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"

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ABSTRACT

Starting the third year of his term, President Joko Widodo launch OPP package (Operation Combating Extortion). The spirit of the eradication of extortion seem so terrible. But until now still many findings in the community, if not more entrenched but membudidaya. Illegal Payments or extortion is charging fees in place that should not be charged or levied. Law enforcement to combat illegal payments related to the abuse of office or authority has stipulated in Article 3 of Law Corruption Law 31 Year 1999 jo Law No. 20 of 2001. Occupation (occupation), which also contained a number of power and authority became the main instrument of the possibility of evil. The law with the problem that arises is how the law works to realize the clean state of the culture korupsi. Metode used is normative and sociological approach that looks at the effectiveness of the operation of the Act with symptoms, behavior, and law enforcement by using the Law of Development Theory that the law of view the overall principles and rules that govern the lives of the people in it, including institutions and legal processes to realize it in reality purpose is to build mental, moral character and state officials (officials) are anti-corrupt. Build law not only limited commitment, but as a means to change attitudes and ways of thinking and behavior bureaucratic apparatus and society together. Because a result like this causes a decrease in the level of public confidence in the law, effect on lazy to work, officials absent from their duties. Law enforcement eradication of extortion there must be effective support and commitment from all stakeholders, communicated effectively, control the decisive, strong integrity officers to combat complaints of extortion by creating a network of central and regional level that seriously responded via online. Moral renewal of man as a supervisor and perpetrator eradication of extortion to create good governance and a prosperous society.

Keywords: corruption, extortion, renewal bureaucracy
A. Background

In the study of crime, the crime of corruption is one of the oldest still in existence as long as the world is still there. Therefore, that can be done is to reduce the corruption to the point that most rendah.kata corruption is itself derived from the Latin corruptio or by Webster Student Dictionary is corrutus.secar literally, corruption means decay, ugliness, depravity.¹

In Indonesia, raised the issue of combating corruption according to the evolution of reform and fighting corruption issue has always been a central theme in law enforcement in Indonesia. Corruption in criminal law standpoint of an international crime that has the characteristics of corruption crimes as an extraordinary crime. First, corruption is organized crime carried out systematically. Secondly, corruption is usually done with the modus operandi that difficult so it is not easy to prove. Third, corruption is always associated with corruption kekuasaan.keempat is absolute evil, absolute corruption anyway.²

Corruption is an extraordinary crime (extraordinary crime) that damage joints and threatening the life of the nation. Various regulatory legislation intended to combat corruption has been published. However, corruption is still repeated and increasingly complex realization. In 2010, according to the Pacific Economic and Risk Consultansy, Indonesia tops the list as the most corrupt country in Asia. When seen in the daily reality of corruption occurred almost every level and aspect of community life. Starting from the care of the Building Permit (IMB), Project Procurement of goods / services in government agencies, to law enforcement process. Unwittingly, corruption arises from habits that are considered normal and reasonable by the general community, like giving gifts to officials / servants or their families as a service fee. The habit is seen as commonplace habit of eastern culture. This corruptive habits long into the seeds of corruption are real

The habit of behaving corruptly ongoing in the community one of them due to the lack of their understanding of the notion of corruption. During this time, the vocabulary of

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¹ Fockckemma, SJ. Andreae, 1951 Reglement Handwoordenboek, in writing the existence of KPK, Eddy O.S.Hiariej, Pg.1
² J.E.Sahetapy, 1997, the Mutual Cooperation Crime, the existence of the Corruption Eradication Commission, Eddy O.S.Hiariej, case 2
corruption has been popular in Indonesia. Almost everyone has heard of the word corruption. From the start the people living in rural, students, civil servants, the private sector, law enforcement officials to state officials. But if asked to them what corruption, what kinds of actions that can be categorized as corruption. Almost certainly very few are able to correctly answer the forms / types of corruption as defined by the law.

The habit of behaving corruptly ongoing in the community one of them due to the lack of their understanding of the notion of corruption. During this time, the vocabulary of corruption has been popular in Indonesia. Almost everyone has heard of the word corruption. From the start the people living in rural, students, civil servants, the private sector, law enforcement officials to state officials. But if asked to them what corruption, what kinds of actions that can be categorized as corruption. Almost certainly very few are able to correctly answer the forms / types of corruption as defined by the law.

B. Problem Formulation

1. How does the law work to realize a clean state of the culture of corruption?

2. How the country was able to create a clean moral corruption?

C. Discussion

Definition of corruption has actually been loaded forth in the Act No. 3 of 1971 on Corruption Eradication. Most terms of corruption within the legislation referred from the Code of Penal (Penal Code) were born before the country's independence. But until now people's understanding of the notion of corruption is still lacking. Become a better understanding of the notion of corruption is not an easy thing. Based on Law No. 31 Year 1999 jo Law No. 20 of 2001 on Corruption Eradication, the habit of behaving corruptly which have been considered sebgai normal and commonplace can be stated as a Corruption. As Gratuities (gift) for the host country and related to his position, if not reported to the Corruption Eradication Commission (KPK) can be one form of Corruption.

Knowing the shape / type of actions that could be categorized as corruption is early action to prevent someone not to commit corruption. Corruption bersasal Latin "corruptio," or "Corruptos" The word was later adopted into several languages, among which are: English:
Corruption (Corrupt) Dutch: corruptie Indonesian Corruption. Corruption could literally mean:

1. Crime, rot, incorruptible, immorality, depravity, and dishonesty
2. The act is bad (embezzlement, money, receiving kickbacks, etc.)
3. Deeds that fact give rise to a state of anticipatory bad

According to a legal perspective, the definition of corruption is obvious in 30 pieces Article in Law No.31 of 1999 in conjunction with Law No.20 of 2001. Based on those chapters, corruption formulated into 7 (seven) forms / types of corruption. Such articles describe in detail the actions that could be subject to imprisonment for corruption. Thirtieth forms / types of corruption that basically can be grouped as follows:

1. Losses of state finances
2. Bribe - Bribe
3. Embezzlement in office
4. Extortion
5. Deception
6. Conflicts of interest in procurement
7. Gratification

Increased corruption uncontrolled will bring disaster not only to the national economic life, but also the life of the nation in general. Corruption is widespread and systematic also a violation of the rights of social and economic rights of the people, and therefore, the corruption can no longer be classified as an ordinary crime but has become an "extraordinary crime".

The spirit of the eradication of extortion seem so terrible. But until now still many findings in the community, if not more entrenched but membudidaya. Law enforcement conducted the Corruption Eradication Commission does attempt to process the establishment or the functioning of legal norms significantly as a code of conduct in traffic or legal relations in the society and state

With the above description it is clear it seems that the definition of law enforcement was an effort made to make the law, both in terms of formal narrow and in terms of material that is broad, as the code of conduct in any legal actions, both by the legal subject concerned or by authorized law enforcement officials were given the task and authorized by the Act to ensure the proper functioning of the legal norms in force in the life of society and state
To cope with the extraordinary crime we need a social policy (social policy). Then elaborated in the policy enforcement (law enforcement policy). At the level of the policies formulated and enforced anyway penal (criminal policy).  

Thus it appears that criminal policy is part of a law enforcement policy as a whole is in a system of social policy. Therefore the criminal policies must have synchronization with law enforcement policies, while the law enforcement policies must also unidirectional and is informed by social policy or the policy direction of the organization of the state in general.

In Progress Trend Corruption in Indonesia is widespread in society. Progress continues to increase from year to year, both of the number of cases and the amount of losses to the state and in terms of the quality of criminal offenses committed more systematic and scope that penetrate all aspects of community life, as well as the modus operandi used are increasingly sophisticated.

Factors that cause corruption in Indonesia covering four aspects, namely:

1. Aspek individual behavior,

   ie internal factors that drive a person to commit corruption, as their greed, moral less robust in the face of temptation, income is not sufficient for reasonable living, needs urgent, consumptive lifestyles, lazy or do not want to work hard, and do not diamalkannya religious teachings properly.

2. Organizational Aspects.

   ie less than their exemplary leadership, organizational culture is not true, the accountability system is inadequate, the weakness of management control systems, management tends to cover up acts of corruption within the organization.

3. Aspek society,

   that is related to the community in which individuals and organizations are located, such as the values prevailing conducive to corruption, lack of awareness that the most disadvantaged of the occurrence of corrupt practices are public and themselves engage in corrupt practices, as well as the prevention and eradication of corruption just will be successful when the community to actively participate. Besides the abuse of sense notions in the culture of Indonesia.

4. Aspek legislation,

   namely the publication of legislation monopolistic advantageous only to relatives and cronies of the state authorities, the quality of legislation is inadequate, judicial review is less

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3 Ristina Yudharti, teaching materials the Special Criminal Law, UNS, 2013
effective, penalties are too light, the imposition of sanctions is not consistent and indiscriminately, and the weak the evaluation and revision of legislation.

This special law offenses stipulated in the Criminal Law Act outside General. Deviations criminal law provisions contained in the criminal law is an indicator of whether the criminal law is the Law of Special Crimes or not. So it can be said that the Special Crimes Law is the Law on Criminal or Penal Law crime stipulated in the Act itself. This statement is in accordance with the opinion of Pompe who said: "The Special Criminal Law has its own purpose and function".

Criminal Law which qualified as Special Crimes Law is related to the provisions of the State Administration Law, especially regarding abuse of authority. Offenses related to the abuse of this authority is contained in the formulation of corruption. 1. Special Crimes Law has specific provisions and a deviation from the general criminal law, both in the field of Criminal Law and Criminal Law Material Formal. Special Crime Law apply to certain acts or for group / certain people.

Specificity of the Law for Special Crimes Criminal Law Petition field. Irregularities in the sense of deviating from the provisions of the General Penal Code and can be:
1. Special Crimes Law has specific provisions and a deviation from the general criminal law, both in the field of Criminal Law and Criminal Law Material Formal. Special Crime Law apply to certain acts or for group / certain people. The specificity of the Special Crimes can be:

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Specificity of the Law for Special Crimes Criminal Law Petition field. Irregularities in the sense of deviating from the provisions of the General Penal Code and can be:

Determine your own that previously did not exist in the so-called HPU with special provisions.

– Criminal Law is elastic (special provisions)
– Experiment and help with a criminal offense punishable by (deviant).
– separate setting of a felony and violation (special description)–
Expansion of entry into force of the principle of territorial (extra-territorial). (Chatter / special description)
.–Sub. Laws related / determined based on financial losses and the country's economy (special description)
– Servants is Sub. Its own law. (Special information).
– Having an open nature, the intention of the provision to enter the criminal acts that are in other laws as long as other laws that determine into crime (special information)
.– Fines + 1/3 against the corporation. (Chatter).
– Deprivation of goods moving, not moving (special description)–
The imposition of a criminal offense other than those stipulated in the law. (Special information)
.– The offenses are transnational. (Special information).
– The provision jurisdiction of another country against the crime that happened. (Special information)
.–Follow-punishment may be political (special information)
.–Can also apply the principle of retro-active
.–Unlawful for enrichment and Abusing Authority People or Korpo-constellation
Article 2 (Break of Law)
unlawfully;
enrich themselves or another person or corporation;
Article 3 (Abuse of Power)
with the intention of enriching themselves, another person or a corporation;
- abusing authority, opportunity or means available to him because of the position or positions;
That can be detrimental to state finance and state economy
Financial elements of the State:
The entire wealth of the country in any form, separated or not separated (including all parts of the country's wealth and all rights and obligations arising from:
1. Being in the control, management and accountability of state officials, both at the central and regional levels.
2. in the possession, handling and accountability of state / local enterprises, foundations, legal entity, and the company that includes the state capital, or companies that include third-party capital under the agreement degan country.

Elements State Economy:
General Explanation of Law No.31 of 1999 describes it as follows:
Understanding the country's economy is the economic life which is structured as a joint venture based on the principle of family or community enterprise standalone which is based on government policy, both at the central and local levels in accordance dengan provisions of the legislation in force aimed at providing benefits, prosperity, and welfare to the whole life of the community.

Financial losses / economies must be proven in a concrete (based on valid evidence) may not use assumptions, losses propestif; although the activities of state institutions that benefit does not mean the defendant is not detrimental to the state.  

Actually, the term extortion is simply a political term which is then further popularized by the world jurnalis.Di in the world (criminal) law, does not dijumpai.Belum we never heard of any criminal act or offense of extortion extortion. Indeed, extortion is the designation of all forms of unauthorized charges, which do not have a legal basis, then the action is called a levy illegal fees (bribes). In operation, the perpetrators of extortion is always followed by acts of violence or threats of violence against those who are in a weak position because there are interests.

In the formulation of corruption in Article 12 paragraph e Law Nomor20 2001 derived from Article 423 Penal Code referred to in Article 1 (1) c of Law No. 3 of 1971, and Article 12 of Law Number 31 20 1999 as corruption, which later reformulated to law No. 20 of 2001 (Understanding to root), definition of extortion is an act committed by public servants or organizer with the intent of enriching himself or another person unlawfully, or by abusing his power to force someone to give something, pay or receive payments by piece, or do something for himself. extortion is a pebuatan that.

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5 www.hukumonline.com
by civil servants or state officials who have and misuse a certain authority with the hope of a reward in violation of the rule of law so that the moral and material consequences for others.

Illegal Payments elements exactions made up of elements of objective and subjective elements, among others, are:

a. Unsur-element of Objective At extortion into the elements of the objective in this case is set in the formulation of corruption in Article 12 paragraph e Law No. 20 Tahun 2001 berasal Article 423 of the Criminal Code are:

1. Pegawai country or state officials (deambtenaar);
2. Menyalahgunakan power (misbruik van gezag);
3. Memaksakan someone (dwigen iemand om) to:
   a. Memberikan something (iets af geven);
   b. Membayar (uitbetaling);
   c. Menerima payment by piece, or (eeneterughouding Genoegen nemen bij eene uitbetaling);
   d. Mengerjakan something for himself (een dienst persoonlijken verrichten)

   Subjective elements b. Unsur

On the illegal fees into the elements of the subjective in this case arranged in the formulation of corruption under Article 12 e of Law Number 20 Year 2001 berasal Article 423 of the Criminal Code are:

1. Atau with a view to (meth oogmerk het om) benefit themselves or others unlawfully (zich een of ander wederrechtelijk te bevoordelen);
2. Menguntungkan secara against the law (wederrechtelijk te bevoordelen).  

With regard to the moral development of the individual extortion is, if only the law can reach far way to make reform work in the changing patterns of work within a bureaucracy. Law Development theory proposed by Professor Mochtar Kusumadmaja revealed that the law is not just about the norm or principle, but also to the socio-cultural phenomenon. The law was a pattern of values in society that are mutually recognized. The law can be used to transform society. There is an element of this change in thinking. Therefore, legal practitioners can participate in any change, the vital nature phisically, the attitude and mental, of how the law would function in the construction of which is to ensure

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the implementation of the development process, which is based on the rule of law. Roscoe Pound though, for Mochtar, exploit the law by the Government, is the executive, as a means of manipulating the public is a desperate need felt by every developing country, seakalipun needs as it was not too hard in industrialized countries that have been developed, where the law has been serves as a mechanism that would work well to accommodate the changes that occur da; am community. Different with the Pound which is meant the law as the judge-made, and are therefore in the realm of control of the professional submissive in the boardrooms court, conceptually authority social control through law as a political authority into the hands of the executive (which in those days New Order regime so dominate the legislature, and at the same time often without much doubt like sell-making berbgai Kep-Pres and in-Pres legitimized national law. Understood named sociological jurisprudence rose comes from Roscoe Poundyan g in its development, also known as flow functional yet on sociological jurisprudence is evident that emphasizes the public interest that direpresentasi government than the social interest which refers to the interests of citizens who were litigants, and that therefore it was looking for a solution based on the instruction hukumyang given judges. thus, merekonseptualisasi law of its role as a regulator of orderly social life (established) to function as a social engineer (for the realization of national development), but instead as well have downloaded the "transmigration" the creation process of law for the sake of national development of jurisdiction judicial (the 'judge-made law'nya) to the jurisdiction of the legislature, which in the New Order era dominated by the executive authority).

D. Conclusion

The factors that cause the occurrence of illegal collection includes:

1. Faktor composed of economic factors, mental factors, factors abuse of authority, and cultural factors. While external factors influenced the culture consists of the communities it serves, and the encouragement of the community factors that provoke the police officers in order to perform acts that deviate.

2. Peranan victims of extortion, causing very large if the terms of the reasons the victim to deposit their habit in society, a fear compounded by unscrupulous and quick process and the ease of obtaining a major reason that victims of extortion this happens. Not only that, the victim who is a business person who essentially calls for time efficiency and minimal costs in addition to the rules and procedures that length is an obstacle in running his business.
In the response to such extortion is not fully effective coaching depends on the moral of each personnel, supervision estranged from superiors, referrals and advice sometimes forgotten when it comes to economic needs, masyarakat businesses still consider the efficiency of time and cost as well as the still low legal awareness to pay in accordance with the applicable procedures.⁸

E. Suggestions

1. Pungli is a criminal act of extortion involving positions, if left unchecked it will eventually undermine the morale of the public and law enforcement officers themselves and damage the image of the police in general. Therefore extortion must be eradicated until the roots and the perpetrators must be followed in order to be a deterrent for offenders not to commit extortion in the future.

2. Negara Indonesia is a constitutional state that whoever the perpetrator will be accounted for without the perspective bulu berdasarkan principle of Equality Before the Law (Equality before the Law) person who collects must be given criminal sanctions and brought before the court if it is proved melakukan pungli, not only sanctions administration or code of conduct so impressed protecting member unpunished.

3. Masyarakat especially businesses should realize the importance of obedience and legal awareness in order to create the legal objectives of fairness, expediency and legal certainty

⁸ [www.Teori Pembangunan Hukum.com](http://www.teori-pembangunan-hukum.com)
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