

## PREVENTION AND LAW ENFORCEMENT OF CORRUPTION SEEN FROM HAVING STATE AWARENESS

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### Abstract

The forms of corrupt behavior can be presented in the form of simple to very complex behavior. Corruption is an act against the law and is detrimental to the Nation and State. Corruption behavior still occurs in government and private circles from the regional to the central level. However, the prevention and enforcement of corruption of the current law remains also have not shown the results yet. The occurrence of corruption, according to Sarlito W. Sarwono, includes encouragement from the person himself, because there are opportunities and lack of control. This research is using juridical normative method approach with descriptive analysis. The aim of this research is to prevent the behavior of a potential leader or a leader from corruption by building awareness of the state. The benefits of this discussion can contribute to the world of academia and giving input to government agencies to be followed up. Strong state-minded capital for leaders or prospective leaders can be prevented and enforced from corrupt behavior through leadership management. The existence of law will be the signs that outline the rules of the game for every society without exception. So, that social, political, economic, religious, cultural, and aspects of life will run on the right track.

**Keywords:** Prevention, Enforcement, Corruption.

### 1. INTRODUCTION

Law No. 20 of 2001 was made because it has the consideration that so far in Indonesia, the crime of corruption has occurred extensively. Not only would be detrimental to state finances, but also would cause a violation of the social and economic rights of the community at large. So, that the criminal act of corruption is classified as a crime. Eradication must be carried out massively and extraordinary. Corruption has caused many losses in various sectors where the impact of corruption can disrupt the economy and affect economic growth in a country (Quah, 2003). Meanwhile, according to the Asian Development Bank (ADB), an Asian country is estimated to have lost 48 million US dollars due to corruption over the past 20 years surpassing its foreign debt of 40.6 million US dollars (Gilman and Lewis 2020). The state awareness of a leader becomes the benchmark for a crime of corruption. According to field observations, in fact for those who commit corruption are those who only want to enrich themselves, in fact, the country's wealth belongs to the people. Meanwhile, the imbalance that occurs in society between the rich and the poor in this republic is far from a sense of justice. Good leadership management is needed both in politics, religion, society, economy, finance, and in various other fields. Leadership issues always seem attractive. Sometimes someone expects the best leadership but its attitudes and styles will vary according to character and have the ability from having a good state awareness. They are expected to have high ethics and professionalism according to their respective fields of work. Right now, having those characteristics will not guarantee to emerge as a true leader if they don't have a strong anti-corruption mentality.

George R. Terry formulated that leadership is an activity to influence people that directed to achieve organizational goals (Terry 1968). The concept and formulation of an anti-corruption mentality needs to be considered by good governance. According to Swanson, who interprets how good governance is implemented by actors in today's world order, discusses that human development can only take place effectively and sustainably through adherence to those described by general principles of government such as: wise economic, social policies, democratic decision-making, transparency, accountability, and respect for human rights and the rule of law (Sano and Alfredsson 2003). Based on these thoughts the author will examine the relationship between anti-corruption, state awareness, leadership management for good governance in further discussion.

## **2. METHOD**

The research method used is literature research in juridical normative. The data collected is analyzed qualitatively and then presented descriptively. The results of the data after being collected are described from related variables to be the conclusion.

## **3. RESULT & DISCUSSION**

### **3.1. The Meaning of Corruption**

According to Prof. Dr. H. Andi Hamza, S.H, corruption comes from the Latin language "corruption, or corruptus", which then appears in many European, English, French as "corruption" and then coming Dutch language as corruptive and then appears in Bahasa as "korupsi" (Tobroni,. If we refer to Indonesian-English and English-Indonesian dictionary, it will be found that the meaning of the word corruption is: rotten, bad, lecherous can be bribed, likes to be bribed (Sina 2008). In a narrow sense, the definition of corruption is only a storage in the use of power for personal gain. This is usually used by some leaders who lack the awareness of the state. According to Brooks, there are two definitions about corruption. First, corruption is an act that is intentionally intended to commit errors or to neglect duties that are recognized as liabilities. Second, corruption is the use of power without rights for personal gain (Ismail, 1999).

### **3.2. The Occurrence of Corrupt Behavior**

Corrupt behavior is very complex, the causes can be from individuals and environmental situations. According to Sarlito W. Sarwono, there are two things that cause corruption. First, the impulse from within self (desire, eagerness, will and so on). Second, the stimulation from outside (encouragement from friends, opportunities, lack of control and so on). According to Andi Hamzah, several causes of corruption in Indonesia include: (1) Lack of civil servants' salaries compared to the increasing needs, (2) Indonesian culture or cultural background which is the source or cause of widespread corruption, (3) Poor management, ineffective and inefficient controls, which provide opportunities for corruption, (4) Modernization propagation of corruption.

Another analysis of the causes of corruption was put forward by the Financial and Development Supervisory Agency (BPKP), such as: the aspect of the individual actor, the organization, and the place where the individual and the organization is located. Roscou Pound argues that the purpose of law is to protect human interests. There are at least 3 types, namely: (a) Public interest, (b) Social interest, and (c) Private interest. Corruption is an act against the law that is not in harmony as stated by Roscou Pound. Even Satjipto Rahardjo said that the law must be progressive, able to flow, flexible to change its form for humans and human benefits. The quality of the law is determined by the awareness to serve human welfare.

### **3.3. Consciousness of the State**

The awareness of the nation and state means that individuals who live are bound by the rules and protection of the unitary state of the Republic of Indonesia. Attitudes and behavior must be reflected in that which grows on self-will based on sincerity to act for the good of the Indonesian nation and state according to the mandate of the 1945 Constitution. Efforts to defend the state apart from being a basic obligation are also an honor for every leader who is carried out with full responsibility, awareness, and willingness to sacrifice in the service of the state and nation. These values are including: Love for the country, Consciousness of the nation and state, doing Pancasila, willingness to sacrifice in the service of the nation and state, having the ability to defend the country. Nationalism is an attitude of loving the nation and state, namely an attitude of loving the nation and the state itself, and considering all nations as equal.

### **3.4. The Role of a Leader**

The role of a leader according to Mintzberg is as follows (Ichvani et al 2019): (a) Role as a figurehead, the role played to represent the organization they lead in the opportunities and problems that arise formally. (b) Role as a leader, he has interpersonal relationships with those who are led to motivate and control, (c) The role of an intermediary official, in this case as a manager, interacts with colleagues, staff, and stakeholders outside the organization. This is a strategy to build anti-corruption from the role of a leader.

### **3.5. Efforts to Prevent and Uphold Corruption Laws**

Some efforts to prevent corruption by creating patron-client relationships have social values that can prevent acts of corruption. This could be through training prospective leaders on legal norms and morals and social control. Global corruption and ethics management present a global strategy for outlining the nature of corruption. It concerns the systems and practice that facilitates in short-and long term consequence new measures for assessing and diagnosing remedies, as steps that can be taken to prevent it. The objectives are fourfold: (a) to provide professionals, scholars, and students at all levels with a broad understanding of the individual, organizational, and environmental factors causing corruption. (b) To extend the paradigm for interdisciplinary research and theory regarding corruption and ethics management. (c) To serve as an amalgam of divergent, interdisciplinary perspectives on corruption and ethics management into a cohesive whole, in so doing, creating the academic source for this field of inquiry. (d) To gather understand the global and inter-sector nature of organizations, the mutual dependence of all populations, and how this new world order can be harnessed for instituting

ethical management system that recognize, reduce, and prevent the spread of corruption (Thoha 2007). Corruption law enforcement must have the principle of equality before the law so as not to produce discriminatory behavior that leads to a criminal justice system that has both national and international morals, especially the problem of corruption. According to Soerjono Soekanto, there are some legal function factors in society, namely: (a) Systematic synchronization of the rules vertically and horizontally, (b) Law enforcement officers have clear guidelines as well as the personality of the officers to comply with applicable regulations. (c) Degree of community legal compliance with the law. (d) Implementation support facilities must be physically adequate (Dkk 2007).

### **3.6. Efforts to Prevent Corruption**

In order to have anti-corruption actions and characteristics, among others, are:

1. Officials from the regional level to the central level, be it government agencies or institutions that manage state finances related to the Development budget or Government Projects must be managed properly and with full responsibility. Therefore, the management of state finances must be carried out with the following principles in the management of state finances:
  - a. the principle of accountability, which is results-oriented.
  - b. the principle of proportionality, namely the balance between the rights and obligations of state administrators.
  - c. the principle of openness, with honesty and openness to personal, group and state secrets.
  - d. the principle of professionalism, which is based on expertise based on the law.
  - e. the principle of auditing state finances by the Financial Audit Board freely and independently.

With the awareness that every leader related to the state budget must at least know the reasons for the importance of preventing corruption by knowing the objectives and reasons, among others: 1. affect economic growth, 2. maintain economic stability, 3. realize economic resources.4. Promote income redistribution.

#### **2. Implementing the Anti-Corruption Movement**

The anti-corruption movement is driven by using awareness-raising strategies, lobbying, disseminating new laws, and best practice management activities. Corruption is an act that has been recognized internationally that corruption is a jisteratic deviation and damages society in various ways. The new advantages of anti-corruption programs throughout the world may have three facts, namely: a. mushrooming all over the world, b. success with international transparency awareness assisted by the media's penchant for exposing corruption, c. the development of research and international recovery initiatives and programs to rid government and business of the new disease of corruption is increasingly moving.

### **3.7. Data**

When Looking at the implementation of the death penalty for corruption tours outside of Indonesia, we gathered several contries to use as comparison, such as Iran, Cuba, Vitnam,

North Korea and China. In this section, we will explain the process of implementation of the death penalty for corruption in those countries, as well as the corruption Perception Index (CPI) in each country from 2017 to 2021, all CPI data was collected from the official website of Transparency International (2021). Which can be associated with the implementation of the death penalty in each country that we examined and will be analysed based on how effective the implementation was. According to Amnesty International, in 2018 Iran sentenced Vahid Mazloumin and Mohammad Esmail Chasem to death on charges of corruption. Amnesty also mentioned that Iranian authorities had violated International law by doing so (Amnesty International 2018). Iran's CPI from 2017, to 2021 was, 30, 28, 26, 25 and 15 points respectively.

### IRAN

30	28	26	25	25
2017	2018	2019	2020	2021

In Cuba sentences officers to death for corruption; the Washington Post stated that the death penalty has been imposed since 1989. The punishment was given to Axel Ochoa Sanchez and four government officials on charges of corruption and narcotics trafficking. In 1989, Cuba's CPI from 2017 to 2021, was 47, 47, 48, 47, points respectively.

### CUBA

47	47	48	47	46
2017	2018	2019	2020	2021

In Vietnam, the last death penalty for corruption was carried out in 2017. According to *terbukti korupsi*, mantan Dirut Petro Vietnam di vonis mati, from *merdeka*, the punishment was imposed upon Nguyen Auan Son, a former President Director of Petro Vietnam in state losses. Vietnam's CPI from 2017 to 2021 was 35, 33, 37, 36 and 39 points respectively.

### Vietnam

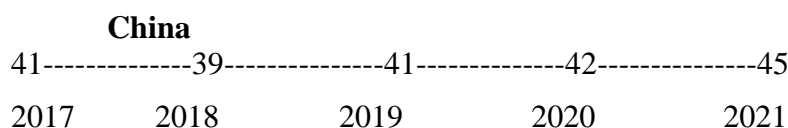
35	33	37	35	39
2017	2018	2019	2020	2021

North Korea, which often imposes the death penalty, has also sentenced corruption to death. According to news reported by *Dw.com*. entitled, North Korea executes military chief for corruption, the death penalty was carried out on Ri Yong in 2016 North Korea's CPI from 2017 to 2021 was 17, 14, 17, 18, and 16 points respectively.

### North Korea

17	14	17	18	16
2017	2018	2019	2020	2021

Meanwhile, China also imposed the death penalty for corruption on Lai Xiaomin due to his involvement in 2021 (even though the populace did not seem to support such punishment) (Liu, 2021), from 2017 to 2021, China's CPI was 41, 39, 41, 42, and 45 respectively.



From the information above, it can be analysed that from 2017 to now, Iran has experienced a constant downfall in their CPI score, until it steadied at 25, Cuba, Vietnam and North Korea have all experienced random fluctuation in their CPI's. Meanwhile, China has achieved a constant rise in their CPI, except from 2017 to 2018. We classified the countries into three groups, (1) Worsened (Iran), (2) Elevated (China) and (3) uncertain (Cuba, Vietnam, and North Korea). On this metric, the imposition of the death penalty failed to prove its effectiveness in suppressing corruption, as the standard for a sufficient (that is, not corrupt) CPI is so (Transparency, 2021). Even though there were countries in which CPI is improved from year to year, all the countries analysed had a CPI below the International standard.

#### 4. CONCLUSION

The occurrence of corruption acts of a leader or someone is caused by behavior that deviates from oneself or from influences from outside the environment. In anticipating prevention, a true mental state of consciousness is needed. Law enforcement must be based on the principle of equality before the law comprehensively in accordance with Law No. 20 of 2001 concerning Amendments to Law No.31 of 1999 concerning Eradication of Corruption Crimes.

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