

THE ACTIVE-PARTICIPATION OF COMMUNITY IN CORRUPTION COUNTERMEASURES THROUGH PRIVATE INVESTIGATION: OBSTACLES AND PROPOSE FOR INDONESIA

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ABSTRACT

The purpose of this research is to develop the scope of active-participation of community in corruption countermeasures by demonstrating how collaborative governance theory can include private investigation as a broader scope to better coalition dynamics and corruption eradication policy change in Indonesia in collaborative contexts. It pointed out Article 13 of UNCAC, The United States and Australia private investigation regime, the public-participation' theory, as well as the Indonesian legal frameworks and community readiness.

The research concludes that private investigation by community makes a dynamics scope of active participatory in the public-participatory' theory. Two factors color the private investigation in corruption countermeasures as Indonesia' experienced. First, a legal frameworks challenge to support the full investigation activities that the Indonesian police can have. Second, in the other hand, the facts that half of the respondents as civil society are ready to participate even as private investigators, makes the possibility for Indonesia to implement private investigation. As a collaborative-governance in eradicating corruption. Theoretically, it improves a dynamic insight into the study and practices of public-participatory level. The social impact is developing a better corruption eradication policy change in Indonesia in collaborative-governance context.

Keywords: Active Participation, Community, Corruption Countermeasures, Private Investigation.

INTRODUCTION

The scope of active participation of community in corruption countermeasures has not been broadly developed, including in Indonesia. It is understandable because corruption eradication is the State's responsibility and sovereignty through law enforcement officials, as the investigator, the public prosecutor, and the judges. Recently, community participation is going to be a new approach in making decisions concerning the public interest, including in preventing crimes, as well as investigating crimes through community or private investigation. Furthermore, Article 13 of the United Nations Convention against Corruption (UNCAC) (Laws, 2020) promotes active participation of civil society, non-governmental organizations, and community-based organizations to prevent and eradicate corruption. The Article urges state members to take

appropriate measures of the issue in their legal policy. Senta (2018), as Director of The United Nations Asia and Far East Institute (UNAFEI) for the Prevention of Crime and the Treatment of Offenders, also reminds a noteworthy development of the law for public participation and awareness-raising.

There is still a gap, since no detailed explanation to which level the State may extend 'the active participation' in Article 13 UNCAC which makes each state member then may form 'the active participation' term variety. The Indonesian Government for instance, promulgates Article 41 of Indonesian Corruption Law 1999 (Laws, 1999) to response UNCAC's calls to provide 'the active participation' issue. In that Article, 'active participation' means the right to seek and provide information, submit suggestions, and obtain legal protection as a reporter, witness, or expert witness in a corruption offense. A supporting regulation, such as The Government Regulation (GR.) No.68 of 1999 also authorizes public participation in achieving good governmental governance free from corruption, collusion, and nepotism. Article 2 of GR. 1999 gives a similar meaning of 'active participation with those formulated in Article 41 of Indonesian Corruption Law 1999 (Laws, 1999). Corruption Eradication Commission (2018) Work Accountability Report, also shows how KPK has been engaging public participation in preventing and eradicating corruption. The engagements include reporting cases of alleged bribery and their handling in the mass media, social media, and newspaper, reporting gratification cases through the online application, accessing information through Call-Center lane, and any others. KPK also recognizes that public participation is a key to strengthen and encourage improvement.

The community' survey organized by KPK shown 59.52% of public participatory index which empirically supports the active-participation policy. However, the limit form of public-participation as provided by Article 41 of Indonesian Corruption Law 1999 does not give a significant result to reduce corruption cases. The high rate of bribery by law enforcement officials still exists, as revealed by KPK, Judicial Commission of Republic Indonesia, (2019), and Indonesian Corruption Watch (2018). Even, the corruption perception index (CPI) in Indonesia is still below 50/100, from 38/100 in 2018, and 40/100 in 2019, and 37/100 in 2020 with a scale of zero (very corrupt) to 100 (very clean of corruption). The CPI wants to pursue a CPI of 43 in 2018 and 45 in 2019. Sundari & Retnowati (2021) also found the weakness of internal and external control systems and public participation control systems.

Considering no explanation further to the scope of UNCAC' community active-participation and the limit forms of public-participation in practices such as shown in Indonesia, it is necessary to develop the scope of active-participation of community in corruption countermeasures into a broader meaning by state members of the United Nations, using Arnstein, (1969) theory & Wijdeven (2012) believes of the citizen participation' levels. It is important since previously the scope of community active participation in corruption countermeasures has not been developed yet. While, developing the participatory' scope will develop a better corruption eradication. In Indonesia, most of researchers focus on KPK status, role, and work (Sosiawan, 2019; Sadono et al., 2020) and the public participation issues in general (Bunga et al., 2019; Hamzah, 2019). The others for instance, focus on asset recovery blended learning model in anti-corruption academic classes, and evolving constructions of corruption.

This paper provides significant contribution by demonstrating how the participation level in Arnstein, (1969) theory and Wijdeven, (2012) believes, can include private investigation in it together with its challenges and possibility through Indonesia experience. Including private investigation will develop the scope of community active-participation and improves the level of public participation in corruption eradication, from just reporting and obtaining information of alleged corruption, into actively involved in the crime eradication process, as a community or private investigator.

The purpose of this research is exploring the Indonesian legal frameworks and its community willingness and readiness as two among the conditions for successful community participation, such as through private investigation in corruption eradication. Responding to recent calls in the literature, this study theoretically improves a dynamic insight into the study and practices of public-participatory level and practically develops a better corruption eradication policy change in Indonesia in collaborative-governance context.

LITERATURE REVIEW

Article 13 of UNCAC recognizes the right of the community to participate in the prevention and eradication of corruption through civil society, non-governmental organizations, and community-based organizations, as well as urges to countries to formulate legal policies regarding the active participation of the community. It is the legal basis for engaging the community in criminal proceedings, especially in corruption cases at the international level.

Relating with the community-participation discourse, the Arnstein' Ladder of Citizen Participation, (1969) is one of the most broadly referenced and influential models in the field of democratic community participation. Arnstein, (1969) put forward his theory about eight levels of citizen participation from the lowest to the highest, namely: (1) manipulation; (2) therapy, (3) informing; (4) consultation; (5) placation; (6) partnership; (7) delegated power; and (8) citizen control. There is no actual participation in manipulation and therapy only to enable powerholders to educate or cure the participants. Informing and consultation levels allow the citizens to hear and to have a voice. In placation, the community may give advice, but the final decision is on the powerholder. Partnership enables civil society to negotiate and engage in reciprocation with the powerholders. At the delegated power and citizen control top level, the citizens have the full managerial power, the majority in decision-making seats, and may govern the program or an institution.

However, in the citizen control level Arnstein, (1969) notes that: (a) no one has absolute control, so the citizens don't either, (b) because it is the highest form of authority that citizens can achieve, the community is fully responsible in carrying out the policies or plans, (c) this level of participation requires citizens who are very willing to get involved and spend a lot of time and effort in the activity and (d) the weakness is that it requires a large number of funds from the community itself, and if the authority is too large, it can be misused if the community or the person is not responsible.

Arnstein neither explains whether the ladder may be independently created or it is indeed an evolutionary process, nor the conditions for successful public-participatory level. Relating to the first issue, Wijdeven, (2012) believes that the development of a participatory society level is indeed evolutionary. First, starting from the citizens is given a voice in the decision-making

process. Second, the State offers citizens the opportunity to participate in the earlier stages of the policymaking process. Third, citizens take their initiative, with a bottom-up approach, through community institutions that take the initiative to carry out activities or programs such as those responsible for the State. Of the second issue, The Hague Academy for Local Governance, (2018) argues seven conditions for successful community participation: (1) the existence of empowered citizens; (2) the presence of legal policies that allow participation and social accountability; (3) Government commitment; (4) identification, understanding, and involvement of all relevant stakeholders, in particular marginalized and vulnerable groups; (5) a well-planned process with clear objectives and adequate allocation of resources (financial and human); (6) transparent governance; (7) trust between Government and citizens. Schroeder (2020) point of view supports The Hague Academy for Local Governance by concluding that the discourse of community engagement needs a national strategy with the greatest possible participation (Laws, 2020).

Arnstein does not explain furthermore, in which state-concerns each level of public participation may be used. Practically, several academics found its usage especially in making decisions concerning the public interest, public services, or community programs. For instance, in decision-making by the government in industrial revolution 4.0 (Putrijanti, 2019), in the decision-making process of UK's Nationally Significant Infrastructure Projects (NSIP), which arranging the representation and contributions of local people (Natarajan et al., 2019), in a plan for the e-participation of the citizenry through Open Government Partnership (Hassine, et al. 2020), in urban project (Schroeder, 2020), and in the youth inclusion in the case of post-Hurricane Harvey' community Planning and Resiliency (Rauhaus & Guajardo, 2021). The level of public-participatory in those practices is variate from first level to fifth level but none demonstrates the three top levels.

In the limit means, Arnstein theory influences a public-participation model in the criminology and criminal justice. For instance, Freilich & Newman, (2016) reveals the expansion of crime control beyond criminal justice into the realm of government regulation and partnerships with non-governmental agencies in exploring the crime problems and the way to resolve. Section 16j of Myanmar Anti-Corruption Law of 2013 (Laws, 2013) authorizes the commission of bribery eradication to build appropriate arrangements and plans for promoting the community's participation in the corruption eradication. Phomkong & Phanka, (2019) report Laos' good practices in the collaboration mechanism between social organizations, citizens and Government on prevention and against corruption that practically does not work effectively and efficiently. The Indonesian Government through Article 41 of Indonesian Corruption Law 1999 provides the community active participation by authorizing the right of citizen to seek and provide information, submit suggestions, and obtain legal protection as a reporter, witness, or expert witness in a corruption offense. Relating to Arnstein' context, what Freilich & Newman (2016) studies, and what Laos, Myamar, and Indonesia' provide display fifth level of public-participatory' usage, and tend to work ineffectively to reduce corruption.

It seems the three top-levels of Arnstein' theory or the Wijdeven' last evolutionary development process of citizen-participation is infrequently employed in practices. It is important hereby discussing another form of citizen-participation especially in the field of criminal proceeding, such as the private investigation, to demonstrate whether a higher level of

Arnstein' theory or Wijdeven' last evolutionary development process of citizen-participation may be advanced. The private investigation framework needs a top level of public-participatory such as partnership, delegated power, or citizen control. Considering the Hague Academy for Local Governance argues, (2018) and Schroeder, (2020) point of view, it is also essential to discuss the main conditions for successful private investigation inclusion as form of higher level of community participation, namely the existence of empowered citizens together with their willingness and readiness, and the presence of legal policies with the greatest possible participation.

While hardly applied in other areas, several States of The United States and Australia have provided private investigation regime in their law, along with its complexity problems, as found by King, (2021) in the economic crimes in Australia.

Chapter 493.6101(17) of the 2020 Florida Statutes provides that private investigation is the investigation by a person or persons for the intent of getting information to any of the following matters, including wrong done or crime against the U.S. or any State of the U.S., under the official governmental authorization. They should apply for a license from the Government and satisfy a set of a heavy requirement as regulated in Chapter 493.6105 and 6106 before they practice their business investigation. Once the applicants satisfy the requirements and qualify, the police will issue the license and the identification card (Chapter 493.6111). The applicant shall fulfill a set of requirements for a renewal application for licensure, as set in Chapter 493.6113. Two essential requirements among others are:

1. The good moral character, such as a statement of free from all criminal convictions, has never been adjudicated incompetent, has never been committed to a mental institution, and has no history of mental illness or drug or alcohol' abuse;
2. Qualified by experience and training, such as a statement of their knowledge, satisfy minimum course criteria for firearms, certified as a law enforcement officer or correctional officer according to the requirements of the Criminal Justice Standards and Training Commission after completing the course required for certification.

The specific class stated in Chapter 493.6115 is permitted a private investigator to own a firearm to support their investigation. Chapter 493.6118 and 6119 regulate a discipline-action or penalty to a licensed person or an un-licensed person who engages in any crime or misconduct. For instance, fraud, fictitious, being convicted of a crime directly related to the investigation business or license, a false statement, guilty of willful betrayal of a professional secret, negligence, or misconduct, in practice, and any violation as provided in Chapter 493. It shows how Florida provides private investigation to wrongdoing or crimes in detail.

New Jersey authorizes private investigation by the Private Detective Act of 1939 (Laws, 1939) as amended frequently. Private detective business, as provided in L.1939,c.369, p.887, s.1.45:19-9, means a private detective agency for the purpose of making for hire or reward any investigation to obtain information with reference to any of the following matters, including crime or wrong done or threatened or assumed to have been done or threatened against the law. The private investigator shall have first a license to conduct such business from the Superintendent of State Police (L.1939, c.369, p.887, s.2. as amended by L.1971, c.342, s.1.45:19-10). A set of moral and quality requirements regulated in L.1939, c.369, p.889, s.3.45:19-11. Among them is the written approval of five reputable and freeholder citizens and

other facts that may be required and will tend to show competency, character, and integrity. When satisfied from the examination of any application, further inquiry, and investigations regarding the applicant proper to the good competency, character, and integrity, the Superintendent shall issue and deliver a license and identification card to the applicant. There is a little bit variation of private investigator' requirement between Florida and New Jersey.

In Australia, the private investigation landscape historically is a profession built on divorce laws which focused on finding fault (Whitford, 2015), before used broodingly especially into the business field. New South Wales recognizes private investigation activity through Commercial Agents and Private Inquiry Agents Act 2004 No.70. Part 1.s.4 (Laws 2004) uses 'investigation of person's term as means any activity operated by a person on behalf of a second person, that involves finding a third person or investigating a third person's business or personal affairs. The Commissioner of Police may grant the private investigator's license (L.2004.P.2.s.6), except the applicant fall into a prohibited condition. For instance, the applicant has been convicted or found guilty of a minor offense, the grant would be contrary to the public interest, or if the applicant does not satisfy the requirements such as qualifications, experience, or training as the Commissioner may from time to time determine (L.2004.P.2.s.7). The New South Wales private investigators requirement is not as heavy as Florida and New Jersey has.

The successful in including private investigation as a higher level form of citizen-participation will contribute a broader meaning of active-participatory of the community in corruption eradication as provided in Article 13 of UNCAC (Laws, 2002)and influence the use of private investigation in an extend areas in the United Nations State members legal system.

METHODS

This research involves two-part research, normative legal research (Ali et al., 2017) and socio-legal research (Soekanto & Mamuji, 2015). The first research analyses qualitatively Article 13 of The United Nations Convention on Anti-Corruption (UNCAC), private investigation regime in The United States (US) and Australia, and the public-participatory levels' theory. The first research aims to describe public-participatory level of private investigation and efforts to whether it can be included as a broader meaning of civil society participation in the corruption eradication provided by Article 13 UNCAC (Laws, 2002). Since Indonesia is a state member among the other members of the UN that ordered to develop legal policy to implement Article 13 of UNCAC, the second research reviews the Indonesian legal frameworks and the community understanding and readiness to describe the obstacle and possibility to establish private investigation to support corruption eradication.

Second legal research examines the level of community understanding and readiness as the socio-basis for implementing private investigation. Refers to Article 13 of UNCAC, the society's elements relevant to be investigated are ordinary people as members of civil society, academics and professionals as community-based organizations, and non-governmental organizations who are concerned with eradicating corruption, as the population. It takes 368 purposive samples that consist of ordinary citizens, academics (pddikti.kemdikbud.go.id), lawyers, paralegals and law enforcement officials.

Refers to The Haque Academy for Local Governance, the empirical research identified which of the community's elements understand public participatory and private investigators and

their usage in eradicating corruption and determined which are ready to become private investigators. The way to obtain data uses a semi-structured questionnaire. The concept of public participatory refers to Arnstein, (1969) and Wijdeven, (2012), while private investigation relates to provisions in Florida, New Jersey, and South Wales.

Data analysis uses qualitative analysis methods to describe the readiness of the Indonesian legal framework and the community readiness to perceive the obstacles and possibilities for implementing a private investigation scheme in eradicating corruption. The conclusion uses a deductive mind-set from general propositions in the form of available legal frameworks and requirements of public participatory and private investigation schemes towards the possibility of its application to particular situations in Indonesia.

RESULT AND DISCUSSION

This section will describe result and discussion of two issues. First, explain about public-participatory level of private investigation and efforts to whether it can be included as a higher level of Arnstein' citizen-participatory. Second, portray the main conditions for successful private investigation inclusion as form of higher level of community participation, namely the existence of empowered citizens together with their willingness and readiness, and the presence of legal policies with the greatest possible participation, in the context of the Indonesian conditions.

Public-Participatory and Private Investigation

Considering the United States and Australia law, private investigation is the investigation by a person or persons for the intent of getting information to any of the following matters, including wrong done or crime against the U.S. or any State of the U.S. They will do the investigation activity as the police have, under the official governmental authorization, included permitting specific class of private investigation to own a firearm to support their investigation. In Arnstein' theory, the private investigators' framework may fall into the partnership level of citizen-participation, since they engage in reciprocation with the powerholders power, namely the police. Private investigator can work together with the police in investigative tasks or replace the police position as investigator as needed. Related to Wijdeven (2012) believes, including private investigator as a form of community active participation means developing the evolutionary process to the third condition, since the private investigator carries out activities such as those responsible for the State. This condition is not an easy way. In The Hague Academy for Local Governance argues (2018), it still depended on the Government commitment to establish national policy with the greatest possible participation in a form of private investigator.

The Indonesian Legal Frameworks Readiness

Article 13 of UNCAC orders countries' members to formulate legal policies regarding the active participation of the community. Whether the right of the community to participate in the prevention and eradication of corruption as Article 13 of UNCAC recognizes may be

broadened into an investigation function in Indonesia, based on The Hague Academy for Local Governance, (2018), it needs the legal frameworks and community readiness. The Indonesian legal framework on community participation is as follows.

Indonesia adheres to constitutional democracy as confirmed in Article 1(2) of the Indonesian Constitution (Laws, 1945). It states that sovereignty is in the hands of the people and carried out according to the Constitution. The notion is that people are more involved in state affairs, such as in law formulation. In drafting laws, as regulated in Article 20(1), the people are given the power to form rules through the House of Representatives. Meanwhile, no provision holds the people's participation in law enforcement in the Indonesian Constitution.

Moreover, based on Article 5 paragraph 1 and Article 7 paragraph 1 the Criminal Procedure Code of 1981, (Laws, 1981) the public may participate in law enforcement only as a reporter for the occurrence of a crime to the police or as a witness (Article 1 point 26). In comparison, the investigation process is under the officer's authority (Article 1 points 4 and 5). In the investigation, the police have the power to:

1. Looking for information and evidence, ordering a suspect to stop, asking and checking personal identification, and taking other actions according to the responsible-law;
2. Take action to arrest, prohibit any person from leaving, detain, examine and confiscate letters, take fingerprints and photograph a person, get and present to the investigator.

Indeed, outside the police, civil servants can become investigators (Article 6 paragraph 1 letter b of the Criminal Procedure Code of 1981), but no space for the civil society to become investigators or conduct investigations. Indeed, before reporting a criminal accident, the community, within the limits of what they can do previously, research to get the information and initial evidence as the basis to report an alleged criminal. Due to limited resources, the police work will become even more difficult without the community's initial investigation.

Article 5(2)f of The Police Act of 2002 (Laws, 2002) allows a business entity to conduct security services after obtaining the operation license from the police officer. Furthermore, Article 15(2)g requires the private security staff to follow and graduate from the authorized instructions and the police technical field training conducted before getting the license. Those provisions show that the personal or civil society may perform police tasks to provide security. This provision can become an embryo for private investigation where a person or civil society has a license to serve public safety, includes finding out the potential crime that interferes with general security.

Indonesia has adjusted corruption as an extraordinary crime (Prahassacitta, 2016). It brings a consequence to create a remarkable eradication policy. One of them is an engaging community in the corruption eradication process promulgated in The Anti-Corruption Law of 1999. Such community participation, according to Article 41(2), is realized in the rights to:

1. Seek, obtain and provide information;
2. Obtain services in seeking, obtaining, and providing information;
3. Submit suggestions and opinions to law enforcement officials (police, prosecutors, judges) in handling corruption cases;
4. Receive answers to questions about his report;
5. Get the legal protection in terms of exercising their rights;
6. Being a reporting-witness, witness, or expert witness.

Community participation is also possible in government governance. Refer to the Anti-Corruption, Collusion, and Nepotism Governance Law of 1999. The participation is in the community right and responsibility to participate in realizing good management of the Government. The form of participation is the same to those as stipulated in the Anti-Corruption Law of 1999, (Laws, 1999) namely the right to seek, obtain, and provide information on state administration, the right to receive equal and fair services from the government administrators, the right to responsibly convey suggestions and opinions publicly for the public policies of the Government, and the right to obtain legal protection.

Related to the investigatory authorities as provided in the Criminal Procedure Code of 1981 and the Corruption Eradication Commission Act of 2002 as amended by Act No. 19 of 2019, the community's rights are still limited to the right to obtain information and obtain services in seeking information. They do not have the authority as those of the police and KPK have, for instance, to examine documents, request copies of documents, take pictures of someone, wiretap, or other formal investigatory authorities.

Furthermore, the community participation according to Article 2(3) Civil Society Participation in Corruption Eradication Regulation of 2018 (Laws 2018) must follow statutory regulations, religious norms, and social norms. At the same time, the legislation in question is still general and limits public participation. Just as in criminal procedural law, no Article gives the community the right to obtain information and be served in getting information on the progress of the criminal proceeding, even the right to view the minutes of examination, or examine the evidence, transparently. In Bank Law of 1992 (Laws, 1992), the banking secrecy will constraint the right to obtain information about customer financial data. Only Bank Indonesia, tax officials, law enforcement officers, and Bank Officials can get such information. Article 40 of the Telecommunication Law of 1999 (Laws, 1999) prohibits wiretapping by anyone. The Opened Public Information Law of 2008 (Laws, 2008) also regulates the public's right to get public information. It states that citizens may access the public agencies' information related to state administration, administration organizers, and other public bodies. The citizens may access:

1. Information related to Public Agency;
2. The result of the decision of the Public Agency and its considerations;
3. All existing policies and their supporting documents;
4. The project work plan including the estimated annual expenditure of the Public Agency; Public Agency agreements with third parties;
5. Information and policies submitted by Public Officials in meetings that are open to the public;
6. Work procedures for Public Agency employees related to public services;
7. Reports on public information access services as regulated in this Law.
8. Information regarding the activities and performance of the related Public Agency;
9. Information regarding financial statements; and
10. Other information regulated in the legislation.

On the other hand, there are exceptions to access public information, namely:

1. That can endanger national defence and security;
2. Information relating to the interests of protecting a business from the unfair business competition;
3. Information relating to personal rights;

4. Information related to job secrets;
5. The requested public information has not been mastered or documented;
6. Public information which, if disclosed and provided to a public information applicant, can hinder the law enforcement process;
7. Public information which, when opened and provided to a public information applicant, can reveal Indonesia's natural wealth;
8. Public information which, if opened and provided to a public information applicant, can harm national economic resilience;
9. Public information which, if disclosed and provided to a public information applicant, may harm the interests of foreign relations;
10. Public information, when announced, can reveal the contents of an authentic deed that is personal and the final will or will of a person;
11. When opened and provided to a public information applicant, general information can reveal personal secrets;
12. Memorandums or letters between public agencies or within public agencies, which by their nature are kept confidential.

Although the law grants the right, the transparency and the willingness of public and private officials to provide information on alleged corruption are still limited. For example, the difficulty of activists in accessing data from general information, such as getting information of certificate owner' issuance, land-use right, sale and purchase documents, land ownership status, abandoned land lists, land acquisition, and topographic maps, the difficulty of implementing information disclosure at the West Java Regional Library and Files Agency (Pambayun, 2017). Anyone will also face a similar limitation as a private investigator who forcibly enters the target person's property (e.g., house) without the homeowner's permission (target). The police then can punish him under Article 167 paragraph (1) of the Criminal Code 1915 (Laws 1915).

Since no detailed explanation to which level the State may extend the meaning of 'the active participation' in Article 13 UNCAC, such State member then may form 'the active participation' term variety. Either several States in the United States (U.S.) and Australia authorize persons or persons to do as private investigators in their law. While from a study of its legal framework, Indonesia interprets the 'active participation as ordered by Article 13 of UNCAC by giving the community the right to seek and obtain information on alleged corruption as stated in Article 41(2) of Anti-Corruption Law of 1999. It may become an embryo of legal policy to provide space for private investigators, as the Police Act of 2002 also supports by regulating the police's authority to issue a license to a person to conduct security business.

Related to Arnstein' theory of citizen participation levels, (1969) it may include the Indonesian society's role to inform and get information of alleged corrupt behavior into the third, fourth, and fifth levels: informing, consulting, and placation. In those levels of participation, the society only has the right to hear, to have a voice, and give advice, by the right to obtain and provide information of potential corrupt behavior and give advice. Still, the final decision is on the powerholder. They do not have the power to negotiate and govern the program or an institution, such as an investigator. The authority of the Indonesian police in an investigation is the same to those of the private investigator regime in Florida as stipulated in Chapter 493 of the 2020 Florida Statutes and New Jersey, as promulgated in the Private Detective Act of 1939 that amended frequently. Florida and New Jersey allow private investigators to conduct

investigations for wrongdoing or crime against the U.S. or any State of the U.S. and secure evidence for an inquiry, the trial of criminal cases or civil cases, and the preparation thereof.

Moreover, as stated in Chapter 493.6115 of the 2020 Florida Statutes, the specific 'class' is permitted to own firearms to support their investigation. In this legal framework, private investigators are the same position as the police. The breadth scope of personal investigation activities can be said to replace the police's duties. While Indonesia only gives the public the right to seek and provide information with restricted access to certain information.

Indonesia's cautious attitude not to introduce private investigation with the same authority as police have is the same to Australia. For example, in New South Wales, the Commercial Agents and Private Inquiry Agents Act 2004 (Laws 2002) introduces 'investigation of persons' only to find a third person or investigate a third person's business or personal affairs. It does not authorize an examination for any wrongdoing or crime against the Australian Law, secure evidence for inquiry, and let alone permitted investigators to own firearms to support their investigation. The Indonesian' legal framework condition, according to Wijdeven (2012) about the civil society participatory' process level, only falls into the first level and has not fulfilled yet into the second level. The first level starts by giving the citizens a voice in the decision-making process and participating in the earlier stages of the policymaking process. By a bottom-up approach through community institutions, the second level takes the initiative to carry out activities or programs such as those of the State's responsibility to initiate.

As a new approach in making decisions concerning the public interest (Putrijanti, 2019; Schroeder, 2020; Hassine et al., 2020), it is natural that a country is still hesitant to involve citizens in public affairs, such as in eradicating corruption, with the same authority as those under the state authority, for example as investigators. The Hague Academy for Local Governance opinions, (2018) support that developing a private investigation in Indonesia depends on the Government's commitment to extend the legal framework such as provided in Florida or New Jersey, and the community's readiness to initiate private investigators.

If the Government commits to include 'the active participation as the private investigation, it will benefit, namely, supporting the police and KPK in investigating corruption through the private investigation-sharing initiatives and partnerships. When connected with the eight levels of public participation theories by Arnstein (1969), the level of 'partnership' and 'delegated power' levels include private investigation in it. Those levels enable civil society to negotiate, engage and govern the activity as the powerholder do. It is true as Arnstein, (1969) warned that enabling the community to be a private investigator does not mean giving absolute control to society. In a personal investigation, people only exercise one of the powers of law enforcement officials, namely the authority to investigate, not including prosecuting or adjudicating corruption. Refers to the second condition required by The Hague Academy for Local Governance (2018), fighting corruption as a severe crime will become effective by providing an extraordinary legal policy. In this case, enabling civil society becomes the private investigator to fight corruption as the policy will support the effectiveness in corruption eradication.

The Indonesian Community Willingness and Readiness

Agree with The Hague Academy for Local Governance opinions, (2018), either the legal framework must support, and the community must be ready and willing to participate as a private investigator in eradicating bribery. Based on the study of Arnstein (1969), community readiness includes their full responsibility, their willingness to get involved and spend a lot of time and effort in the activity, and their self-funding support. Do the Indonesian civil societies ready to engage as a private investigator in corruption eradication? The empirical research here describes the identity of the community elements that understand public participatory and private investigators and their usage in eradicating corruption and determine which of them are ready to become private investigators. From a survey of 369 respondents, the following diagrams present the data.

The composition of respondents surveyed through Google Forms consists of law enforcement officials (1.1%), practitioners of advocates, paralegals, and NGO (8.9%), academics (10%), and ordinary adult citizens (79.9%).

The level of public knowledge about community participation in eradicating corruption. It shows that 19.2% of respondents do not know about the right to participate. The remaining 80.8% know that Article 41 of Law Number 31 of 1999 contains the right of the community to participate in eradicating corruption. Most respondents are ordinary citizens, which is 79.9%, the level of knowledge about community participation is relatively high at 80.8%. Of the 19.2% of respondents (71 people) who answered they didn't know, it turned out that not all of them came from ordinary people, but some came from respondents with legal backgrounds. Two people (2.8% of the total respondents) are legal practitioners, and two people (2.8% of the total respondents) are legal academics.

Regarding implementing the community's right to participate, 87.5% of respondents said the community had not fully implemented it, 8.4% of them said the civil society had not implemented it, 3.8% said people implemented it, and 0.3% said people might implement it.

Factors that cause community participation have not been implemented, with answers that may be more than one. 42.8% of respondents stated the factor was due to the community's inability, 60.4% noted the factor was due to unopened access, while 47.2% noted the Government's low commitment. From these data, it appears that factors outside of civil society are more prominent, 60.4% due to unopened public access, plus 47.2% of the Government's low commitment. The community's disability factor percentage is minor than external factors, namely 42.8%. It shows that almost half of the respondents have not been able to participate in eradicating corruption. It relates to external factors and forms of participation as regulated in Article 41 of Law No. 31 of 1999.

Does the high level of public knowledge (80%) will express the high level of public willingness and ability to participate in eradicating corruption?

57.8% of respondents said they were willing and able to participate, while 41.7% said they were ready but unable. The rest, 0.5%, said they were not. From the data, it appears that the willingness of respondents to participate in eradicating corruption is enormous, namely 99.5%, although a half of them feel unable. Related to Bickel's (2016) opinion who argues that it supports successful community participation as many communities participate, this reasonably

large percentage is the essential capital for the success of public participation. There is a correlation between the levels of participation knowledge with the level of willingness to participate in eradicating corruption. However, it proves that its high level of knowledge (80%) not in line with the level of ability to participate, including as a private investigator. Of the respondents who wanted to participate, 41.7% said they were unable.

The data of 41.7% respondents who answered they wanted but were unable consists of seven persons or 21.2% from legal practitioners, 11 persons or 29.7% from legal academics, the remaining 136 persons or 45.4% from ordinary civil society. It means that the incapacity of respondents with non-legal background to participate is more significant than those with legal backgrounds.

As the opinion of The Hague Academy for Local Governance opinions, (2018), the willingness of these reasonably large respondents is a significant capital for successful community participation. Without the will or apathy of society, it will not support successful participation. Concerning Arnstein, (1969) and The Hague Academy for Local Governance (2018), however, the next problem is to build the capacity of 41.7% of respondents who are willing to get involved, spend a lot of time and effort in the activity, and has much of funds from the community itself. It includes empowering the civil society to participate in a specific form, including as a private investigator. By borrowing from other The Hague Academy for Local Governance opinions, (2018), another condition for successful civil society participation is developing Government commitment, transparent governance, trust between Government and citizens. Among the components of society, which one is considered the most appropriate to participate in eradicating corruption?

71% of respondents stated that everyone is suitable to participate, 14.1% said private detectives, as in other countries, are eligible to participate. In comparison, 7.6% said academics were exemplary, and 7.3 % suggested NGOs as the suitable component of society to eradicate corruption. From these data, it appears that the major community respondents (71%) want everyone to be allowed to participate, and secondly, they propose the existence of a private investigator. The desire of the major respondents that it is the right person to participate is in line with their level of knowledge and their level of willingness to participate. It remains to build the capacity to participate, including in the form of a private investigator if authorized by law.

14.1% of respondents want a private investigator to eradicate corruption. This percentage increases when asking respondents about the forms of participation.

Regarding forms of community participation, respondents may answer more than one. 33.6% of respondents suggested the form of community participation includes granting authority to conduct investigations with the permission of the police, and 27.1% indicated without the police permission. There is an inconsistency in the respondents' answers regarding the proposed private investigator. The data describes 14%-33% of respondents want a personal investigator with or without police permission. This figure is quite good considering that the Indonesian justice system has never introduced a private investigator yet, so the respondents are still not familiar, which results in inconsistent answers. Suppose the State accommodates their proposal by also considering the benefits of having a private investigator. In that case, likely, 99.5% of community respondents who are willing to participate.

Suppose there is a legal policy to authorize civil society to become investigators. In that case, the conditions can imitate the private investigator institutions adopted in the United States, such as in Florida and New Jersey, adapted to the needs in Indonesia. Such as Florida and New Jersey. Both states recognize private investigators to any wrongdoing or crime against the State or the U.S. under the governmental official or the State-Police' authorization as similarly provided in Chapter 493.6101(17) of the 2020 Florida Statutes and c. 369, p. 887, s. 1. s. 2. New Jersey Private Detective Act of 1939 as amended by L.1971, c. 342, s. 1. 45:19-10). The private investigation may be carried out by persons, persons, or agencies as promulgated in Chapter 493.6101(15)(16) of the 2020 Florida Statutes, and L.1939, c. 369, p. 887, s. 1. 45:19-9 of New Jersey Private Detective Act of 1939. Unlike New Jersey, the specific 'class' of a private investigator in Florida, as stated in Chapter 493.6115, is permitted to own firearms to support their investigation.

A private investigation may be conducted based on license only from the Government and satisfy a set of heavy-requirements as regulated in Chapter 493.6105 and 6106 of the 2020 Florida Statutes, before they practice their business investigation, as similarly provided in L.1939, c. 369, p. 889, s. 3.45:19-11 of New Jersey Private Detective Act of 1939. The essential heavy requirement that exists in the provision is that they have to fulfil qualified by experience and training, such as satisfy minimum course criteria for firearms, certified as a law enforcement officer under the requirements of the Criminal Justice Standards. Those heavy requirements ensure that the applicant is proper to excellent competency, character, and integrity.

Most civil societies have understood that they have a right to participate in corrupt' eradication processes. Most of them are willing to participate, but only a half of them feel they can participate, even in the form of a private investigator. A different element of civil-society affects differences of opinion regarding their ability to participate. Although it is still less than 50%, the community has also recognized and proposed private investigators as a form of community participation in eradicating corruption. More than 50% of the people feel they can participate. However, their ability is following the ability to join as regulated in Article 41 of Law Number 31 of 1999 and not acting as a private investigator. However, the great enthusiasm for participation from the community (99.5%) is an asset to become investigators. The problem is only how they meet the prerequisites as investigators according to the provisions if there is a legal policy.

CONCLUSION

The analysis of the research problems that focus on exploring its legal frameworks and its community readiness to implement private investigation in corruption eradication has shown a conclusion as follows.

In the Arnstein' theory, it demonstrates that the private investigation may be included in a form of public-participation and fall into the partnership level can work together with the police in investigative tasks or replace the police position as investigator as needed. In Wijdeven believes providing private investigation develops the evolutionary process to the third condition, where the private investigator carries out activities such as those responsible for the State. This condition is not an easy way. In The Hague Academy for Local Governance argues and

Schroeder point of view, it still depended on the Government commitment to establish national policy with the greatest possible participation in a form of private investigator.

This finding develops a dynamics scope in the public-participation discourse. However, to make The Indonesian legal framework has not been ready yet since no legal policy explicitly recognizes private investigation in the corruption counter-measurement process. Nevertheless, a legal frameworks' embryo for private investigation has established the right to get and give information about corruption behavior, the rights to ask, to receive, and to advice in the corruption' law enforcement process, and a police license for a person(s) or institution to conduct security business. This legal framework is still far from the breadth of activities and investigative powers that the Indonesian police can have. In Arnstein' theory (1969), the Indonesian legal policy only recognizes the social role by giving the right to hear, to have a voice, and give advice. Still, the final decision is on the powerholder. It has not been come into partnership and delegated power' level in private investigation-sharing initiatives and partnerships.

The empirical research expresses that most civil societies have understood their right to participate in corruption eradication processes. Most of the respondents are willing to participate, but only half of them feel having the ability, including in the form of a private investigator. A different element of civil society affects differences of opinion regarding their ability to participate. Although it is still less than 50%, the community has also recognized and proposed private investigators as a form of community participation in eradicating corruption. More than 50% of the people feel they can participate. However, their ability follows Article 41 of Law Number 31 of 1999 and does not act as a private investigator. However, the great enthusiasm for participation from the community (99.5%) is an asset to become investigators. The problem is only how they meet the prerequisites as investigators according to the provisions if there is a legal policy.

Generally, the research concludes that theoretically the possibility to implement private investigation in corruption countermeasures will expand the public participation. In the other hand, the challenge is that Indonesia has a legal frameworks' embryo for private investigation, but still far from the breadth of activities and investigative powers that the Indonesian police can have. At the same time, the facts that half of the respondents as civil society ready to participate even as private investigators make possible to implement private investigation in corruption measurement.

Considering the empirical condition of the community willingness, supporting by the legal framework embryo for private investigation, it makes sense for the Indonesian government to broaden the scope of 'the active-participatory' of community as stated in Article 13 of UNCAC by establishing a legal policy for private investigation in corruption eradication.

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