

Legal Review of the Eradication of Criminal Acts of Corruption in Indonesia Based on Legal and Moral Approaches

Ritian Handayani ^{1*}, Yasmirah Mandasari Saragih ²

^{1,2} Magister Ilmu Hukum Universitas Pembangunan Panca Budi Medan, Indonesia

Email : ritian44@yahoo.com yasmirahmandasari@gmail.com

Abstract This article proposes to review the handling of corruption cases in terms of juridical and morality in Indonesia. This study is a normative legal study with descriptive analysis. This study uses a philosophical approach and a conceptual approach to determine the efforts made by the government to overcome corruption in Indonesia from the juridical and moral aspects of the Indonesian people based on the Pancasila Ideology. Efforts to eradicate corruption have not been able to be overcome optimally because they are spread sporadically in Indonesia. Obstacles are occurring structurally, culturally, instrumentally and management. Prevention and eradication of corruption must be emphasized as the moral responsibility of the Indonesian people. Because it will be one of the biggest threats to the existence of the Indonesian nation. Prevention of corruption must be carried out systematically by strengthening regulations and conducting international cooperation on the issue of corruption as a crime against Human Rights throughout the world, especially in Indonesia. That aspect of law enforcement in eradicating criminal acts of corruption requires the role of all parties involved in achieving the target of eradicating corruption that is rampant in Indonesia, there are four factors causing corruption; political and legal factors, historical factors, social factors and cultural factors, and economic factors. Concrete solutions in eradicating corruption are needed by Indonesia to redesign public services, strengthen transparency, supervision and sanctions against government activities related to the economy and human resources, increase the empowerment of supporting instruments in preventing corruption and to ensure that law enforcement is free from corruption. The strategy to eradicate corruption must be built with the will of all parties who want to eradicate corruption itself, by not giving the slightest tolerance in the act of corruption itself. In realizing an effort to eradicate corruption itself, it requires determination in meeting the prerequisites in terms of existence driven by political ability and will and a strong commitment from all parties, transparent and accountable in its implementation, available and balanced resources and capacity.

Keywords: Corruption Prevention, Normative, Morality

1. INTRODUCTION

Corruption has been conceptualized and is able to influence decisions that are oriented to enrich certain individuals . Corruption ¹often occurs due to the deviation of authority and the involvement of more than one person and is carried out collectively. Authority is the main cause of an official being caught in a corruption case. This is very worrying because corrupt behavior is carried out by people in the government bureaucracy. As a result, society experiences a lack of figures who demonstrate good behavior. For years, despite increasing regulations, their implementation has not provided strength and firmness in eradicating criminal acts of corruption.

This is due to the reluctance to process violations of corruption crimes committed by state administrators. Subordinates seem to turn a blind eye because they are afraid of those who are higher up so that they end up holding the principle that if their higher ups are happy, they will not do anything. This situation makes corruption continue to take root in the bureaucracy which ultimately provides an example to the public to also carry out corrupt practices in the form of when they carry out legal administration to obtain excellent service from the government .²

The emergence of an attitude of imitation, tolerance and normalization of culture and supported by environmental conditions, shows that even though the government is well maintained, there is still tolerance of corruption ³. Therefore, the realization of clean and clean governance and good governance cannot be achieved. Based on data from the Corruption

¹ Gunardi Endro, "Investigating the Meaning of Integrity and its Opposition to Corruption", in the KPK Integrity Journal, Edition 03, Number 1, March 2017, p.131

² Shuriye, Abdi Omar & Jamal Ibrahim, Daoud 2010 Islamic perspective of quality administration, Australian Journal of Islamic Studies 01 (01): 49-57

³Ria Casmi Arrsa, Reconstruction of Legal Politics for Eradicating Corruption Through the Strategy of Strengthening Independent Investigators and Public Prosecutors of the Corruption Eradication Commission, Jurnal Rechts Vinding, Volume 3 Number 3, December 2014, p. 1

Eradication Commission (hereinafter referred to as the KPK), generally, corruption occurs because of bribery ⁴.

Corruption crimes handled by the KPK are based on too many types of cases (2004-Jun 2019) Bribery is the type of corruption case most handled by the Corruption Eradication Commission (KPK). 661 cases or 65% of the 1,007 corruption cases handled by the KPK are bribery cases. Based on data from the Corruption Eradication Commission (KPK), in 2018 there were 168 bribery cases and considered the highest number compared to previous years. Then, in the first six months of 2019, there were 97 bribery cases or more than half of the same cases found last year.⁵

Even though many corruption perpetrators have been arrested by the KPK and served as punishment, this has not discouraged state administrators or private parties from harming state finances. In fact, the number of corruption crimes has actually increased. In 2018, there were 199 corruption cases, while during January-June 2019, there were 120 or more cases, which is half of the total corruption last year, there ⁶were 124 Regional Heads who committed corruption). Various actions have been taken to reduce the number of corruption, both legally and formally, by improving morale and instilling Pancasila values.

Likewise at the initial level of school to college to get mandatory material on anti-corruption education. as an effort the government will include the subject of Anti-Corruption Education into the formal curriculum so that lessons can be given formally in schools. These various activities show that corrupt behavior is a common enemy because it can threaten the next generation of the nation. As an enemy, it is natural that corruption must always be fought and eradicated to its roots (Alfaqi et al., 2017). Based on the description above, the researcher wants to study the eradication of corruption in Indonesia based on the legal, moral, and ideological aspects of Pancasila.

2. RESEARCH METHODOLOGY

The researcher uses normative legal research methods with descriptive analysis. This study applies a philosophical approach to determine the efforts made by the government in overcoming corruption in Indonesia from the legal and moral aspects of the Indonesian nation based on the Pancasila Ideology. (Marzuki, 2010). A conceptual approach is also used where researchers combine views and doctrines that develop in fiqh to find new ideas and principles that are relevant to the problems being investigated. In addition, this study also uses a statutory approach and a conceptual approach (Saptomo, 2010).

⁴Cindy Rizka Tirzani Koesoemo, The existence of the Corruption Eradication Commission (KPK) in handling the investigation and prosecution of corruption crimes, *Lex Crimen Journal* Vol. VI/No. 1/Jan-Feb/2017, p. 1

⁵Taufik Rinaldi, et al., *Combating Corruption in Decentralized Indonesia: Case Study of Handling Regional Government Corruption*, (Jakarta: Justice for The Poor Project World Bank 2020) p. 7.

⁶Edi Setiadi, Criminal Law Enforcement Against Corruption Cases in Creating a Clean Government, *Mimbar Journal* No. 4 Year XVI Oct. – Dec. 2000 – 305, p. 1

3. DISCUSSION

Eradicating Corruption Through a Normative Approach

Indonesia is a country of law as stated in the third amendment to the 1945 Constitution of the Republic of Indonesia Article 1 paragraph 3. As a country of law, public interest must be protected. As in paragraph IV of the 1945 amendment: "... ... to form an Indonesian government that protects all Indonesian people ..." Everyone in Indonesia has the right as a constitution guaranteed to be able to live safely, peacefully, and free from all criminal acts. Suryani emphasized the importance of law enforcement as the only pillar to reduce the number of corruption crimes that fall into the class of extraordinary crimes.⁷

Corruption is very contrary to the rules of legal forms, the moral values of the nation, and national ideology. Without realizing it, the impact of corrupt behavior has damaged the economy, the democratic sovereignty system, the realization of welfare, and justice. In fact, various policies have been carried out by the government to eradicate corruption, if there is no awareness and firmness of government officials, corruption will not disappear.⁸

The reality shows that there are still many corruption cases that are not handled seriously and are complicated in practice. According to Lee Kuan Yew in his book *One Man's View of the World*, which says that Indonesia is actually able to eradicate corruption well because it is supported by abundant natural resources, has a famous ideology with noble character. Because of the corruption that has entered the stage of violence .

Currently, Indonesia is at its lowest point in terms of economic growth which is considered slow and increasing cases of corruption which have caused the moral decline of the Indonesian nation as a whole. Indonesia has gone through various problems including increasing poverty, unemployment, low rupiah value, and increasingly expensive prices of basic necessities. Serious problems that must be faced by the country must be resolved in various ways. However, the problem of weak implementation of regulations, weak morality, and Pancasila has begun to be marginalized, which causes the problem to not be resolved wisely. Corrupt criminals will be silent if they know that they will remain in power for a long time because of the connections they have in the circle of power.

But unlike democratic countries, where the types of criminals in democratic countries are far more dangerous than one might imagine, they may be more active and more cruel than in anti-democratic countries.⁹ The manifestation of democracy in Indonesia, as a symbol of the state, is not visible in power. Both vertically between the government and the Indonesian people and horizontally between the government and/or fellow citizens. Whereas democracy is a symbol of the identity of the Indonesian nation, people who do not only happen once in five years but are expected to happen all the time because democracy has flowed in the veins of Indonesian society.

The concept of a state of law is demonstrated by the act of supremacy of law, which means that every person or government as a source of law whose authority must be based on applicable law. Equality before the law means that everyone is considered the same without any differences

⁷Purwaning M. Yanuar (2007), *Return of Assets Proceeding from Corruption Based on the 2003 UN Anti-Corruption Convention in the Indonesian Legal System*, Bandung: Alumni, p. 10

⁸Diana M. DiNitto (2000). *Social Welfare, Politics and Public Policy*. Boston: Allyn & Bacon, p. 2.

⁹ Word Bank, *Combating Corruption in Indonesia, Strengthening Accountability for Progress* (Jakarta , 2004).

from various stratifications of life. Explanation of Law on the State Organizer of Indonesia that is Clean and Free from Corruption, Collusion, and Nepotism Number 28 of 1999 is absolute. Clean and well-organized State Government will achieve National goals easily.

This is stated in the Explanation of the 1945 Constitution which states that the spirit of government is important. Criminal practices of corruption, collusion, and nepotism due to behavior that crystallizes in government officials so that the impact of corruption is not only carried out by State Administrators, between State Administrators, but also State Administrators with other parties such as families, entrepreneurs, and Communities. Finally, there is damage to various aspects of community, national, and state life. If this condition is allowed to drag on without any control, it will threaten the existence of the Unitary State of the Republic of Indonesia ¹⁰.

Jeremy Pope in his book, *Confronting Corruption: The Element of the National Integrity System*, explains that corruption has now become a global problem because it does not only occur in Indonesia. Corruption practices would not be possible if only done by one person, it can be done if two or more people or even a group of individuals share the benefits together. Without understanding that behind the pleasure and joy of using money that actually comes from taxpayers, such low actions make people suffer. Because it is very clear that corruption triggers a gap in social life that prioritizes the principle of the rich getting richer and the poor getting poorer. Countries with corrupt practices certainly have an authoritarian configuration such as in the case of the concept of a totalitarian government, a dictator who places power in the hands of a handful of people .

In fact, it is known that the configuration of democracy in legal politics by Mahfud MD ¹¹stated that democratic power places the people and power in a balanced manner, provides space for the DPR Representative, provides an executive role and also provides freedom to the press or journalists without pressure from power. However, in practice, almost all countries claim that their countries take a place in democracy, but are practically more cruel than authoritarian governments. Because corruption is a global problem, it is necessary to eradicate it globally. Therefore, corruption is labeled as an extraordinary crime. Unity of the Criminal Justice System, If we look at the Indonesian Law format regarding the Criminal Procedure Code Number 8 of 1981, it appears that the integrated system in which lawmakers formulate the stages and authority of investigation is carried out by the police and certain Civil Servants are given authority by the constitution, then the prosecution stage is carried out by the public prosecutor and the examination stage is carried out by the District Court Judge, High Court and Supreme Court and the implementation of the decision that has permanent legal force (*inkracht van gewijsde*) by the prosecutor's office and the Correctional Institution. The Public Prosecutor who handles the case then makes

The Indonesian Corruption Eradication Law (Corruption Eradication Law) Number 31 of 1999 can be explained as follows: Article 2 paragraph (1) of the Corruption Eradication Law states that: Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy shall be punished with the death

¹⁰ Robert Klitgaard 82-85., *Eradicating Corruption* (translation), Translation (Jakarta: Obor Foundation Indonesia, 2005).

¹¹MD, M. (2009). Achievements and Projections of Indonesian Legal Conditions. *Ius Quia Iustum Law Journal*, 16(3), 291–310. <https://doi.org/10.20885/iustum.voll6.iss3.art1>

penalty, imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000,- (two hundred million rupiah) and a maximum of Rp. 1,000,000,000,- (one hundred billion rupiah).

Article 3 of the Corruption Eradication Law states that: Any person who aims to benefit himself or another person or a corporation, abuses the authority, opportunity or means available because of his position or function that can harm the state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and a fine of at least Rp. 50,000,000,- (fifty million rupiah) and a maximum of Rp. 1,000,000,000,- (one hundred billion rupiah). Article 10 letter A of the Corruption Eradication Law states that: The perpetrator shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a fine of at least Rp. 100,000,000,- (one hundred million rupiah) and a maximum of Rp. 350,000,000,- (three hundred and fifty million rupiah), civil servants or individuals other than civil servants who are given the task of organizing a job community continuously or temporarily, who intentionally: a.

Embezzle, destroy, damage, or make defects in goods, certificates, letters or lists used as evidence to officials who are controlled by their position. Article 18 of the Indonesian language of the Corruption Eradication Law states that: 1) In addition to additional criminal acts as referred to in the Criminal Code, as additional criminal acts Crime is: a.

Confiscation of tangible or intangible immovable property or immovable property used for or obtained from corruption, including property owned by the convict; the company where the corruption was committed, as well as from goods that replace the goods mentioned. b. Payment of compensation in the amount of - the amount of the assets obtained from the corruption. c. Closure of all or part of the company for a maximum period of 1 (one) year. d. Revocation of some or all certain rights or elimination of some or all certain rights of benefits that have been or may be given by the government to the convict. (2) In the event that the convict does not pay the compensation as referred to in paragraph (1) letter b no later than 1 (one) month after the court decision has permanent legal force, then his property can be confiscated by the public prosecutor and auctioned to cover the compensation. 3) In the event that the convict does not have sufficient assets to pay the compensation as referred to in paragraph (1) letter b, the convict shall be sentenced to a period not exceeding the maximum threat from the principal in accordance with the provisions in this case the constitution and the length of imprisonment has been determined in the court decision.¹²

Furthermore, Article 64 paragraph (1) of the Criminal Code states that "If between several actions, although each is a crime or violation, are related in such a way that they must be seen as acts of corruption, then only one criminal rule, if different, what is applied is the one that contains the most serious basic criminal threat. "The judge, based on the indictment, looks at several articles (alternative charges) that are charged against the defendant. The judge will act to decide on a criminal act by referring to the form and nature of the charges. The judge also has the authority to choose and decide on articles that they think are related to the criminal act committed by the defendant.

¹²Ryana, P., & Idzati, A. (2018). Corruption in Legal Studies and Human Rights. *Lex Scientia Law Review*, 2(2), 177–188. <https://doi.org/10.15294/lesrev.v2i2.27583>

In the verdict, it turned out that the judge found the defendant guilty of violating Article 3 of Law No. 31 of 1999 on the Eradication of Corruption (Pasaribu et al., 2008). Morality Almost every day we watch on television or read in the mass media that corruption still occurs anywhere and anytime. Every corruptor is arrested, although it is considered an achievement in law enforcement, but in terms of culture, this is the tragic side of the corrupt mentality that unstoppable.

In this context, corruption is a tragedy of cultural morality that is currently in mourning. There is a condition in the nature of Indonesian culture that encourages people to commit corruption. Likewise, there are cultural obstacles why corruption remains so massive, so that the eradication of corruption is never completely carried out. This reality shows that corruption is not only a legal problem, but also a cultural problem. This research is in many ways a library research that seeks to uncover cultural barriers in eradicating corruption in Indonesia, although researchers do not ignore empirical realities in the form of perceptions and constructions related to the problem of corruption in Indonesia which are carried out using a phenomenological approach.

This approach is needed to reveal the real conditions of society related to the phenomenon of corruption that has been understood and felt by the public ¹³. Corruption is said to be something destructive that can make a nation corrupt. Corruption has been considered commonplace, on the pretext that according to the procedure, corruptors no longer have a sense of shame and fear. Corruption is a violation of the social rights and economic rights of the community. So corruption is categorized as an extraordinary crime. Eradication of corruption must be carried out comprehensively and together with law enforcement, community institutions, and all individual members of society.

The government's action to enforce the law is the supremacy of the constitution and the concept of a constitutional state. Law enforcement is in accordance with the principles that stand where the law is absolute. If the commitment to law enforcement has become a culture, then arbitrariness is no longer found. The atmosphere of democracy in accordance with the characteristics of the Indonesian nation can be realized in the form of people's sovereignty and legal sovereignty (Patombongi, 2016). Corruption is part of human rights violations.

Corruption has a damaging impact and impact on the welfare of the people. It can even kill people so it is an extraordinary crime. In general, what is corrupted is state money by weakening authority or position. To perpetuate the position, bribery methods can be used. In this case, the highest corruption practices in Indonesia are carried out through bribery. Resolving corruption cases which are extraordinary crimes is certainly not easy.

Therefore, in Indonesia, an independent institution equipped with regulatory tools was formed to be able to reach corruption cases. The independent institution is called the Corruption Eradication Commission (KPK). Corruption in the Study of Law and Human Rights (Pricilia Ryana, Aisy Idzati 181) Indonesia is currently struggling to organize itself to overcome corruption by changing and revising laws and regulations to solve very problematic problems such as Corruption.

¹³Syahroni, MA, Alpian, M., & Hadi, S. (2019). Reversal of the Burden of Proof in Corruption Crimes. *DiH: Journal of Legal Studies*, 15(2), 124–133

Starting with making changes to the Military Law No. PRT/PM/06/1975 with the Regulation of the Central War Government of the Republic of Indonesia Army No. PRT/PEPERPU/03/1958, amended by the Republic of Indonesia Law No. 24/Prp/1960, amended by the Republic of Indonesia Law No. 3 of 1971, then in the era of President Megawati Soekarnoputri's administration, Indonesia Law No. 3 of 1971 was amended by the Corruption Eradication Law No. 31 of 1999, and as an improvement to the above law, it was supplemented by the Republic of Indonesia Law No. 20 of 2001. In the Corruption Law No. 31 of 1999 there are 4 (four) fundamental reforms¹⁴, such as: 1. Corruption perpetrators must be tried and punished; 2. The law in Indonesia adopts a pure reverse burden of proof system; that the defendant in court is required to prove that his assets are not the result of corruption. If the accused is able to show evidence that can convince the judge, then the accused can be acquitted.

Also, if the defendant cannot show evidence, then the defendant can be sentenced to a sentence. Thus, the legal principle must include physical evidence and a statement of denial that cannot be proven. Furthermore, the punishment for the defendants can be given in various ways according to the quality or amount of money embezzled. The shortest period is 1 (one) year to 3 (three) years, and the longest is between 10 years or 15 years or according to the Criminal Code which has been adopted in the criminal justice process approximately 20 years ago; 3. The perpetrator of the bribe is subject to a fine of Rp. 10,000,000, - unless proven. Bribery is also called a formal violation; 4. Confiscation of the defendant's property can be carried out either before or after the court decision and is not limited by time. Furthermore, according to Arief, what must be considered is the legal culture. If the legal culture of society and law enforcement is weak, it is impossible for corruption to be eradicated

Therefore, the spirit of state administrators is very much needed which of course can provide a positive impact of energy for everyone. The chaos that often arises in society is caused by a system of community control that does not function or does not exist at all. Chaos can be triggered by acts of corruption carried out by the community. For example, the practice of regional elections and the provision of subsidies from the government to the community. The distribution of basic necessities, subsidies in the form of money or goods is also damaged by the community. As a result, the situation of society becomes chaotic with the non-distribution of all subsidies. Even not on target which causes inequality in society. This is a form of moral deviation as a massive impact of corruption. According to Theobald, because of internal corruption: it gives rise to an attitude of greed, ignorance, and not caring about others. In line with that, Cahndar Muzaffar stated that the cause of internal corruption is to underestimate others, and is very individualistic¹⁵.

The massive effect of corruption damages the mentality of the next generation; it is the loss of adult role models who should provide good examples that can be imitated by the current generation; damages the mindset of the generation; the next generation thinks that all problems can only be solved with bribes. As a result, the lives of the future successors of the nation will be on the verge of darkness. The legal politics of a country with massive corruption practices have an

¹⁴La Sina, "Impact and Efforts to Eradicate and Supervise Corruption in Indonesia," *Pro Justitia Law Journal* 26, no. 1 (2008): 39–51.

¹⁵Muzakkir, Faisal A. Rani, and Dahlan Ali, "Death Penalty in the Perspective of Justice in Indonesia," *Journal of Legal Studies* 2, no. 2 (2014): 67–76

impact on the authoritarian system of government. It is strange if this condition occurs in Indonesia which is democratic but has an authoritarian system. In the end, the people are tired of losing trust in the government and do not want to obey the daily rules that should actually be practiced accordingly. Corruption practices are the cause of bureaucratic instability and excessive budget administration. We also often find very poor forms of service; working hours are not taken seriously therefore failing to meet the expectations of the community who need good public services.

In fact, it is often seen when dealing with government bureaucratic administration, there is a difference in service between those who deal with officers compared to those who do not. As a result, a mindset is formed in society that if they have business related to government bureaucratic administration, they must prepare some money to facilitate administrative matters. If This means that the practice of corruption in the form of bribery has become a culture in society. Efforts to eradicate corruption have been pioneered since 1950, but it turns out that until now they have not produced significant results. This condition shows that massive corruption practices have taken root and are deeply rooted. It is the desire of the elite party to justify it to enrich itself by ignoring legal principles. The nature of law is to be a relationship in a power so that there is no lower or higher power. But in fact, it is very appropriate if the law is used as a guideline in power. Then, through power, it can force people to obey, and vice versa, power must truly obey the law.¹⁶

The constitution formed by a country exists to limit power so that it is not arbitrary. Corruption is an extraordinary crime because it can threaten the sustainability of the nation. In addition, it also threatens the stability and security of the state and the entire community, hinders the social and economic development of society, politics, and can even damage democracy, values, morality and increase state debt. The presence of the Indonesian Law on the Corruption Eradication Commission No. 30 of 2002 gives the Corruption Eradication Commission (KPK) the task of investigating and prosecuting corruption.

The KPK's duties are to coordinate with authorized agencies in eradicating corruption, supervise agencies authorized to eradicate corruption, take preventive measures against corruption, and monitor the implementation of state governance. If someone is named a suspect by the KPK, then as of the announcement date, special procedures for examining suspects regulated in other laws do not apply based on Article 46 of the KPK Law on the Eradication of Corruption Crimes Number 30 of 2002 .

Eradication of Corruption Through a Moral Approach

Corruption, collusion, and nepotism are clearly forms of betrayal against God who has created humans as caliphs whose purpose of creation is to spread goodness.¹⁷ However, what happens is that it damages their personalities due to very chronic deviant acts of corruption which means that within themselves they no longer have The human side of corruptors is questionable considering the losses caused, such as poverty and unemployment, which are increasingly rampant

¹⁶Resha Roshana Putri, An-An Chandrawulan, and Prita Amalia, "Indonesia's Investment Flow Ranking Within the Framework of the ASEAN-China Free Trade Agreement (Comparison with Singapore, Malaysia, Thailand, and Vietnam) Reviewed from the Principle of Fair and Equitable Treatment," *Jurnal Hukum & Pembangunan* 48, no. 2 (2018): 275–98.

¹⁷ Rodi Wahyudi, The Relationship between Corrupt Behavior and Religious Obedience in Pekanbaru City, in the *KPK Integrity Journal*, Edition 02, Number 1, August 2016, p.191

due to acts of corruption, collusion and nepotism which seem to have become ingrained in the mentality of corruptors.

The third principle of Pancasila, the Unity of Indonesia, has clearly stated that corruption, collusion, and nepotism are very detrimental and damage the unity and integrity of the Indonesian state because of the many criminal acts of corruption that continue without strong law enforcement by the Indonesian people.¹⁸ In the fourth principle of Pancasila, Citizens, led by collective wisdom in representation, it turns out that corruption is not in accordance with the noble culture of the Indonesian nation which upholds the values of deliberation and consensus democracy where in the principle of deliberation, the Indonesian nation is able to solve all national problems without carrying out corrupt practices, collusion and nepotism are known to be very damaging to the values of democracy itself.¹⁹

The fifth principle of Pancasila, social equality for all Indonesian people, corruption, collusion and nepotism have been clearly proven to tarnish the sense of justice of the Indonesian people with very destructive practices among the elite by seeking maximum profit without considering the interests of the Indonesian nation and state as a whole. With the principles of Pancasila related to corrupt, collusive and nepotistic behavior, Indonesian society is expected to avoid all forms of corruption without exception, because Indonesia is a country that upholds the law as the main guideline in carrying out national and state life, in Article 1 Paragraph (3) of the 1945 Constitution which states that "Indonesia is a country of law". A rule of law is a country based on laws and regulations; a country that can protect its people well, is able to create prosperity and eliminate inequality in the lives of society.²⁰

On the other hand, people must obey the applicable regulations and must not violate the rule of law. Causes of Corruption in Indonesia According to Arifianto (2004) there are three theories that are the key to handling corruption in Indonesia, explained as follows: First, the mainstream economic theory explains that the state often acts as a monopoly on the wealth of the country's economic activities. Second, the theory of patrimonialism; this theory argues that corruption can act as a way to increase political integration between ethnic groups, parties and factions in government. Third, the theory of the kleptocratic state; this theory states that endemic corruption is in a regime controlled by a state leader who has the goal through his position only to enrich himself. Harold D. Laswell in *Who Gets What, When, how* said that: "Politics is a matter of who gets what, when, and how".

Based on this opinion, the way a person obtains public power in certain ways, for example, when a person obtains an official position in government by practicing money politics, and then when they carry out their duties, they have the potential to commit acts of corruption that violate the law even though corruption is an unlawful act because it distorts public power for certain interests.

¹⁸ Fazzan, Corruption in Indonesia in the Perspective of Islamic Criminal Law, *Futura Islamic Scientific Journal* Vol. 14, No. 2, February 2015

¹⁹ Mawindi, Dwi Satriani Begi, Paradigm of Islamic Criminal Law in the Reform of National Criminal Law (Study of the Principle of *Insaniyah* in the Formulation of the Draft Law of the Criminal Code), *Panggung Hukum, Journal of the Indonesian Law Students Association, Special Region Branch*, Vol.1, No. 1, January 2015

²⁰ Madiasa Ablisar, The Relevance of Caning Punishment as a Form of Punishment in Criminal Law Reform, *Jurnal Dinamika Hukum* Vol. 1, 4 No. 2 May 2014

Factors causing corruption: a. Internal factors; it is a factor within the individual, for example human greed; weak morality in terms of temptation; consumer lifestyle and laziness or the urge to get easy money through the position held by a person. b. External factors; factors from outside oneself such as: aspects of individual behavior; organizational aspects; aspects of society in which individuals and organizations are located; Lack of exemplary and elite leadership of the nation; low salaries of civil servants or employees; weak commitment and consistency in enforcing laws and regulations; low integrity and professionalism; internal oversight mechanisms in all banking, financial and bureaucratic institutions are not yet established; conditions of the work environment, job duties, and community environment; lack of faith, honesty, shame, morals and ethics. Corruption can be manifested in actions that reduce the quality of government services, infrastructure and increase pressure on the government budget, the cost of goods and services, which leads to the realization and difficulty of society to be able to live prosperously demanding the use of the budget and state revenues by the community is ignored by the government ²¹.

the obstacles to eradicating corruption is structural obstacles, the lack of seriousness of law enforcement officers to thoroughly handle corruption cases so that corruption cases often remain unresolved for years. The lack of seriousness of the government can be caused by sectoral and institutional egoism which leads to the submission of as many funds as possible for its sectors and institutions. institutions; ineffective supervisory function; weak coordination between supervisory officers and law enforcement officers; and weak internal control systems that are positively correlated with various deviations and inefficiencies in the management of state assets and the low quality of public services.

In addition, there are Cultural Barriers, such as stereotypical attitudes in resolving corruption cases so that their handling cannot be completed. Stereotypes mean the formation of a wrong understanding, immediately applying legal sanctions to people they know or are older than them. The emergence of the practice of interfering in the affairs of existing agencies so that the rules are weakened by the understanding of mutual forgiveness. c. Instrumental barriers, namely the lack of infrastructure support in the form of laws and regulations that make handling corruption cases unable to be carried out optimally. This can happen if the regulations do not support each other or are even not harmonious. d. Management barriers, the willingness to apply the principle of good governance in bureaucratic governance so that it is not transparent, not accountable, not professional and not responsible and does not involve community participation.

Examples that occur according to are: a. Taking state money secretly, b. Forcing people to act outside their authority, c. Breaking the law, d. Taking state assets, e. Accepting bribes, f. Covering up fraud to what officials do by lying. According to Dreher there are four factors that cause corruption, such as: First, political, judicial and historical factors. Second, social and cultural factors are essentially related to moral attitudes. People who have commendable moral qualities tend to stay away from acts of corruption. They tend to make decisions and implement programs in various activities and tend to avoid actions that harm others and vice versa. Social and cultural factors play a special role in identifying the level of corruption in a country .

²¹I Ketut Patra, J. (2018). Corruption, Economic Growth and Poverty in Indonesia. *Accounting Research And Indonesian Finance*, 3(1), 71–79. <https://doi.org/10.23917/reaksi.v3i1.5609>

Religion and social systems have an influence in eradicating corruption. Third, economic factors, such as economic openness, the public sector in the economy, the level of remuneration in the public sector, have a direct impact on the level of corruption in a country. Furthermore, distinguishing the typology of corruption based on the complexity and practices of corruption throughout the world. The flow of political parties in Indonesia shows that political parties are one of the dominant factors influencing the level of corruption in a period and region in Indonesia, such as religious-based parties, in this case Islam is less corrupt than non-religious parties based. The mode of fraud and corruption is carried out by bribing politicians and law enforcement and bureaucratic officials in obtaining services .

The emergence of corruption and human rights crimes cannot be separated from the uncontrolled power or abuse of power. In this case, according to Muladi, considering that it is often said that the source or opportunity for corruption is the granting of a monopoly of power to a person or institution accompanied by the authority to exercise broad discretion (taxation, customs, law enforcement, immigration), there must be strict supervision and control of the monopoly and discretionary authority.

The need for control of power to be able to respond to corrupt practices and human rights crimes implemented in several forms, such as strong civil society, proportional press, universities with integrity, strong NGOs, and responsive social and religious organizations. The New Order regime is inseparable from its connection to political corruption and human rights violations, because the president and his officials, in several cases, have been indicated, suspected, charged and punished.

Regarding the Human Rights Court in Indonesia, Muladi argued that systematically, Indonesia has conducted the East Timor Human Rights Court and other Human Rights Courts (Tanjung Priok), which occurred before the Republic of Indonesia Law Number 26 of 2000 was enacted. The steps were taken systematically because the Human Rights Court must try "extraordinary crimes" so that it is not allowed to use the formulation of "ordinary crimes" regulated in national law (Criminal Code etc.); for that with the "partial harmonization" method in the Republic of Indonesia Law Number 26 of 2000 adopted the formulation of criminal acts specifically related to "genocide" and "crimes against humanity" and several other provisions taken from the Rome Statute of 1998. This was done because Indonesia has did not ratify the statute.

The causes of corruption include two factors, namely internal factors and external factors. Internal factors are the causes of corruption that come from the individual himself while external factors are factors that cause corruption due to external factors. Internal factors consist of moral aspects, such as lack of faith, honesty, shame, attitudes or behaviors such as a consumptive lifestyle. External factors from economic aspects such as insufficient income, political aspects such as political interests, obtaining and maintaining power, management & organization, lack of accountability and transparency, legal aspects, seen in the poor form of legislation and weak law enforcement and social aspects, namely the environment that encourages the growth of corruption itself. In fact, there are many ways to stop corruption significantly, such as strengthening anti-corruption education in schools, strict supervision of financial transactions, a mental revolution in Indonesian society and so on.

However, very few efforts have been made by various parties to eradicate corrupt practices because they are still rooted in the culture of feudalism in our society which has led to rampant corruption everywhere. One of the effective countermeasures is the mental revolution carried out for Indonesian society totally and consistently, but there are still many community organs that do not understand and do not know what and how to interpret the mental revolution that is expected to change the negative behavioral order of Indonesian society which is still far from the hopes of all parties who hope that negative behavior such as corruption can be eliminated from Indonesia.

4. CONCLUSION

Some efforts to prevent corruption through formal legal aspects: institutional legal compliance in the implementation of corruption eradication in Indonesia. In an effort to strengthen the implementation of law enforcement. Moral aspects: character formation among the young generation of the Indonesian nation. That young generation as agents of change who can control the wheels of government in accordance with the conscience of the people in line with the constitution of the Indonesian nation. Pancasila Ideology Aspect: by instilling Pancasila values and implementing anti-corruption education in any environment in society. The government, law enforcement, and society also need to actively realize Indonesia as a place free from corruption that supports the spirit of national progress with ideals free from corruption.

Anti-corruption education studies can be conducted with a positivistic approach to evaluate the achievement of perceptions about the anti-corruption movement. People already know that corruption is bad, sinful, detrimental to others, but many still violate it. This is evidence that awareness and action are harmonious .

BIBLIOGRAPHY

- Ablisar, M. (2014). *The relevance of caning punishment as a form of punishment in criminal law reform. Jurnal Dinamika Hukum*, 14(2).
- American Psychological Association. (2020). *Publication manual of the American Psychological Association* (7th ed.).
- Arrsa, R. C. (2014). Reconstruction of legal politics for eradicating corruption through the strategy of strengthening independent investigators and public prosecutors of the Corruption Eradication Commission. *Jurnal Rechts Vinding*, 3(3).
- DiNitto, D. M. (2000). *Social welfare, politics and public policy*. Allyn & Bacon.
- Endro, G. (2017). Exploring the meaning of integrity and its opposition to corruption. *KPK Integrity Journal*, 3(1).
- Fazzan. (2015). Corruption in Indonesia in the perspective of Islamic criminal law. *Futura Islamic Scientific Journal*, 14(2).
- I Ketut Patra, J. (2018). Corruption, economic growth and poverty in Indonesia. *Indonesian Accounting and Finance Research*, 3(1), 71–79. <https://doi.org/10.23917/reaksi.v3i1.5609>
- Klitgaard, R. (2005). *Eradicating corruption* (translation). Obor Foundation Indonesia.
- La Sina. (2008). Impact and efforts to eradicate and supervise corruption in Indonesia. *Jurnal Hukum Pro Justitia*, 26(1).
- Lubis, M. R., Putra, P. S., & Saragih, Y. M. (2021). Corporate criminal liability for criminal acts of corruption. *Journal of Legal Reform*.

- Mawindi, D. S. B. (2015). Islamic criminal law paradigm in criminal law reform national (study of the principles of humanity in the formulation of the draft law on the criminal code). *Legal Stage, Journal Indonesian Law Students Association, Special Region Branch*, 1(1).
- MD, M. (2009). Achievements and projections of Indonesian legal conditions. *Ius Quia Iustum Law Journal*, 16(3), 291–310. <https://doi.org/10.20885/iustum.vol16.iss3.art1>
- Muzakkir, Rani, F. A., & Ali, D. (2014). Death penalty in the perspective of justice in Indonesia. *Journal of Legal Studies*, 2(2).
- Patra, I. K. (2018). Corruption, economic growth and poverty in Indonesia. *Indonesian Accounting and Finance Research*, 3(1), 71–79. <https://doi.org/10.23917/reaksi.v3i1.5609>
- Purwaning, M. Y. (2007). *Return of assets from corruption based on the 2003 UN Convention against corruption in the Indonesian legal system*. Alumni.
- Putri, R. R., Chandrawulan, A.-A., & Amalia, P. (2018). Indonesia's investment flow ranking within the framework of the ASEAN-China free trade agreement (comparison with Singapore, Malaysia, Thailand, and Vietnam) reviewed from the principle of fair and equitable treatment. *Jurnal Hukum & Pembangunan*, 48(2).
- Rinaldi, T., et al. (2020). *Combating corruption in decentralized Indonesia: Case study of handling corruption in local government*. Justice for The Poor Project World Bank.
- Saragih, Y. M. (2017). The role of the prosecutor's office in eradicating criminal acts of corruption in Indonesia after law number 20 of 2001 concerning the eradication of criminal acts of corruption. *Al-Adl: Jurnal Hukum*.
- Saragih, Y. M. (2018). Legal analysis of the authority of the Corruption Eradication Commission (KPK) as a prosecutor of perpetrators of corruption crimes. *Unifikasi: Jurnal Ilmu Hukum*, 5(1).
- Saragih, Y. M. (2018). Problematics of gratification in the corruption crime evidence system (analysis of law number 31 of 1999 in conjunction with law number 20 of 2001 concerning the eradication of corruption). *Responsive Law Journal*.
- Saragih, Y. M. (2018). The enforcement of the 2009 law number 46 on corruption court: The role of special corruption court. *Sriwijaya Law Review*.
- Saragih, Y. M. (2019). The authority to wiretap in eradicating criminal acts of corruption. *Trisakti Journal of Criminal Law and Legal Development*, 1(2).
- Saragih, Y. M. (2020). Legal reconstruction of abuse of authority in criminal acts of corruption based on the values of dignified justice. *Sultan Agung Islamic University Semarang*.
- Saragih, Y. M. (2021). Criminal acts of corruption procurement of goods and services of local governments through electronic procurement services (LPSE). *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4(1).
- Saragih, Y. M., & Ariansyah. (2022). Application of guidelines for handling cases against corporations as criminal actors. *International Journal of Innovative Research and Multidisciplinary Field*, 8(1).
- Saragih, Y. M., & Ariansyah. (2022). Policy guidelines for sentencing corruption offenders. *Journal of Socio-Economics and Humanities*, 2(1).
- Saragih, Y. M., & Halawa, F. (2021). The law enforcement of corruption crimes in terms of authority abuse. *International Journal of Law Reconstruction*, 5(1).
- Saragih, Y. M., & Prasetyo,