



Phenomena of Corruption as A Social Pathology: A Review on Legal Sociology

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Abstract

This research examines the factual issues of eradicating and legal enforcement of corruption in Indonesia. In addition, the phenomenon of corruption as a social sickness is evaluated from the perspective of legal sociology research. Utilizing a descriptive-analytical research approach, literature studies are conducted to collect a variety of trustworthy resources and information. The study's findings indicate that the problem of eradicating and enforcing anti-corruption laws in Indonesia has become a cycle of corruption that will not end unless the state undertakes supremacy-reform initiatives in three areas: socio-cultural, legal instruments, and institutional-structural-functional. Corruption has become societal cancer that affects the development of legal culture in society. Corruption is viewed as a structural functionalism framework. Deviant conduct of officials v from a breach of the social structure's functioning.

Keywords: Corruption; Social Pathology; Legal Sociology.

I. INTRODUCTION

The Covid-19 pandemic has hastened abnormal changes in many areas of society, including economic, social, cultural, and even criminal behavior, including corruption. A nation's advancement is defined by its capacity and success in implementing the development process. Development is described as a planned process of change, with the efficacy and success of development being mainly controlled by two factors: human resources (individuals participating in the planning process through execution) and financing (Rachmawati, 2021). Nevertheless, the human component predominates over the other two since community empowerment has existed since the adoption of the Constitution in 1945, and the Constitution contains precise references. The termination of the New Order administration, believed to be the wellspring of corruption in Indonesia, did not necessarily rid this country of the corruption cases that today permeate every aspect of daily life (Mustopa et al., 2021). Corruption is an aspect of crime that has long flourished globally, especially in Indonesia.

Until lately, corruption in Indonesia has been astounding. Based on the Corruption Perceptions Index (CPI) statistics published by Transparency International in 2020, Indonesia ranked 102 out of 180 nations with a score of 37 on a scale from 0 to 100. One hundred implies a low sense of corruption, whereas zero suggests a very high perception of corruption (Eddy Cahyono Sugiarto, 2021). In the first semester of 2020, the Indonesia Corruption Watch identified at least 169 instances of corruption (Kompas, 2020). Until recently, nearly every region in Indonesia had experienced corruption. Aside from that, practically all government institutions in this republic exhibit signs of corruption, beginning

with the executive, legislative, and judicial, which is effectively a supervisor of law enforcement. Every day, corruption appears to be a trending topic in the news media of this country. Former social minister Juliari Peter Batubara, who took more than IDR 32 billion in bribes from social assistance provider partners at the Ministry of Social Affairs he oversees, was responsible for the most damaging corruption case in recent public memory. Social assistance rations that should have been received in full by Covid-19 victims turned out to be specified in each packet (BBC, 2021). The corruption case involving the former Regent of Kutai, Kartanagara Syaokani, involved the acquisition of property for the building of the Loa Kulu airport; it also involved the former Regent of North Minahasa, Vonnie Anneke Panambunan, (Weda, 2013) then Akil Mochtar, former chairman of the Constitutional Court who committed acts of corruption by facilitating the fraudulent dispute over the Lebak Banten Regional Head Election (Pilkada), Central Tapanuli Pilkada, and Palembang Pilkada. For this action, Akil Mochtar earned around IDR 35 billion and 500 USD (Kompas, 2014). In addition, corruption cases also "infect" law enforcement officials who are the pioneers of justice, the case of Attorney Pinangki, which surfaced in 2020. Pinangki is known to have received USD 500,000 from Joko Soegiarto or Djoko Tjandra, the money was given so that Pinangki would take care of the Fatwa for Djoko Tjandra at the Supreme Court (MA). The fatwa was an attempt by Djoko Tjandra not to be executed in the Transfer of Claims Rights (Cessie) case at Bank Bali so that he could return to Indonesia without serving a two-year prison sentence (Kompas, 2020). Likewise, at the legislative level, acts of corruption have not been spared, such as the bribery case that dragged a member of the People's Representative Council of the Republic of Indonesia (DPR RI), Yusuf Emir Faisal, over the conversion of mangrove forest land in Tanjung Api-api covering an area of 600 hectares, Bulyan Royan over allegations of bribery to expedite the Department of Transportation's Patrol Boat project, and Bank Indonesia funds with the suspect Hamka Yandhu who also dragged all members of Commission IX for the 1999-2004 period (Weda, 2013).

Judging from the situation of corruption that has occurred, it can be concluded that corruption in Indonesia is a disease (pathology) that has spread and infected, which can endanger the continuity of development in this country. Corruption has become a complex phenomenon that is difficult to explain simply because it has various definitions and various modus operandi with various backgrounds, causes, and impacts on society (Coetzee, 2013). Corruption is carried out systemically by looking at social processes, which then become the pioneers of complex societal problems. Corruption is then normalized as deviant social behavior making it a cross-sectoral problem like the cases above. The author conceptualizes corruption as a social pathology because corruption can have a domino effect (easily transmitted) and cause other negative behaviors. Pathology is a biological term that refers to the science that deals with disease and the symptoms of the disease (Weda, 2013). The concept of pathology in the world of medicine is then used in sociological studies to show that in society as an organism, there are also symptoms of diseases that grow in social life.

Meanwhile, the word social refers to the place where the process of interaction between humans occurs, which forms a human group, organization, or agency and is reciprocally related. Kartini Kartono (1992) defines social pathology as all behavior contrary to the norms of goodness, local stability, patterns of simplicity, morals, family solidarity, property rights, discipline, living in harmony, kindness, and formal law (Kartono, 2015). This is in line with Gharajedaghi (1985), who states that social pathology is defined as the inability of the relationship between elements or elements in people's lives, which includes community actions, community institutions, values, and social norms, to work dynamically which has an impact on self-renewal (Gharajedaghi, 1985). Today, corruption practices have created a banality of corruption, namely making corruption a normal, and common phenomenon in society and even becoming the driving principle of everyday life (Purwantari, 2010). Xin and Rudel (2004) say that corruption occurs because of the monopoly of power, weak accountability of institutional situations, and the amount of power given to someone (Xin & Rudel, 2004). The existence of injustice and unequal treatment also contributed to corruption (Alesina & Angeletos, 2005). Meanwhile, in the psycho-social context, corrupt behavior is caused by many things, including repositioning poverty which

results in extraordinary greed, looking at self-dignity artificially based on materialistic mindsets, and so on (Kartono, 2015). Corruption often occurs by severing a good relationship that was previously good and sincere (Salama, 2014). Graaf and Huberts explain that the essence of corruption is not only to gain material gain but also to increase friendship, status, romance, and image, as well as to make people feel fascinated, impressed, and easily influenced (De Graaf & Huberts, 2008). So that it leads to public indifference to acts of corruption that have an impact on the people as a whole (Kartono, 2015). With this perspective, it is logical that corruption has established a cultural norm in society. As Mochtar Lubis said that corruption had become the culture of the Indonesian nation (Kurniawati, 2008), which has become an art of life and has become one of the aspects of the nation's culture (Kartono, 2015). Legal products in the context of eradicating corruption in Indonesia continue to experience development and renewal. Regulations regarding criminal acts of corruption in Indonesia are regulated (Muallifin, 2015):

UU no. 24 Prp of 1960 concerning Investigation, Prosecution, and Examination of Corruption Crimes;

UU no. 3 of 1971 concerning the Eradication of Corruption;

UU no. 31 of 1999 jo. UU no. 20 of 2001 concerning the Eradication of Corruption Crimes;

UU no. 30 of 2002 concerning the KPK;

UU no. 46 of 2009 concerning the Corruption Court.

The laws and regulations related to eradicating criminal acts of corruption as above, in fact, have consistently failed to eliminate corrupt behavior and achieve the big goal of eradicating corruption itself (Pelengkahu & Indirwan, 2022). According to Elwi Danil (2021), even though substantial changes have been made to legal products, there will not be many benefits without attention to issues of legal culture. If efforts are not made to change perceptions and behavior regarding corruption, then any efforts will not be able to overcome the corruption problem (Danil, 2021).

Using the sociology of law as a lens, the author of this study attempts to characterize corruption as a social illness in Indonesia. In this country, the issue is already so complex. This research is necessary due to the fact that corruption as a social pathology and legal sociology is still considered a young field of scientific study. It is hoped that the findings of this study will serve as a reference for social science studies, particularly those pertaining to corruption in Indonesia.

Based on the explanation above, the authors formulate two focuses of the studies examined in this paper, including:

What are Indonesia's Problematics and Law Enforcement of Corruption Cases?

What is the view of legal sociology toward the phenomenon of corruption as a social pathology?

II. METHODS

This study employs a descriptive-analytical research methodology by conducting a literature review by collecting various materials and information related to corruption as a social pathology from books, journals, relevant scientific publications, and credible mass media articles, which are then examined from the perspective and theory of legal sociology.

III. DISCUSSION

Problematics of Eradicating and Law Enforcement of Corruption Cases in Indonesia

Corruption has a direct impact on destroying a person's integrity (Coetzee, 2013). According to Rose Ackerman (1996:2), integrity is defined as honesty, moral health, principles, character, virtue, and purity. Integrity also means that the behavior and norms of each social element must represent the norms and behavior itself as a whole (Spies, 2003). Therefore, integrity is the first indicator in every corruption case because it represents consistency in the actions, methods, values, measures, and results of corruption (Rose-

Ackerman, 1996). Humans are creatures endowed with thoughts and free will. They may find and violate prescriptive laws regarding not being allowed to behave corruptly, but within these prescriptive laws, there are basic truths regarding the understanding of morality and law (Hart, 1961). According to Hart (1961), every human being wants excellence for himself, not solely for society. These advantages are manifested in various ways, including special ways. Each of these behaviors is specifically arranged to show the characteristics of the action in order to get that advantage or the desired state (Hart, 1961). In contrast to Hart, Kant (in Sandel, 2011: 107) is of the view that the desire and will to achieve excellence is destined for a society which can be seen as the *purely practical reason* that functions as the basis of morals (Sandel, 2009). In Kant's thinking, it can be concluded that corrupt behavior can be chosen to do, but such behavior cannot be seen as a moral action. Conversely, non-corrupt behavior is an obligation.

Corrupt practices have been going on since the days of Ancient Egypt, Rome, Babylon, and until now. Priests in ancient Egypt extorted people with gifts to offer them to the gods. Generals of the Roman era exploited the colonies to enrich themselves. Even now, the *superpower country*, the United States of America, which is so advanced and modern, still has many corrupt practices (Kartono, 2015). However, in primitive societies, corruption is rare (Revida, 2003). This is due to the existence of direct control by all members of the small community, which has become a tradition of determining the community's behavior.

The increasingly advanced world of the economy and politics, coupled with the Covid-19 pandemic, has made economic and social acceleration also developing, as well as developments in acts of corruption. Simultaneously with the development and acceleration of the economy by opening up new natural resources, corrupt practices and manipulative acts have also developed (Kartono, 2015). With the increase in state wealth and assets, the encouragement of individuals to gain an 'advantage' over themselves, especially in the ranks of government and corporations, is getting stronger. The increase in state development activities and projects worth billions of rupiah has created close relations between the government and businessmen (corporations) through contracts that involve corrupt actions. Modernization activities or rapid development without the support of the development of political institutions and mature institutions make corruption flourish. In every society that is undergoing a process of modernization, there are always social groups that want to participate in the political field. However, they are unable to identify with existing political values and procedures. Precisely want to satisfy ambition and personal interests. Besides that, political institutions are used as 'vehicles' to satisfy personal ambitions, which result in the inability to maintain their autonomy, obligations, integrity, and identity (Kartono, 2015).

Corresponding to what the author indicated before, removing corrupt practices does demand a considerable amount of time and formal and material resources. Getting rid of corruption is akin to presenting new ideals to a society that already accepts it as an acceptable and common practice (Santiago, 2014). However, with an aggressive corruption eradication program and with law enforcement, the process of eradicating corruption can proceed quickly. Adopting the success of other countries, eradicating corruption does not need to repeat the same mistakes so that corruption can be quickly cleaned up. This is because, at this time, the issue of corruption is no longer limited by national boundaries but has developed into a regional and even international issue. This cannot be separated from corrupt practices involving the movement and transfer of money across countries (Santiago, 2014). The existence of clear and firm authorities granted by an anti-corruption agency is also the key to the success of the corruption eradication strategy (Habibi, 2020). Overlapping authorities among institutions dealing with corruption issues has resulted in efforts to eradicate corruption being ineffective and inefficient (Abdullah, 2014). From the explanation above, it is known that the phenomenon of corruption as a social disease is related to the problems of eradicating and enforcing the law in Indonesia, namely the decline in legal supremacy, which is marked by the increasing number of irregularities committed by law enforcers and continuing to "spread" accompanied by a culture of a society that is not part of society. Legal awareness is then correlated with positivistic law.

The problem of enforcing corruption eradication is a cycle that will continue to occur if reforms are not carried out in three aspects:

Socio-Culture

In essence, eradicating and enforcing the law, especially corruption, originates from society which aims to achieve peace and prosperity within society itself. Therefore, it is not only able to influence but determine the direction of enforcement of legal supremacy. Socio-culturally, Indonesia is a very plural society with various forms of social stratification. People living in rural areas have different characteristics from urban communities (Angkasawati, 2015). The law cannot be enforced if it does not involve a pluralistic society, especially now that we are in a transitional period of change that has the potential to cause *chaos*. Therefore, the rule of law regarding eradicating and enforcing corruption should not trigger social unrest. Therefore, sociological studies are essential in efforts to uphold and eradicate corruption;

Legal Instruments

lack of supporting instruments in the form of laws and regulations makes the handling of criminal acts of corruption not run as it should. (Napisa & Yustio, 2021) Included in this group include: there are still laws and regulations that overlap, giving rise to corrupt acts in the form of inflating funds within government agencies (Nathania Martinesia, 2018); the absence of a "*single identification number*" or an identification that applies to all community needs (driving license, tax, bank, etc.) that is able to reduce opportunities for misuse by every member of the public; weak law enforcement in handling corruption; as well as difficulty in proving corruption crimes.

Institutional Structural-Functional

Upholding the rule of law, which is very basic, is the improvement of the structure of the legal apparatus, while the regulation of the substance of the law can be carried out on the fly, but the legal apparatus is very urgent, improvement of morality and commitment as a law enforcer who can be morally responsible and not just a law enforcement position as land soft to accumulate personal wealth. According to Utsman (2009) actually, law enforcement officials who commit can control crime, even though it must conflict with positivistic law, namely by reducing, eliminating, minimizing, and not ruling out the possibility of eradicating its causes (Utsman, 2009).

From this, we can conclude that the problem of eradicating corruption in Indonesia is not merely a matter of law enforcement but also a socio-cultural problem, a vertical-horizontal governance framework that is as severe as the substance or legal instruments formed by *stakeholders* so that the problem must be addressed consistently and simultaneously. Given the phenomenon of corruption is a social disease that is difficult to cure.

Views of the Sociology of Law on Corruption Phenomena as a Social Pathology

Humans are creatures that act, which then has implications for the creation of an activity to eliminate anxiety and indecision and build self-confidence, as well as gain passion in life. However, actions carried out through violence, solitude, dirtiness, and pragmatics are filled with fear that if there is no social system (social rules) to regulate and organize, then the existence of legislation or law is the means of control (Utsman, 2009). Law is *social engineering by law* and also an *agent of change*. What is meant by an *agent of change* is a person or group of people as part of a community member who is given the responsibility to lead social institutions to process social systems that develop in the community in an orderly and planned manner (*social engineering* or *social planning*), which then undergoes changes with monitoring. And supervised by the *agent of change* itself (Utsman, 2009). Law as a tool for changing society has at least three roles or functions so that it colors the process of changing society, namely giving shape (social control, guidelines for behavior, and the basis for the integration process), determining procedures for community goals, then as a perspective for the development of community engineering.

According to Utsman (2009), the law is part of the social cohesion of life, which is composed of two main issues, namely behavior which is constant and/or only once in the form of a habit that has become a law, both of which are difficult to distinguish (Utsman, 2009). Hobel in Purnadi and Soekanto (1982) explains that "*Law is a complex of human behavior*". This was explained more clearly by Apeldoorn (1966) in Purnadi and Soekanto (1983), who stated that there were two conditions for the emergence of customary law, which were material (steady habits) and social psychological in nature, meaning awareness of the existence of an obligation according to law (Purbacaraka & Soekanto, 1983). So the attitude of action (*social action*) is an element of the law. At the same time, the law is a process of organizing so that there is order in society.

Laws applied in society will have an impact on society. In legal sociology, the focus is more on the process of law enforcement itself and legal decisions that will have social implications. The enactment of the law will then affect the behavior of individuals or groups, social organizations, and the mass media on the laws that apply in society (Luthan, 1997). Legal sociology studies cannot explain the effectiveness of law without first looking at law at the normative level (*law in the books*) and law at the reality level (*law in action*) because without comparing these two variables, it cannot be measured the level of effectiveness of the law applicable in society. Donald Black (1976) believes that legal effectiveness is a key issue in legal sociology. This can be obtained by comparing the legal reality in theory with the legal reality in practice so that there is a gap between the two (Black, 1976). The law is considered ineffective if there is a difference between the two. It can be said that the law becomes effective when it is made in accordance with the hopes and ideals of the community itself and when the existence of the law will create a social order in society.

Referring to what the author previously described, in the context of legal sociology, viewing corruption can be understood as a dysfunctional phenomenon, a social pathology, which produces forms of bad relations between people. Corruption is a special social structure, a stable and sufficiently universal set of norms and principles of human relations (adapted to exist in different areas of society) (Yusubboevich, 2022). What is meant here is not cases or individual people but social groups that maintain this structure as the primary or inalienable condition (source) of their existence. Here corruption appears as informal; the main reason for this is that corruption is a sub-system of unofficial social regulation that exists in parallel with official "parallel regulatory systems" caused by the ineffective activities of state authorities. This "parallel system" regulation resulted from the ineffective activity of public authorities. According to this approach, the corrupt behavior of public officials is defined as "unofficial, deviant, deviant behavior of the ruling elite, manifested in the illegitimate use of social benefits". Sociological understanding of the phenomenon of corruption is based on the theory of M. Weber's rational bureaucracy (Pujileksono, 2022), structural-functional approach, and social anomie theory by T. Parsons and R. Merton. Based on three types of legal domination, Weber argues that the modern state exercises domination over its citizens through the bureaucracy. Therefore, a bureaucracy based on formal rationality is a necessary condition for the normal functioning of state power. Such rationality presupposes "the development and transformation of the modern bureaucracy into a body of highly qualified spiritual work specialists" with highly developed social respectability guaranteeing its integrity, without which there would be a fatal danger of the monstrous corruption of the low bourgeoisie." Thus, according to Weber's concept, the spread of corruption among civil servants is related to the irrational organization of their activities. Structural functionalism Talcott Parsons (1937) states that the main characteristic of any society is its structure, understood as "the totality of stable connections of objects, ensuring its integrity and identity in itself" (Parsons, 1937). Corruption is also considered a structural element, organically included in the social system.

In contrast, corrupt activity is behavior that deviates from social norms and is informal. An essential feature of corruption is noted here - in addition to its relation to formal institutions. Structural functionalism uncovers this reporting phenomenon. According to this approach, during periods of social stability, the level of corruption is stable and at roughly the same level as in a given society. The situation is different when the social system is undergoing rapid changes and the structure is unstable. To describe this situation, we must

refer to the concept of "social anomie". According to Merton, social anomie results from a mismatch between culturally determined aspirations and socially constructed ways of realizing those aspirations (Yusubboevich, 2022). Anomie results in a situation in a society where its members are unable to achieve their goals through socially approved or socially approved ways and ignore them, trying to achieve their goals in unconventional ways. As a result, an anomie situation leads to a decrease in the authority of legal and moral norms and creates demands for forms of deviant behavior, in this case, corruption. Thus, within the framework of structural functionalism, corruption can be considered a framework of structural functionalism. deviant behavior of officials arising within the framework of individual substructures of the social organism and resulting from a violation of the functioning of the social structure despite the fact that corruption is often compared to a hydra, there are quite effective methods of combating this phenomenon, as successfully proven by world practice. Not fighting corruption means supporting it, and given the devastating consequences of such inaction in all areas of society, the problem of fighting this "internal enemy" exists in any country. That's why it's so important to study the causes of corruption – again, besides, it is necessary to fight not only the weed itself but also its seeds. By understanding what corruption is by studying the phenomena and experiences of other countries in fighting it. The main thing is that this power must be used, and it requires not only political will but also the support of society. Otherwise, the battle against corruption will never end.

IV. CONCLUSION

Until now, the phenomenon of corruption cases in Indonesia has been very concerning, and there is not a single area in this country or institution that is not infected with corruption. So, it should be said that corruption in Indonesia is like a contagious disease that can attack anyone at any time. Necessary actions that should be scheduled to eradicate corruption start from society to individuals, namely improving the nation's morality and integrity. Moral and integrity are a basic package of responsibility. Suppose all people in a nation have weak morals and integrity. In that case, it is certain that the responsibility in carrying out the process of life is also low, including the obligation to carry out the work they are carrying. Eradication and law enforcement of corruption cases requires synergy from all elements of the nation to move together to eradicate corruption. Legal products such as laws that are still an obstacle to the effectiveness of eradicating corruption must be corrected by taking into account the sociological, juridical, and philosophical aspects. Performance development/improvement of law enforcement officials must continue to be stimulated, including moral development as a formation of conscience. Just as corruption is a contagious disease, good morality can also be contagious and give a positive aura to attract the surrounding environment to do the same thing. Good laws, moral apparatus, and people who care and are sensitive to the values of truth will be able to reduce the spread of the pathology of corruption that is currently infecting the Indonesian nation.

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