

Community Legal Culture and Eradication of Corruption in Indonesia



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ABSTRACT: Corruption is a major problem faced by all nations in the world, including the Indonesian nation. The problem of corruption is very influential on not achieving the goals of the Indonesian nation, namely the welfare of all Indonesian people. State finances should be used for the welfare of the Indonesian people, because the actions of corruptors who use state money are only for their personal or group interests, so that the goals of the state cannot be achieved, and will only cause misery for the people of Indonesia. Eradication of criminal acts of corruption in Indonesia cannot only be carried out by state institutions, but it is necessary to have efforts to eradicate corruption from all Indonesian people, by building a legal culture of eradicating corruption.

KEYWORDS: Culture, Law, Participation, Society.

I. INTRODUCTION

Improvement of the legal substance desired in the prevention of corruption is related to the renewal of the various sets of rules and normative provisions (legal reform), patterns and the will of community behavior existing in the legal system. The basic strategy of combating corruption should be focused on eliminating the causes and conditions of the conditions that lead to the occurrence of crime. As contained in the 6th UN Congress report of 1981 stating that: [1] crime prevention strategies should be based upon the elimination of causes and conditions giving rise to crime; (that a crime prevention strategy should be based on the elimination of causes and conditions that constitute a crime)

Law enforcement at its core lies in the attitude and behavior of society. Communities as legal subjects directly or indirectly participate in the occurrence or absence of criminal acts. Community participation is influenced by cultural conditions. Various participation has been done by the community, both of which can tackle corruption crime and cause corruption crime. Participation is done is something that is formed in the structure and norm especially customary norms. In order for participation can be done optimally and functioning for the prevention of corruption, it is necessary to create a system of forms of participation that exist.

Up to now law enforcement is mostly done regardless of the value and norms that apply as the cultural wealth of the community. A semiotic perspective that explains the function of legal function that is facilitative, repressive and also ideological. Semiotic analysis can be interrogated in a number of perspectives to construct a more holistic approach in the sociology of law [2].

Legal communication is done in a persuasive manner with its direct application to society, taking into account the existing culture in society. Legal communication is done so that every society can disseminate legal knowledge better. Legal communication has actually existed unnoticed in the daily life of the community but not yet organized in an effective system. Legal communication can be grown from existing culture in society. Legal communication can be done by the community with law enforcement officers and involving academics or people who have legal knowledge. Issues to be studied are how to build community participation in combating corruption and how cultural-based legal communication system can be utilized to combat corruption.

II. THE MATERIALS AND METHOD

This research is legal research socio legal (research empirical law) supported by normative law research. The approach used in this research is descriptive-analytical approach. Techniques of data collection is by observation, questionnaire and interview. Analysis of data that has been obtained by using qualitative analysis technique, that is intended as an analysis to the data rationally by using certain thinking pattern.

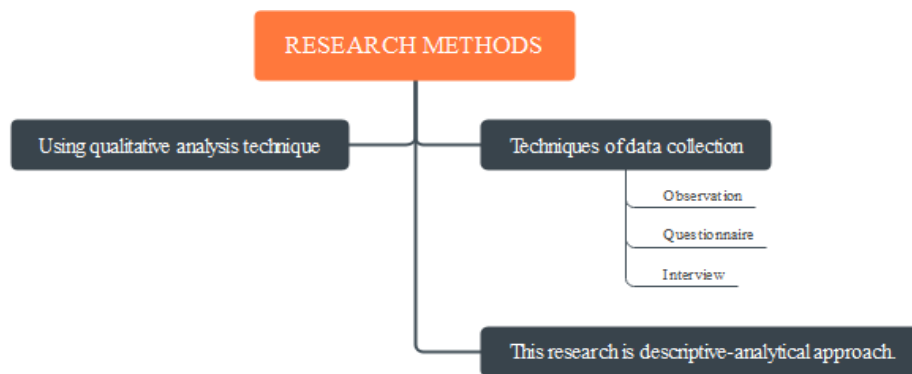


Fig. 1 Method the Research

III.RESULTS AND DISCUSSION

A. Building community participation in combating corruption

In some areas, community participation in corruption prevention has been found. This participation is primarily manifested in the role of customary institutions. The role of customary institutions in question here is to supervise the criminal act of corruption. Supervision is done by each tribe incorporated in Kerapatan Adat Nagari (KAN). KAN here has done the settlement of corruption cases on the nagari through the nagari leaders themselves. Case in point is: At nagari tigo balai that reported the suspected corrupt Wali Nagari. Goro badunsanak grants from the district government.

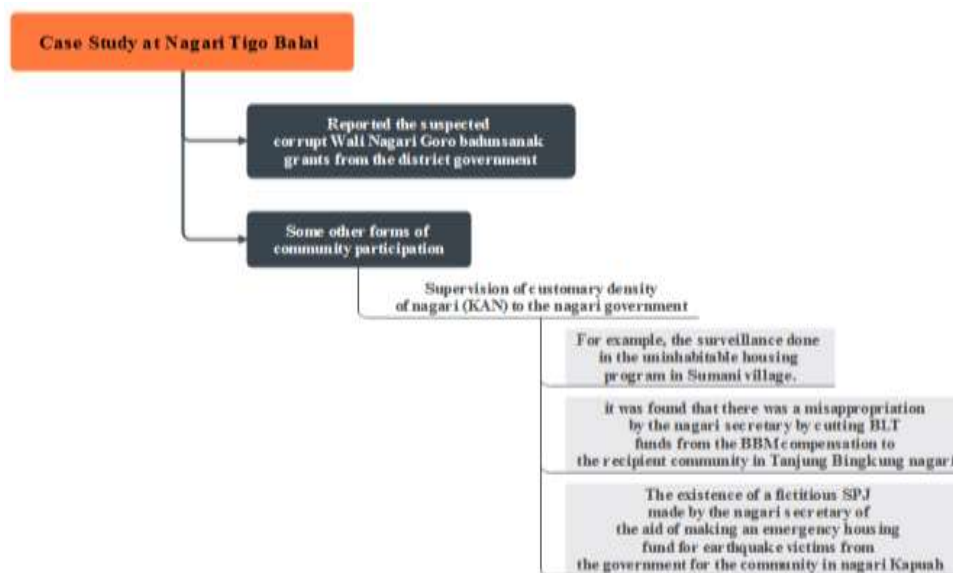


Fig. 2 Case Study at Nagari Tigo Balai

Some other forms of community participation are:

1. Supervision of customary density of nagari (KAN) to the nagari government. For example, the surveillance done in the uninhabitable housing program in Sumani village. The supervision performed has a positive impact. The program runs according to the applicable rules. Here KAN does adaptation with beneficiaries. Encourage them to have the courage to monitor the help they receive. Often people quickly feel satisfied with the help they get. Communities are given the awareness that the assistance they receive is their right. Relief recipients are prohibited from giving "aia" money to relief officers such as wali nagari. The surveillance system is a self-monitoring system. People are given the awareness not to engage in corrupt practices they have unconsciously done. The activation of the entire system involved has the effect of complete oversight of all involved actors.

2. Based on the supervision conducted by KAN, it was found that there was a misappropriation by the nagari secretary by cutting BLT funds from the BBM compensation to the recipient community in Tanjung Bingkung nagari. The problem was initially resolved by KAN and Wali Nagari. But the reprimand against the nagari secretary had no effect. Cutting still done. The nagari secretary feels his deeds are correct because the cut funds are not enjoyed by themselves. Based on further investigation by community leaders, the Nagari guard and some other nagari government officials also enjoy the money from the cuts. Based on the decision of the Governing Body of Nagari (BPN) or the legislature in Nagari and KAN, the case is reported to the authorities. At the local level a dismissal action is taken against the parties allegedly involved. Reporting is done on behalf of the community through BPN and KAN.

Community Legal Culture and Eradication of Corruption in Indonesia

3. Corruption is not only done by political elites. The existence of a fictitious SPJ made by the nagari secretary of the aid of making an emergency housing fund for earthquake victims from the government for the community in nagari Kapuah. This case is expressed by people who feel aggrieved when they are only asked for a signature receipt, while the money they have never received. The community did not immediately report it to the authorities. Customary leaders and community leaders form an independent settlement team, named Team Settlement of missing money cases. This team consists of elders in nagari and adat leaders, they are those who have no blood relation and kinship with the nagari secretary. This independent team, choosing to confiscate the private car of the nagari secretary, with the nagari secretary's agreement will repatriate the funds he has embezzled. But the nagari secretary was unable to meet the demands of the community. Eventually the community took action by making arrangements with the nagari secretary. The contents of the agreement are the results of rice fields owned by the nagari secretary for 100 times the harvest, must be submitted to Nagari to be distributed in the form of revolving loans to the community.

Community groups manifest their participation by taking action. The action they take is based on the experience that when they travel the legal path they often fail. Every corruption case that the community participates in attempts to resolve informally. If the informal path fails then report to the authorities. Reporting often encounters obstacles. Many cases reported by the community are then not processed for various reasons the case disappeared without any further knowledge. The public lacks public information about the criminal process of corruption that they have reported.

Action theory states that individuals perform an action based on experience, perception, understanding and interpretation of a stimulus object or a particular situation. Individual action is a rational social action, namely to achieve goals on the target with the most appropriate means[3]. Max Weber's theory was developed by Talcott Parsons which states that the action is not behavior. Action is a mechanical action against a stimulus whereas behavior is an active and creative mental process.

Talcott Parsons thinks that the main thing is not individual action but the social norms and values that demand and regulate that behavior. The objective conditions united with the collective commitment to a value will develop a certain form of social action. Talcott Parsons also assumes that the actions of individuals and groups are influenced by the social system, cultural system and personality system of each individual. Talcott Parsons also classifies the type of role in a social system called Pattern Variables, which contains an effective, self-oriented and group-oriented interaction.

In addition to the form of community participation to crack down on corruption there is also a form of public participation in processing corruption criminal cases, among others:



Fig. 3 Public participation in processing corruption criminal cases

Gordon W.allport in his book *The Psychology of Participation* [4] states: The person who participates is ego-involved instead of merely taks-involved. The opinion may be translated that a participating person is actually experiencing his or her own involvement or ego that is more than involvement in work or task only. With self-involvement means the involvement of his thoughts and feelings. Based on this understanding then a person performs activities according to thoughts and feelings that pertain to agree or disagree. In the context of the prevention of criminal acts of corruption, the expected public participation is participation which is the conscious involvement of the community. Community involvement as a form of participation should be supported by relevant law enforcement officers.

The need for increased participation by involving all components and layers of the community, developing local potentials, mobilizing self-help target groups and developing a coaching methodology for awareness raising, initiative and motivation, human resource development. Continuous improvement of skills and programs to shift attitudes and mental toward a more positive and rational [5].

Participation to tackle corruption is not only the task of institutes set up specifically to fight corruption but non-wathcdog institutions have also included anti-corruption programs as part of their activities, such as environmental activists, human rights, teachers, cooperatives, religious institutions, cultures and others, although sometimes it is done when their interests are disrupted. It shows an increase in community participation in the prevention of corruption.

Community Legal Culture and Eradication of Corruption in Indonesia

Community participation in the prevention of corruption must depart from the legal awareness of the community. Legal awareness is a consciousness that exists to every human being about what the law is or what the law should be, a certain category of our psychic life by which we distinguish between law and not law (onrecht), between what should be done and not done [6].

Cultural factors have a positive and negative influence on community participation. As expressed by Chiba [7]: Cultures would be in the triangle of religion / ethics and morality as well as the society of the state. Culture will be between the laws of the State and society. It will affect a certain level of law enforcement.

The positive influence of culture is the habit of Minangkabau society to solve a problem that happened. Especially when the problem is about community life. In Minang the term "Batanggo naik bajanjang turun" means a problem in Nagari must be resolved according to a clear stage. Stages ranging from simple community groups to large community groups. This can be seen in the form of community participation that seeks to resolve a case that is suspected of being a criminal act of corruption at the lowest level before reporting to the authorities to be processed law formally.

Besides can be found in terms of participation in solving corruption crime, the influence of cultural factors on the participation of the community in a positive way is the involvement of customary figures and community leaders in the supervision and as facilitators in development that have a point of vulnerability of corruption. The results of supervision and facilitation undertaken will be discussed periodically at customary meetings in a Nagari.

Besides the factors that influence positively above are found also in the culture in Minangkabau negative factors that influence community participation. Among other habits that are considered commonplace as a norm of modesty actually become the seed of the emergence of corruption. For example; at Minang known term money "panjek" (climbing) or known as the term cigarettes. Monetary money usually given for a business to be smooth or achieved what is desired or intended. Human behavior factors not only visible to the eyes or only with the five senses, but must be understood that human beings involved in the law enforcement process always interact with the environment based on the culture. Given The legal system is not a machine; it is run by human beings [8].

Another negative factor is the existence of a habit that is considered as a form of ethics in Minangkabau is the habit of giving something to achieve a goal. For example, the community gives the agricultural produce to get capital assistance to the authorities. This custom is known as "ma agiah buah tangan" (memberi oleh oleh), This is where bribery as a form of corruption is justified. Bribes are bad for society and cause rapid growth in the form of corruption at the next level.

Culture serves as the normative framework in human life that determines the behavior of community members. These societal behaviors constitute a system that indirectly becomes a legal culture. The legal culture greatly affects the effectiveness of enforcement and the success of law enforcement. Law is the concretization of social values formed from culture. The formation of the law should be adapted to the legal culture of society. The failure of modern law is often because it is not compatible with the culture of community law.

Another factor influencing public participation in the prevention of corruption is the low level of education and public legal awareness. This impacts on the widespread involvement of the community in causing corruption. The public often can't distinguish which one includes what corruption does not.

The most powerful factor to encourage the emergence of community participation in the most essential corruption eradication is to practice the values of social justice in everyday life, whether in dealing with government, business and fellow citizens. If someone wants to participate in tackling corruption then he should be able to refrain from engaging in corruption. This attitude is related to morals. A good morale can be established with good religious understanding.

Esmi Warassih states that the community empowerment process should emphasize the process of giving or transfer some of the strength, power or ability to the community to be more empowered and encourage or motivate the individual so as to have the ability or empowerment to determine what life choices through the process of dialogue. Community empowerment is a strength to gain access to existing resources so that there will be a fair division of powers that can raise people's awareness of their existence [9].

B. Cultural-Based Communication System for Criminal Corruption.

Legal communication is a form of influencing view of society from non penal efforts as a crime prevention effort. Legal communication is done in a persuasive manner with its direct application to society, taking into account the existing culture in society. Legal communication is done so that every society can disseminate legal knowledge better.

Communication is a tool that can connect between one individual with another individual. Communication is a persuasive approach. Persuasive approach to law enforcement in society, especially marginal society, is considered the most effective to do.

Legal communication can grow from the existing legal culture in society. Culture is one of the perspectives developed in law enforcement. Legal communication is a form of local cultural development in law enforcement efforts. It was stated by Satjipto Rahardjo that the culture of local law is a culture that applies to a particular group of people. The culture of local law should pay attention to aspects of community aspects of the community concerned [10]. The aspect of the community concerned is one of the bases for establishing legal communication.

The form of legal communication that has been done by the community so far can be seen by mapping activities of community activities that have been also used for the prevention of corruption. The forms of these activities are:



Fig. 4 Community activities that have been also used for the prevention of corruption

Legal communication is done in a direct way to the community through the activities undertaken in the group of these communities. Legal communication contains the delivery of information information about the law to the community directly. Submission is done to the group of community activities, and some are done directly to the individual. Submission of information is done through casual chat with the community. Legal communication is also done at informal meetings of the community such as in a warung stalls, resting place in the middle of work and others as

Satjipto Rahardjo argued that the law should be withdrawn from the realm of legislation. It is an idea of legal studies that also concerns the social phenomena of the workings of the law in society [10]. There are many classes and ethnic with special culture in Indonesia. There are different characteristics of rural and urban communities. Legal issues in society can be solved by traditional approach. First of all must be known social stratification or coating society in that environment. Furthermore, it is necessary to know the institutions of social institutions that live, and are highly appreciated by the largest part of the community. Societal social institutions have a great influence on the stability and changes in socio-cultural changes that will or are happening.

Law enforcement comes from the community and aims to achieve peace within the community. Nowadays in the process of law enforcement community involvement is very necessary. Communities can influence law enforcement. The legal provisions for crime prevention must primarily stem from the rational efforts of the community to cope with crime. This is accordingly as Marc Ancel, who formulated as "the rational organization of the control of crime by society" [11].

Legal communication by existing social institutions has not been able to touch all levels of society and there is no specific pattern on the use of such communications for law enforcement.

Legal Communication involves public awareness of the importance of keeping the law. In line with the nature of the law as a compelling norm, then legal communication is also coercive. Many variables affect audiences' attitudes, such as the impact of communication from other directions (other people) or are differences in the frame of reference, the background of the audience experience or some previous legal communication recipients who are trapped in the settlement of their case requiring guarantees and material prerequisites. Many news and experiences of the justice seeker community as well as many people dare to violate.

The law for not believing in the good faith of law enforcement officers. This is proof that there has been a long-standing clash of relations between law enforcement and the people in the understanding and view of habits that can melt in the rules on the ground. The importance of assertiveness and good examples that educate law enforcement, because if not then the law can be broken with the pressure of the number of public opinion that may be irrelevant. Many people become judges themselves in solving crimes. In legal communications society is manifested by establishing an institution of independent institutions with the aim of as a forum to eradicate corruption Participation in the form of supervision and facilitator requires an existing institution. The need for revamping of institutional institutions formed by these communities.

Cultural reality is a social wealth that needs to be continuously maintained and developed to create a conducive social base for the development of National Law. Due to problems that can not be solved solely by legislation, the laws that live in society are the supporting factors that can be utilized to streamline and develop the National Law [1].

Herbert L. Packer proposes criminal acts not only immoral but also acts contrary to the general view of society (the criminal sanction should ordinarily be limited to conduct that is seen, without significant social dissent, as immoral), and added to the action that harms to others [12]. The law that lives in the community creates a legal culture. A legal culture is a human attitude to the law and its legal system, beliefs, values, thoughts and expectations. The legal culture also includes the social mood and social forces that determine how laws are used, avoided or abused. Without legal culture, the legal system itself will not be empowered. Legal culture is covered in the dalah of communication communication law done by society.

Culturally, people can do the prevention of corruption by using legal communication based on culture. Utilization of local culture that exists in society is a powerful method to apply. In research conducted form of community participation tends to form local

Community Legal Culture and Eradication of Corruption in Indonesia

wisdom of society but not at fixed level. Any participation that takes its form depends on the case of the criminal act of corruption encountered.

IV. CONCLUSION

Strengthening community participation is an effective method to do especially in efforts to eradicate corruption. Corruption is closely related to the morals and cultures that grow in the community so for penaggulangannya also needed improvements in the use of cultural and legal communication system in society. Community empowerment in the handling of corruption can be started by utilizing local custom and wisdom that exist in society. This can be realized by utilizing the existing forms of communication in the community. Existing communications within the community can be well implemented through customary institutions existing within the community.

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