	Rp.1,5 billion	-	-
13	Markdown	1	-	-	-
TOTAL		169	Rp. 18,1 trillion	Rp 20,2 billion	Rp. 44,6 billion

Source: Indonesia Corruption Watch (ICW) Report on Monitoring Trends in Corruption Cases for the First Half of 2020. www.antikorupsi.org

Concerns about the above phenomena are part of the efforts that must be resolved, not only talking about the repressive function, but more importantly how the repressive functions above become part of the preventive function in the future, and the preventive function is expected to prevent the occurrence of corruption. Law No. 19 of 2019 concerning the Second Amendment to Law No. 30 of 2002 concerning the Commission for the Eradication of Criminal Acts of Corruption is very encouraging to eradicate corruption. One of the efforts that can be made by KPK based on the law is that KPK should develop a strong network and treat existing institutions as conducive "*counter partners*", so that the prevention and eradication of corruption can be carried out more effectively, efficiently, in a coordinated manner, and in accordance with the general provisions stipulated in the legislation. KPK can also cooperate, supervise and monitor existing institutions in a joint effort to prevent and eradicate corruption.

Changes in understanding based on the concept of bureaucratic reform above then began to make improvements to policies or provisions that lead to professional public services, such as the enactment of Law no. 30 of 2014 concerning Government Administration, also Law no. 25 of 2009 concerning Public Services, as well as several statutory provisions that support the direction of bureaucratic reform, namely Presidential Decree No. 44 of 2000 concerning the National Ombudsman Commission. With the issuance of the various laws and regulations above, it is hoped that the state apparatus can carry out their duties and authorities correctly and avoid corruption, especially those related to abuse of authority, and the forms of these acts that often ensnare state apparatus actors. In addition to reforming the policies or provisions above, which are no less important in preventing corruption, reforms can be made to the individual apparatus as well as to the bureaucratic system.

To provide accountable, professional, and proportional public services, it is also very important to implement bureaucratic reform into government activities, one of which is in the form of mental reform, namely mental reform of the state apparatus individually, a culture of responsibility towards family and religion. because work is part of the task of providing a living for the family which is lawful and blessed, so it must be instilled that work is worship, and giving a living is part of worship so that it must be honest because there is supervision from Allah SWT which is very important that must be instilled in every apparatus state so that one of the efforts that can be done is to hold regular recitations whose function is to strengthen the mentality of the apparatus, but focus more on recitations that have a complete curriculum and teaching materials, focus on the required curriculum, so that students are expected to Strong religious rights will increase the faith of each apparatus, actualization of religious values and no less important is the culture of shame as the actualization of customary values/community culture is no less important.

Bureaucratic Reforms and Strategic Steps to Accelerate the Fight against Corruption

Etymologically the word "*reformasi*" comes from the word "*reformation*" with the root word "*reform*" which semantically means "*make or become better by removing or putting right what is bad or wrong*". Reform means "*a movement to reformat, rearrange things that deviate to be returned to their original format or forms in accordance with the ideal values that the people aspire to*" (Ginting, 2015).

Bureaucratic reform is the government's effort to improve performance through various means with the aim of effectiveness, efficiency, and accountability. Realizing good, transparent, and professional government, free of corruption, collusion, and nepotism (KKN) is carried out through: a. Institutional arrangement, lean and flat organizational structure (there are not many hierarchical levels and the organizational structure is more dominant in professional/functional position holders than structural positions); b. Simple, concise, simple, easy, and accurate management, mechanisms, systems, and procedures through optimizing the use of information and communication technology and having adequate offices, work facilities, and infrastructure; c. Structuring the human resources of the apparatus, so that they are clean according to the needs of the organization in terms of quantity and quality (professional, competent, ethical, high-performing, and prosperous; d. Accountability, quality performance, effective, efficient, and conducive; e. Service and service quality, excellent service (fast, precise, fair, consistent, transparent, etc.), satisfying customers, and realizing Good Governance (Ismail, 2009).

The first bureaucratic reform was carried out by the Unitary State of the Republic of Indonesia in the Soekarno government era in 1962, with the establishment of the State Apparatus Retooling Committee which was tasked with optimizing the function of the bureaucracy in the provision of public services. Furthermore, in the Soeharto era in 1966 through the Presidium Decree of the Ampera Cabinet number 75, a Team for Controlling Government Apparatus and Administration (PAAP) was formed in charge of reforming administration and bureaucracy in Indonesia. From the 1980s to the 1990s, it was known that the policy of bureaucratization and deregulation was closely related to the Suharto government's efforts to stimulate domestic and

foreign capital investment in Indonesia through the open market economic system model so that bureaucratic and regulatory resistance to the opening of investment fields was revised and rationalized. During the new order, the bureaucracy in Indonesia was affiliated with the Golkar party (the single majority party in the DPR) plus the military. The services provided by the bureaucracy during the New Order era received a lot of attention, especially the preferential treatment of Golkar constituents. An anticlimactic condition then emerged, in the 1997's there was a monetary crisis and accumulated public disillusionment with Suharto until the fall of Suharto. This is the beginning of Indonesia entering the Reform Order (Kumorotomo, 2011).

In the amendments to the 1945 Constitution, bureaucratic reform is interpreted as a rearrangement of the system of governance that is run by government officials, both at the local and national government levels. The approach to bureaucratic reform based on the amendments to the 1945 Constitution is a systemic approach that conceptually prioritizes comprehension over extension. Based on the framework of the amendment of the 1945 Constitution, the Ministry of Administrative Reform of the Republic of Indonesia then interprets it into the dimensions of aspects that need to be reorganized through policy recommendations, including; Restructuring policy to fix institutional/organizational problems; Rationalization and relocation policies to address human resource problems of the apparatus; Simplification and automation policies to address management/procedure system problems; The policy of deculturating the old culture by enculturating a new culture overcomes the problems of bureaucratic culture. One of the implementations of bureaucratic reform is to realize good governance; ontologically the paradigm shift of government towards governance is manifested in a shift in mindset from a bureaucratic orientation that originally served the interests of power to improve the quality of public services.

Bureaucratic reform efforts cannot be separated from the political, administrative, legal, and state finance dimensions because the complexity of the problems faced by the Indonesian bureaucracy is interrelated with these dimensions. Every effort that has been made needs to be evaluated so that any obstacles that arise can be addressed immediately. The success of bureaucratic reform is also determined by the creativity and innovation of each implementer. Bureaucratic reform must encourage more open (transparent) government practices that involve actors outside the government bureaucracy as government stakeholders. In other words, bureaucratic reform is a means of realizing a new paradigm of government from the government paradigm to the governance paradigm (Nurbarani, 2009).

Fighting Corruption through Bureaucratic Reforms

To run the wheels of government optimally, the structure of the entire government needs to be reviewed through research to determine whether the number of ministries is really needed. The main duties and functions of each minister and Head of Non-Departmental Government (LPND) are also formulated as clearly as possible so that there is no overlap and duplication with other ministries (Mahfud, 2010).

Bureaucratic reform is an effort to rearrange the government bureaucracy so that it can provide excellent service to the community. Bureaucratic reform initially covered 3 (three) main

aspects, namely: Institutional (organization); Management (business process); and human resources (apparatus) (Dwiyanto, 2008).

Institutional Aspect

Reforms in the institutional sector are needed to reorganize the organizational structure to form an organization with the right function and size (right sizing) to create a modern organization that can support the implementation of tasks and functions in an effective, efficient, transparent, and accountable manner and prioritize services to the community.

Management Aspect

Reforms in the field of management are needed so that in every implementation of tasks and functions, both those of a technical, juridical, and administrative nature, there are clear guidelines so that the results can be measured. Management reform is carried out by establishing clear, orderly, non-overlapping systems, processes, and work procedures (SOPs), in accordance with the principles of good governance.

Human Resources Aspect (HR)

Reforms in the field of HR include 3 (three) things, namely: changes in mindset (mindset), changes in work culture (culture set), and changes in behavior (behavior).

Change in Mindset

Changes in mindset must be carried out by all state apparatus starting from the top leadership to the lowest employees. The mindset as a ruler who tends to want to be served must be changed into public service because basically, the state apparatus is a servant of the community so that it must prioritize service to the community. With the change in mindset, it is hoped that the state apparatus will have a sense of belonging, a sense of responsibility, and a sense of crisis in carrying out their main tasks, functions, and authorities.

Change in Work Culture

Changes in work culture (culture set) are closely related to a sense of responsibility, especially in carrying out daily tasks, especially in terms of time, budget, equipment, and so on. The state apparatus is expected to always try to increase their knowledge and improve their professional capabilities by not procrastinating their work and trying their best to complete the work on time and use the budget as efficiently and accurately as possible.

Change in Behavior

As a servant of the state/society, every state apparatus must have commendable behavior, especially when carrying out its duties and functions. The state apparatus must be able to provide

an example to the community, especially in terms of obedience and compliance with applicable legal norms. Do not let the state apparatus violate the law. Moreover, if the state apparatus is a law enforcement apparatus.

The acceleration of bureaucratic reform includes nine programs starting from the structuring of the bureaucracy, selection, and acceptance of civil servants for efficient public services, and infrastructure. Through bureaucratic reforms, it is hoped that the profile and behavior of the apparatus with high integrity, high productivity, and responsibility can be built, as well as prioritizing public services to create a clean, effective, efficient, transparent, and accountable bureaucracy. With the reform of the bureaucracy, it is hoped that a modern government organization that prioritizes public services, '*right sizing*' (right size and function) can be realized with clear work procedures for the realization of good governance (Rayanto, 2009).

CONCLUSION

Prevention is more important than eradicating, besides the health slogan has also been used in general for things that can cause undesirable aspects, although sometimes without being carefully aware that the word "*prevention*" means to create obstacles/obstacles so that corruption does not occur. To be able to create obstacles/barriers to criminal acts of 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. One of the most effective preventive measures is bureaucratic reform.

In simple terms, it can be explained that bureaucratic reform is a planned transformation, which focuses on institutional changes and has an impact on changes in management and bureaucratic culture at the level of government implementing institutions in the executive field, both national and regional levels. Bureaucratic reform must encourage more open (transparent) government practices that involve actors outside the government bureaucracy as government stakeholders.

Reform is a process of systematic, integrated, and comprehensive efforts aimed at realizing good governance. This system allows for an effective and efficient state governance mechanism with constructive synergy between the government, the private sector, as well as the community. The political will of the ruling government can be used as a benchmark for reviewing the level of seriousness in carrying out bureaucratic reform.

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