

CORRUPTION AS THE PRINCIPAL PROBLEM OF KKN*
(AGAINST CORRUPTION: INDONESIAN PARLIAMENT EXPERIENCE)

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Introduction

Study on corruption, collusion, and nepotism (KKN) needs an explicit concept or criteria from each action toward KKN. Of course, its handling should be focused on the wider and more principal problems, i.e. corruption. By this approach the program of KKN handling will be directed to create the step-by-step result in the bases for the sake of handling it until all the problems related to this case can be overcome.

Cooperation among executive, legislative, and judicative is absolutely needed. Each of them should have the same enthusiasm and spirit i.e. operating the clean government from KKN. The government strived to be pioneer to solve the problem of KKN by applying many policies. Parliament (legislative) as the state institution, which sustains such a program by producing the law as the basis, so the policy of government is legal and legitimated, while the judicative is as the executor of the law establishment in the sake of combating KKN. As the top of lance in establishing the law, the apparatus of the law establishment have to be capable of showing themselves as institution that is reasonable to be trusted.

DESKRIPTION OF COLLUSION, CORRUPTION, AND NEPOTISM: AN EMPIRICAL STUDY

The definition of KKN is found in article 1 item 3, 4, and 5 Act no 28 year 1999 about operating state operation clean from corruption, collusion, and nepotism. In article 1 item 3, the corruption is defined as follows, “*corruption is criminal as meant in stipulation of legislation which regulates corruption criminal*”.

The definition of collusion is mentioned in article 1 item 4 Act number 28 year 1999 as follows,

“Agreement or cooperation against the law between the state executors or between executor and other kind of institution harming other person, people, and or state”

While the definition of Nepotism is formulized in article 1 item 5 Act number 28 year 1999 as follows,

“Nepotism is each activity of state executor against the law benefiting the interest of family and or its crony beyond the interest of society, nation, and state”.

Practically, the definition of corruption, collusion, and nepotism (KKN) can be different according to one person to another. So that, the discussion on that issue becomes uncertain. Perhaps the definition for each word, i.e. corruption, collusion, and nepotism is not the same for different persons, moreover when all are combined.

Corruption, collusion, and nepotism that are always mentioned in one term, KKN and considered as problem, should be solved. However, the problem is that “Is the problem solving by combining all in one realistic? Combining these three kinds of crime creates more dispute, does not assist to solve the problem, even blocks the effort to solve them. And sometimes they describe limitation and provide different argument based on their own knowledge and experience, while the basic concept meant to conceptualize the scheme of solving is not realized, due to different paradigm. As a result, all become unclear and problem solving is never reached.

As a political statement, of course it sounds good, removing KKN as a whole. All agree and support. But, when the strategy for removing this problem is formulized, many obstacles to hinder this program are found immediately. Before planning the programs to be realized, all should be found out are what is the root of problem, which one is the effect, which one is the additional impacts, what is size of the problem, which stipulation is broken, etc.

The case of KKN is complex, but the open illustration related to the problem needing or not to be solved, which one should be prioritized, and why so? If we observe what is going now, people combine these three kinds of criminal into one term, KKN. In its use these three terms as if become one word. It is doubted that the term is only as slogan. But, as consequence the discussion on this problem is not focus, as unclear concept, and it complicates its operation. If someone is accused to commit KKN, which

one is meant as evidence, corruption, collusion, or nepotism? All or two of them? unclear. As political or social accusation it is legal and it does not matter. For all of them are contemptible, so we should remove.

Besides that, also there is a problem, how to begin the process of handling. So all members of society are convinced that all problems related to KKN will be solved all. This is good, however, the society need the illustration how the program of removing all KKN as a whole, will this starting point be completed by the following program and what is the approach strategy used. All need to be clear, so that the society know the truth of that effort. Because its handling should be thorough, open, and fair. Because its problem is complicated and its handling wastes the time, so the clearness of its all handling needs to be announced in order that the society know and understand how far it is conducted and why so. The openness is also essential that the handling of KKN that is based on the justice prosecution will not create new injustice.

The handling of KKN in Indonesia is up to now seemingly conducted on the basis of closeness and distance to the ruler. It does not solve the problem or create new problem. The action to request the responsibility of the doer of violation of the stipulation of KKN by dragging someone to Supreme Court to be investigated due to the unclear report and use of unclear basis just to fulfill the prosecution of the society, and only for social interaction interest. Further, this kind of action can create new injustice such as releasing those who are at fault or arresting and punishing those who are not at fault.

CORRUPTION – THE CORE OF KKN HANDLING

If the basis for determining the fault is the disadvantage of the state or society done by the functionary and those who are related, hence the most important part of KKN is corruption. Indeed, three of them can be a kind of combination, often one cause another or worsen other. But if the basis of fault is due to the disadvantage of the state, so the center of attention should be in the action of corruption, to determine who commits the violation and what is the sanction should be given for the fault committed.

If the corruption is separated first from others, maybe we can avoid the slogan. The prosecution will be clearer and the investigation of the problem will be focus, so that the government is more difficult only to promise. In the Act, corruption is already

described explicitly. Basically, its element is the action against law, to be rich or to make his or her group rich, and harms the state. It can be constructed more explicit, but at least the basis is already provided.

If the focus is on combating the corruption, so the problem will be clearer and its operation can be more real. Is the in combination with collusion and nepotism and can it be investigated further? Even if the corruption is committed in the sake of collusion and nepotism, then who are involved in corruption will be involved in the network of collusion and nepotism and its investigation can directly catch them. But the focus is the action of corruption as the action against the law harming the state according to the certain definition.

As strong as our wish to release the collusion and nepotism, is the stipulation in relation to this affairs already clear. In fact, all are still brief; and it is one of the causes why the removing of this problem is still hard in the society. Remembering the fact, the first should be done is arranging the stipulation and legislation to interdict corruption and nepotism.

CORRUPTION AND THE EFFORT FOR ITS REMOVING: THE EXPERIENCE OF INDONESIAN PARLIEMENT

Corruption is approved as the main cause of crisis in Indonesia. But this conception can not overcome multidimensional crisis befell Indonesia since 1996. The Act number 3, year 1971, March 29 1971 on combating of corruption criminal not only cannot combat, even only hinder the corruption it cannot. Corruption does not decrease or disappear, but in contrast increasingly develops as the enemy of nation that can make the state bankrupt. Nowadays, corruption is considered extra ordinary crime that places Indonesia always in the high position as the most corrupting country in the world. The problem is, although corruption occurs anywhere, obviously the corruptors are difficult to be known, even brought to the court. Due to the apparatus of the court have been contaminated, many corruption case finish in the investigation stage, investigation and prosecution. It is not surprising that mostly who are presumed committed corruption do not need to be responsible for their deeds in front of the green table. This condition indicates how weak the law enforcement in our country is. Because the corruption have

already becomes an epidemic, so it needs also to be overcome by extra regularly endeavor.

Indonesia parliament already endeavored to provide legal formal to the effort of interdicting and handling the corruption through legal products. The publishing of People's Consultative Assembly's TAP No. XI/MPR/1998 on the recommendation of policy direction to removal and prevention of KKN; also various legislation products meant for prevention and handling of KKN, as illustrated bellow:

Published the Act number 31 year 1999 on combating on corruption criminal that then changed into Act number 20 year 2001 on the change of Act number 30 year 2002 on combating of corruption criminal. Then based on the Act number 30 year 2002 on the Commission of Combating of corruption criminal, the Commission of Corruption Criminal Combating was established on December 27, 2002 on the purpose on enhancing the power and result for combating corruption criminal (article 4). However, in the legislation, as if the endeavor of corruption combating is already, but that is not guarantee that corruption can be combated. Political will and political action of the government are needed for real corruption combating. Thus, the method of corruption combating should be top-down not bottom-up (Harahap, 2004; 159).

Historically, the role of parliament in corruption handling in Indonesia has operated since 1962, based on juridical term it was in the form of Regulation of Military Ruler of Army and Navy of Republic of Indonesia, number PRT/PM/06/1957 for the regulation regulating the affair of corruption in KUHAP is already incapable of preventing of the corruption expanding. Then the year 1971, Indonesia Parliament published the Act number 3 on Combating of Corruption Criminal. Further, based on the law development prevailing within society the parliament was directed to revise or amend the Act. The change of Act is meant to establish the law certainty, avoid the variant of law interpretation and prevent the socio-economic right of society.

The existence of the Act of Corruption Combating does not mean all, the sly of corruptor performing money laundry as the result of corruption has motivated the Indonesia Parliament published again the Act on this problem handling in term of Act number 15 year 2002 on Money Laundry Criminal (then this Act changed into Act

number 25 year 2003 on the change of Act number 15 year 2002 on Money Laundry Criminal).

In the Act number 15 year 2002, parliament also recommend to the government to establish KPTPK/Commission of Corruption Criminal Combating (Act number 30 year 2002). The existence of KPTPK is really needed, supposed to be capable of constructing the strong networking, so the combating of the corruption can be carried out effectively and efficiently. This commission also carries out monitoring to the performance of corruption combating. This monitoring, in certain condition, can exchange the duty and authority of observation, investigation and prosecution being performed by the police or judiciary.

Indonesian parliament is also active in criticizing the development of corruption phenomena. Relevant with its role, parliament is involved directly, especially the political involvement; in the form of Act product also other regulation meant as the sets of equipment of anticorruption.

The arrangement of the equipment sets of anticorruption is carried out by involving all state institutions (executive, legislative, and judicative). The participation of state institution is such as in sake of developing cooperation of relation, so the regulation further resulted is supposed to be acceptable enough for fulfilling spaces, make the prior stipulation or legislation perfect.

The combating of corruption only can be performed by the powerful government (having powerful political legitimacy) and clean. For that purpose Indonesian People's Consultative Assembly amended UUD 1945 i.e. changing the system of presidential election, direct election of president, strengthening the legitimacy of president. President Soesilo Bambang Yudoyono is the first who was elected directly and has powerful political legitimacy. He brings direct political mandate from people for the purpose such as combating corruption.

Nowadays, Indonesia government strives to gain the agreement of extradition with neighbour states especially Singapore which is presumed as oase (comfortable place) for corruptors. It is confessed that extradition is not inflexible way for caring for the state wealth from the high gangster or corruptor, however it is a way of alternatives for avoiding corruption.

The combating of corruption finally needs people's active participation. The progression of the awareness and critical attitude of people are really needed in supervising apparatus's behavior, especially to the law apparatus and mafia judicature for the purpose of establishing the law and KKN judicature in Indonesia. So that, socialization and law awareness are applied to the society, in the sake of developing the attitude of anticorruption in all lines and areas.

Thus the description of how serious the condition of KKN is, in this case in Corruption. Endeavor done by the Indonesian Parliament, the existence of the stipulation, regulation and Act do not guarantee to end the corruption phenomena. However, at least all can reduce such a development of case. As illustrated in the previous part that the overcoming of corruption should be seriously implemented by the three nation's elements, i.e. executive, legislative, and judicative together. Not less important, participation of all Indonesian people. Sincere intention and truth of the elements are inevitable need to overcome the corruption.

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