The 2nd Proceeding "Indonesia Clean of Corruption in 2020"

"Comparative Law System of Procurement of Goods and Services around Countries in Asia, Australia and Europe"

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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JUSTICE AND CHARITY IN JAKARTA’S NORTH COAST RECLAMATION PROCESS THAT WILL LEAD TO INDONESIA CLEAN OF CORRUPTION

Untoro
Doctoral candidate at law science doctoral program Diponegoro University Semarang and
lecturer at faculty of law Jakarta Islamic University
E mail : untoro_uid@yahoo.co.id

ABSTRACT

The success of implementing development is one factor to assess the progress of a nation. Development as a process of change that is planned to cover all aspects of community life. Reclamation north coast of Jakarta is one form of development implementation. First aim of this study is to determine the factors that cause bribery in the reclamation of the northern coast of Jakarta. The second aim, to find out how the concept of justice and charity in the upcoming reclamation able to realize Indonesia clean of corruption. The method used the normative juridical approach (doctrinal approach). Reclamation north coast of Jakarta cause legal problems as their alleged bribery related to the discussion of the draft law and the Zoning Plan for Coastal Zone and the North Coast Jakarta revision of Regulation No. 8 of 1995 on the Implementation of Reclamation and Spatial Planning of North Coast Jakarta. A main characteristic in this case is the behavior of public officials who violate separation principle between personal interests and the interests of society, the separation of personal finance with the community. The first conclusion, the factors that led to the occurrence of cases of bribery in the reclamation of the northern coast of Jakarta is the failure of religious education and ethics; opportunities (opportunities). Second conclusion, the concept of justice and charity in reclamation to realize Indonesia clean of corruption, as there is the relevance of faith with charity. The term ihsan (charity) always linked with the terms of faith and Islam. Ihsan has meaning making good, smarten, do good. Ihsan is witnessing the implementation of worship on the basis of the presence (rububiyah) of divinity in the eyes of the heart. Divinity in the eyes of the heart. Ihsan higher than of justice, because justice is limited to providing rights to someone who has the right, while the charity gives the person more than the right Thus, justice is only releasing obligations, while ihsan (charity) exceed liabilities, so becomes better.

Keywords : Fair ; Ihsan (Charity) ; Indonesia clean of corruption.
CHAPTER I
PREFACE

A. Background

The success of implementing development is one main factor in order to measure the national growth. Development, as a planned process of national change, will cover all aspects of community life. Reclamation of Jakarta’s north coast is one kind of development execution which raises legal problems on its implementation, including suspected case of bribery. It is related to the discussion of Zoning Plan and Coastal Zone for Jakarta’s North Coast Law Draft, and revision of DKI Jakarta Local Regulation No. 8 of 1995 on the Implementation of Reclamation and Spatial Planning for Jakarta’s North Coast.

It is undeniable that bribery spoils community and national order, because bribe is basically an attempt to eliminate the existence of the right stuff, to trade or even eliminate with another false replacement. It is aligned with the definition of corruption which comes from Latin language, corruptio-corrumpere, that can be means as rotten, corrupt, destabilizing, twisting or bribing.

Bribe can be classified as one of corruption acts. Other acts which also can be classified as corruption are:

1. Any acts that brings harm to the State finances;
2. Bribing;
3. Misappropriate in position;
4. Blackmail;
5. Fraud;
6. Conflicts of interest in procurement;
7. Gratification.

Those seventh actions can be classified into corruption act, since it is done by breaking the law, enriching themselves, another person or corporation, abuse the authority, misappropriating their position, opportunity, or facility because of the power they have, that could harm the state finances or national economy.

World Justice Project, based on their survey result at the end of 2011, revealed that Indonesia was the worst country in Asia Pacific in terms of corruption acts, and this also puts Indonesia in 47th position for the global world rank in corruption act. In 2009, based on Pacific Economic Risk Consultancy data, Indonesia was having the corruption
value of 1:8,32, Cambodia on 1:9,1, while Singapore has the lowest value 1:42.1 (lower is better).

From the description above, we can formulate two issues:
1. Factors that lead bribery case on Jakarta's north coast reclamation process.
2. How the concept of justice and charity on the upcoming reclamation process could contribute in making Indonesia clean of corruption.

CHAPTER II
DISCUSSION

1. Factors Contributing Bribery Case Occurences On Jakarta's North Coast Reclamation.

As one kind of corruption act, bribery is influenced by factors that ignited by desire and opportunity. There is a survey shows that main factor which leads to corruption is not insufficient salaries. There are 62.60% of respondents agreed that main factor which leads to corruption is not the insufficient salaries. The rest 34.96% of respondents said that corruption is caused by insufficient salaries.

If salary has to be linked with bribery case, let’s take the case sample of Zoning Plan and Coastal Zone for Jakarta's North Coast Law Draft, and revision of DKI Jakarta Local Regulation No. 8 of 1995 on the Implementation of Reclamation and Spatial Planning for Jakarta's North Coast, it is clear that we can’t put this case into the category of corruption which is caused by insufficient salaries.

This bribery case involving one of Jakarta Parliament member, President Director of PT. Agung Podomoro Land Tbk (APLN), and an employee of PT. Agung Podomoro Land Tbk (APLN). It is revealed after Corruption Eradication Commission (KPK) successfully caught one of Jakarta Parliament member on the act at Thursday night, 31st March 2016 while he was receiving Rp. 1.14 billion amount of money. It is suspected that this money was linked with the Zoning Plan and Coastal Zone for Jakarta's North Coast Law Draft, and revision of DKI Jakarta Local Regulation No. 8 of 1995 on the Implementation of Reclamation and Spatial Planning for Jakarta's North Coast.

Some experts have given an explanation of the factors that can cause corruption. In this case, the author of this analysis, classify two factors which can cause bribery. Both of them becomes the analytical base for the author. First factor is the failure of religious
education and ethics. Religion as a lifeblood for human life have a central role, since religion will form someone’s personal integrity. In the absence of religion, it is hard for a person to perform the character of integrity. Franz Magnis Suseno says that religion has failed to become national moral grip to prevent corruption, due to people’s behaviour who embrace their religion themselves. Actually, religion can play a greater role in the context of a social life than any other institution, because religion has a relation or an emotional connection with its adherents. If it is applied correctly, the strength of the emotional relationships possessed by a religion can bring people to a consciousness that corruption could bring some disastrous consequences.

Ethics comes from Greek word, ethos. Ethos means custom or habit. In this sense, ethics related to good living habits, either a person, people or groups. This means that ethics deals with values, the way of life that is good and all the habits adopted and passed on, from one person to another, or from one generation to another generation. Ethics contains values and norms that will guide human life and becomes grip for their life. It deals with real commands and prohibitions. In addition to that, ethics can be understood in a different sense of morality. In this sense, ethics has a wider meaning of morality and ethics, in accordance with the first definition above.

Ethics understanding that differs from morality is tend to normative, so that it binds every human personality. That’s why ethics in this sense is a critical and logical reflection on:

a. Values and norms, concerning how human beings should live as a person.

b. The problems of human life by holding on to commonly accepted moral norms and values.

There are three theories of ethics, first one is deontology theory that emphasizes the human’s responsibility to act well. Second one is theological ethics, which measures the merits of an action, based on the objectives to be achieved by doing so. Third one is utilitarianism ethics, which is understood as moral philosophy that emphasizes the usefulness or usability (the principle of utility) as the most fundamental moral principles for the benefit of majority. 1

The second factor is opportunities, and it is related to the condition of the organization, institution, or society in such a way, so that it creates chances for someone to commit fraud. 2

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2. **The Concept of Justice and Charity For Upcoming Reclamation Process Could Lead to Achieve Indonesia Clean From Corruption.**

   According to Tafsir al-Maraghi, it is said that Adil comes from the word *al-adlu*, which means equality in all things, not more and not less, and intended equality in goodness and badness. The word fair is used in four cases, which are: justified/balanced condition; justice in the sense of equality against any differences; justice in preserving individual rights and giving people whatever they entitled for; justice in maintaining rights of continuing existences and not preventing continued existence as many as possible to exist and perform transformations. These four concept of justice is valuably needed to distinguish justice with injustice.

   Ihsan has the meaning of doing something good, and make something into better condition. The term ihsan in Islam has two meanings, including:
   
   a. Ihsan, in general, is all the good things which is done by someone, and make it nicer, either to Allah or to human life, by always keeping the uluhiyah values;
   
   b. Ihsan in a special sense, is the appreciation in worshiping Allah Almighty presence.

   Observing the concept of justice and ihsan as described above, then for Jakarta’s north coast reclamation process, bribery case was not supposed to happen. But however, because Indonesia is a country whose based on law, so the State must guarantee that law is applied fairly. It is relevant to five characteristics of Indonesia whose based on Pancasila as constitutional base, which one of the characteristic states that with based on law and justice, the concept of Pancasila state in applying their law is done by combining good elements which is contained in the draft of rechtstaat and the rule of law, also by combining the principles from rule of law and justice, as well as concepts and other legal systems, such as customary law system and the system of religious law who live in this country, eventually will create a prerequisite that the rule of law must be underlined for the sake of justice in society, in accordance with the principles of Pancasila.

   The second characteristic is religious nation state. By looking at the relationship between state and religion, the concept of Pancasila law state is not adhered to secularism and also not a religious state. The concept of Pancasila law state is a concept of state whose holding on belief and trust to God Almighty, so that it will create freedom for citizens to embrace any religion and belief as per their own respective faith.
Besides the concept of justice and ihsan, we also need to look after the rule of law. Through the rule of law, legal provisions are codified, regulating the disciplinary/penalty related to certain actions. The rule of law is there to ensure and guarantee the predictability, so that people not doing anything that could lead to penalty in the regulation.

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