

December 9th 2016



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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UNISSULA PRESS

ISBN. 978-602-1145-41-8

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EDUCATION ANTI-CORRUPTION IN INDONESIA: PROBLEMS, CHALLENGES AND SOLUTIONS

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ABSTRACT

Nowdays corruption has been being a culture. Corruption has poisoned almost all institution not only public but also private institutions and become prevalent when we watch it on television every day. People are not surprised when they know or watch on television that some leaders of this country have committed corruption. Corruption has spread out endemicly and systemically. However, if we look back on the first process of corruption, it may be concluded that education is the main factor of corruption. Education actually starts from family, then school, and the society must collectively perform a civilizing fair and honest behavior, or in other words anti-corruption education. It must be implemented to reduce this endemic problem. It needs a national movement to implement the anti-corruption education and it starts from education.

Based on the above background, the author formulated the problem as follows. 1) How is the implementation of anti-corruption education in University education? 2) How is the important role of early anti-corruption education in preventing corruption? 3) What is the obstacle and effort in combating corruption?

This study is based on a normative juridical approach, because this study is the legal research doctrinaire which is also known as library research or document studies which is only done or shown the written rules or other legal materials.

Anti-corruption education becomes very important as the systematic and massive efforts in building a new civilization of education. Education is a guidance for young people and one of good idea in this corruption case is the implementation of anti-corruption education in the nation character education in Indonesia.

Keywords: Education, Anti-Corruption

PRELIMINARY

A. Background

PANCASILA is the state ideology of our country and the first principle of Pancasila is Believe in One God. The activity of ritual worship looks good, even in the implementation of ritual worship, many people pray in the mosque, zakat institutions proliferate like mushrooms in the rainy season, every year the Indonesian Hajj is usually more than 200,000 pilgrims.¹ Those can actually be evidence that Indonesian is a religious society or in other words the religiousity level of Indonesian is already quite high. But in other side, there is an interesting phenomenon that our country in the Asian and the World includes as one of the most corrupt country. It is a paradox of my country with a population around 250 million people.

¹ Sholahudin Wahid, Religion, Culture, and the eradication of corruption, in a jihad against corruption, Compass: Jakarta, 2005, p. 137.

Nowdays corruption has been being a culture. Corruption has poisoned almost all institution not only public but also private institutions and become prevalent when we watch it on television every day. People are not surprised when they know or watch on television that some leaders of this country have committed corruption. Corruption has spread out endemically and systemically. Unfair and dishonest behavior have become subject matter of those problems. Fair and honest behavior have been stated many times in the Holy Qur'an but has not been able to be understood and implemented by people. As stated in Holy Qur'an (Surah al-Ahzab: 23) *"Of the believers are men who are true to that which they covenanted with Allah. Some of them have paid their vow by death (in battle), and some of them still are waiting; and they have not altered in the least"*

*"Diantara orang-orang mukmin itu ada orang-orang yang menepati apa yang mereka janjikan kepada Allah."*²

This verse can actually be the basic of our life as a Muslim that must obey the role in the Qur'an and Sunnah.

However, if we look back on the first process of corruption, it may be concluded that education is the main factor of corruption. Education actually starts from family, then school, and the society must collectively perform a civilizing fair and honest behavior, or in other words anti-corruption education. It must be implemented to reduce this endemic problem. It needs a national movement to implement the anti-corruption education and it starts from education.

High school and University as formal education seems to be more effective in the implementation of socialization and mental stabilization of anti-corruption ideology for students whom they in the future become family leaders, society leaders, or state officials.

According to data that has been collated by Indonesia Corruption Watch (ICW) mapping the corruption cases in Indonesia during January to June 2016, it stated that during that time, a total of 210 cases were dealt with 500 people were suspected by three law enforcement agencies. In the first semester of 2016, law enforcement officials managed to raise the case level of the investigation in which the state losses was about IDR. 890.5 billion and IDR. 28 billion in bribes, SGD 1.6 million, and USD 72 thousand. Attorney General handled 133 cases, 59 cases were handled by Police Department and 18 cases were handled by KPK. Attorney General handled more cases with the state losses of IDR. 473 billion and IDR. 14 million in bribe. "Police Department handled 59 cases of corruption with state losses of IDR. 252.2 billion. Meanwhile KPK handled 18 cases with state losses of IDR. 164 billion and IDR. 28 billion in bribe, SGD 1.6 million, and USD 72 thousand, ".³

Based on the above background, the writer formulated the problem as follows:

² Al-Jumanatul 'Ali, *the Qur'an and translation*, CV Publisher J-Art: Bandung, 2005.

³ <http://manadopostonline.com/read/2016/08/29/ICW-Semester-1-Tahun-2016-500-Orang-Jadi-Tersangka-Korupsi/16887>. .Diakses On Friday Date 2 December 2016 At 14:00 pm

B. Formulation of the problem :

1. How is the implementation of anti-corruption education in University?
2. How is the important role of early anti-corruption education in preventing corruption?
3. What is the obstacle and effort in combating corruption?

C. Purpose:

1. To know the implementation of anti-corruption education in the University.
2. To determine the role of early anti-corruption education in preventing corruption.
3. To find out the obstacles and efforts in combating corruption?

METHODOLOGY

This study is based on a normative juridical approach, because this study is the legal research doctrinaire also known as library research or document studies which is only done or shown the written rules or other legal materials.

This study implements the kind of law methodology by applying a normative juridical approach. Normative juridical approach is applied in this study because this study is a kind of legal research doctrinaire which is also known as library research or document studies which is only done or shown the written rules or other legal materials.⁴ This study covers legal principles, legal sources of scientific theoretical legislations, and analyzes the discussed issues.⁵

LITERATURE REVIEW

A. Definition

Corruption or **rasuah** (Latin : *corruptio* from *corrumpere* [v] which means rotten, damaged, destabilizing, twisting, bribing) is an act of public officials, both politicians and civil servants, other parties involved in the action which is unfair and illegal abuse the public trust which is authorized to gain illegal advantage.⁶ Corruption means cheating, fraud, malfeasance, self-interest, and falsification.⁷ Andi Hamzah said literally corruption comes from the Latin *coruptio* or *coruptus* which then fell into many European languages, such as

⁴ Bambang Waluyo, *Legal research method*, Semarang: PT.Ghalia Indonesia, 1996, Page 13

⁵ Soerjono Soekanto and sri mamudji, *Definition normative research, Research Normative Brief Overview*, Jakarta: Raja Wali Press, 2006, page 24

⁶ <http://kbbi.web.id/korupsi> ., Retrieved on Friday Date 2 December 2016 At 15:00 pm

⁷ Hendro Darmawan, et al., *Dictionary of Popular Science Complete*, cet 3rd (Yogyakarta: Shining Stars, 2011), p. 342.

English, *corruption*, *corrupt*, french, *corruption*, Dutch *corruptie*. From Dutch, the term corruption transferred into Bahasa Indonesia *korupsi*.⁸

In Indonesian Dictionary, corruption is interpreted as bad, broken, rotten, like wearing stuff (money) which is entrusted with in the graft and misappropriation or *penggelaan* for personal interests or others.⁹ In Malaysia, there are also an anti-corruption legislation which is termed *intoregulation* of anti greed and often use the word 'resuah' which is from Arabic '*risywah*'. According to the Arab Indonesia Dictionary it is defined as corruption.¹⁰ *Risywah* means bribe; that is a process of giving a thing to someone else in order the people who were given something committed corruption in accordance to the command of the giver illegally.¹¹ Meanwhile S.H Alatas, using sociological approach, defines corruption as an act of abuse of trust for personal gain. Alatas also includes nepotism in corruption group, but nepotism is difficult to find the norm in criminal law.¹² The definition of anti-corruption education is a conscious and deliberate effort to realize the teaching and learning process which has a keen mind on the values and corruption praxis.¹³

Definition of Corruption Based on Law No. 31 of 1999.¹⁴

Article 2 (1)

Anyone unlawfully enriching himself and/or other person or a corporation in such a way as to be detrimental to the finances of the state or the economy of the state shall be liable to life in prison, or a prison term of not less than 4 (four) years and not exceeding 20 (twenty) years and a fine of not less than Rp 200,000,000 (two hundred million rupiah) and not exceeding Rp 1,000,000,000 (one billion rupiah)

Article 3

Anyone with the intention of enriching himself or other person or a corporation, abusing the authority, the facilities or other means at their disposal due to rank or position in such a way that is detrimental to the finances of the state or the economy of the state, shall be liable to life imprisonment or a prison term of not less than 1 (one) year and not exceeding 20 (twenty) years and/or a fine of not less than Rp 50,000,000 (fifty million rupiah) and not exceeding Rp 1,000,000,000 (one billion rupiah).¹⁵

B. Elements of Corruption

From a legal standpoint, corruption broadly meets the following elements:

1. acting against the law.

⁸ Andi Hamzah, *Corruption in Indonesia: Problems and Solutions* (Jakarta: Gramedia, 1984), p. 9.

⁹ Team Dictionary Compiler Development Center and the development of language, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1995), p. 527.

¹⁰ *Ibid*, p. 10.

¹¹ Abu Hasan 'Ali an-Nahwiy, *al-Mukhassas* cet-1 (Beirut Dar Ihya' at-Turas, 1960) p. 287. As in sadur Muh. Mustakim in the journal *Preamble*, p. 6.

¹² SH Alatas, *The sociology of Corruption*, trans. Al-Ghozie Usman (Jakarta: LP3ES, 1986), Pg. 11.

¹³ Muhammad Mufid, "*anti-corruption education in the perspective of Islam*", *thesis*, Faculty of MT UIN Sunan Kalihaga Jogjakarta .. p. 28.

¹⁴ Article 2, paragraph 1 of Law No. 31 of 1999

¹⁵ Article 3 of Law No. 31 of 1999

2. Abusing of authority, the facilities or other means.
3. enriching himself or other person or a corporation, and
4. damaging the finances of the state or the economy of the state.

C. **Type of corruption**

Some kinds of corruption, but not all, are:

1. Giving or receiving a gift or promise (bribery)
2. Embezzling an authority
3. Extortion in an authority
4. Participating in the procurement (for civil servants/state officials), and
5. Accepting gratuities (for civil servants/state officials).

Generally corruption or political corruption is the misuse of official position for personal gain. All forms of government practically are facing a high risk of corruption. Corruption varies from simple into serious level. from the most simple category in the way of abusing power and support to give and receive help, up to the serious level that is legalized corruption, and so on. The final point of corruption is kleptocracy, which literally means *rule by thieves*, in which pretending to act honestly did not exist at all.

Corruption which appeared in the field of politics and bureaucracy can be categorized as simple or serious level, or organized or unorganized. Though corruption often facilitates criminal activities such as drugs traffic, money laundering and prostitution, corruption is not limited in these things.¹⁶

DISCUSSION

A. **Implementation of Anti-Corruption Education in University Education**

One alternative to solve this problem, corruption in the society and our country, is the implementation of Anti-Corruption Education nationally in which it is basically a great challenge of the National Education Board by moving from the conventional teaching way where it has just introduced the concept of good and bad into installing habits about a good thing. School should be a model of good and bad applications. School or university should have *corporate governance* and *corporate citizenship* that could be a model of the living value system. Education must stand at the forefront of change in the mindset of community. Anti-Corruption Education Program could hopefully be one answer to build the education of the nation's character.

¹⁶ <https://id.wikipedia.org/wiki/Korupsi>. Retrieved on Friday Date 2 December 2016 at 16.00 pm

Anti-corruption education becomes very important as the systematic and massive efforts in building a new civilization of education. To implement this, the education system must also undergo to improve the educational process which aims at the formation of personality, intelligence, and skill. It is the right time of distortion in education and neglect of moral values to be improved in order to educate young generation who obeys the law and has good personality.

In the effort of building Indonesia as a country with clean governance and strong in all areas, we need a national strategy such as the Anti-Corruption Education which is carried out systematically through a continuous process of character education. Those were conveyed by **Mochtar Kusumaatmadja** in his theory "Theory of Legal Development". In the context of change and renewal of law, this paper implemented an approach referenced to Theory of Legal Development, compiled carefully by Mochtar Kusumaatmadja. This theory has the core teachings as follows:¹⁷

1. Societies that are developing are always characterized by changes and law functions to ensure the changes that occur regularly. Regular changes, according to Mochtar, can be helped by legislation or court decisions or combination of both. He rejected the changes that are not regular affecting violence.
2. Both changes and order are the original purpose of the growing society, then the law becomes an instrument (not a tool) that cannot be ignored in the development process.
3. The function of law in society is to maintain the order through the rule of law and the law (as a social norm) should be set (to help) the process of change in society.
4. A good law refers to the living law in the community, which must be in compliance as a reflection of the values which is prevailing in the society.
5. Implementation of judicial functions mentioned above can only be realized if the law is executed by a power, but the power must be implemented within the guidelines specified in the law.

B. Important Role of Early Anti-Corruption Education in Preventing Corruption.

Indonesia is one country that has a fairly high corruption cases in the world. It can be inferred from the listed of corrupted countries released by *Transparency International*, an international organization that aims to combat corruption in 2010 which Indonesia ranked on 110th with a CPI (Corruption Perception Index) 2,8. The ashamed achievement is inseparable from the attitude and behavior of state officials who occupy in important positions. Lively corruption in Indonesia can be interpreted as a lack of self control of state officials and powerless government or non-government which is observer of this case. Therefore, it takes an anticipation that can push down the rate of Indonesian corruption in the future.

According to *Indonesia Corruption Watch (ICW)*, it said that the total of financial losses due to corruption during 2015 reached IDR 31,077 trillion. Investigation Division staff of ICW, Wana Alam, said the total value of the state's losses in 2015 amounted to IDR

¹⁷ Romli Atmasasmita, Romli Atmasasmita, *Legal Theory Integrative: Reconstruction Of Legal Theory and Legal Theory Progressive Development*, Yogyakarta: Genta Publishing, 2012, p. 66-66.

31,077 trillion, with most of the mode used is the misuse of funds. "Modus of misuse of funds was approximately 24 percent or for about 134 cases, the value of the total losses is about IDR 803,3 billion," based on her corruption exposure of monitoring results. There are 550 cases of corruption entering the stage of investigation during 2015, with the 308 cases in the first semester and 242 cases in the second half. The second highest mode is the embezzlement with 107 cases, the value of state losses of IDR 412.4 billion. The third is "mark up" with 104 cases, with the loss of IDR 455 billion and then, followed by 102 cases of abuse of authority with IDR 991,8 billion loss. "Wana said corruption is more prevalent in the area of financial sector with 105 cases of corruption, state losses of IDR 385,5 billion. While most suspect positions during 2015 is a local government official/ministry, then directors and commissioners of private corporation, head of department, members of DPR/DPRD and village head. Based on the handling of corruption by law enforcement officials, ICW noted that the judiciary handled 369 or 67.4 percent of corruption cases with a total value of IDR 1.2 trillion in losses, Police Department handled 151 cases or 27 percent with the value of IDR 1.1 trillion losses, Corruption Eradication Commission (KPK) handled 30 or five percent of cases with state loss of IDR 722,6 billion.¹⁸

Then the early anti-corruption education from high school and college is one way to reduce the rate of corruption because education is one of the guiding young people to be in the right path. Education, as the producer of a great thinker, including corruptor, is actually an original aspect to change a person becomes corruptor or not. Education is one of the cornerstones of civil life in a democratic society and should have contributed in preventing corruption. One thing could be a good idea in this corruption case is the application of anti-corruption in the nation's character education in Indonesia.

In this application, legal system theory of **Lawrence M. Friedman** can also be implemented. The theory of legal system of **Lawrence M. Friedman** was used to see the implementation of the role of law enforcement and the role of universities and schools. According to him, the legal system consists of three elements, namely the elements of the structure, substance and legal culture.¹⁹

How important an early anti-corruption education can be analogized as the importance of caring for, maintaining and preparing the seeds to be grown which gives a lot of benefits. That its existence can not only absorb nutrients the soil with their roots but also can produce fresh fruits for consumption and leafy branches to serve as shelter. It is in a compliance with the mission of early anti-corruption education.

¹⁸ <http://www.antaraneews.com/berita/546929/icw-korupsi-2015-rugikan-negara-rp31077-triliun.> , Retrieved on Friday Date 2 December 2016 At 19:00 pm

¹⁹ Lawrence M. Friedman, *American Law* . New York: WW Norton and Company, 1984, p. 7-12

C. Obstacles and Efforts Carried In Combating Corruption

a. Obstacles

Based on the author's analysis from several theories and events in the field, the obstacles faced by the nation of Indonesia in reducing corruption are:

1. inconsistent law enforcement.
2. Upwards oriented bureaucratic structure, including the improvement of bureaucracy that tends on remuneration improvement without improving structure and culture.
3. Less optimal function of the components of supervisor or controller, so there is no *check and balance*.
4. A number of slits in political system and administrative system of Indonesia that can be maximized to do corruption.
5. Facing difficulty in reformulate the case, so in some cases the corruptors are easy to evade the charges filled by the prosecutor.
6. Sophisticated strategies applied by corruptors to deceive the examiner officials, communities, and countries increasingly.
7. The weakness of moral and self-control in running the trusteeship.

This is similar to Theory of Law Effectiveness by **Soerjono Soekanto**²⁰. He said that the effectivity or not of law is determined by five (5) factors:

1. Law Factor (Regulation).
2. Factors of law enforcement official, that is the parties that formulate and apply the law.
3. Factor of means or facilities to support law enforcement.
4. Factor of community, that is the environment in which law may be applied.
5. Factor of culture, that is a result of the work, creativity and taste based on human initiative in social life.

b. Solutions

1. Applying the Values and Principles of Anti-Corruption

Basically corruption occurs because of internal factors (intention) and external factors (opportunities). Intention is more related to individual factors which include behavior and values espoused, while the opportunities associated with the existing system. Corruption prevention efforts can begin by installing the values of anti-corruption in all individuals. There are nine anti-corruption values, they are:

²⁰ Soerjono Soekanto, *Factors Affecting Law Enforcement* (Jakarta: PT. King Grafindo Persada, 2008), p. 8.

1) Honesty, 2) Concern, 3) Independence, 4) Discipline, 5) Responsibility, 6) Work Hard, 7) Simplicity, 8) Courage, and 9) Justice.

The Holy Qur'an also explains some of the verse regarding the prohibition of corruption. These are:

1. Surah Al-Baqarah verse 188

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ
لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِإِثْمٍ وَأَنْتُمْ تَعْلَمُونَ ﴿١٨٨﴾

“and do not consume one another’s wealth unjustly or send it (in bribery) to the rulers in order that (they might aid) you (to) consume a portion of the wealth of the people in sin, while you know (it’s unlawful)”
*“Dan janganlah sebahagian kamu memakan harta sebahagian yang lain di antara kamu dengan jalan yang batil dan (janganlah) kamu membawa (urusan) harta itu kepada hakim, supaya kamu dapat memakan sebahagian daripada harta benda orang lain itu dengan (jalan berbuat) dosa, padahal kamu mengetahui.”*²¹

2. Surah Al-Anfal verse 27

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمْنَتَكُمْ
وَأَنْتُمْ تَعْلَمُونَ ﴿٢٧﴾

“O ye who believe! Betray not Allah and His messenger, nor knowingly betray your trusts”
*“Hai orang-orang yang beriman, janganlah kamu mengkhianati Allah dan Rasul (Muhammad) dan (juga) janganlah kamu mengkhianati amanat-amanat yang dipercayakan kepadamu, sedang kamu mengetahui.”*²²

2. **The role and involvement of students in the Anti-Corruption Movement**

University students have great potential to be an agent of change and a driving force in the anti-corruption movement. The roles of students in combating corruption are:

1. Keep yourself and the student community away from corruption and corruptive behavior.
2. Building and maintaining the anti-corruption movement.

Some efforts that can be done by university students in the eradication of corruption are:

- a. Creating a university environment as free corruption area.

²¹ Surah Al-Baqarah verse 188

²² Surah Al-Anfal verse 27

It starts from the awareness of students that they should not engage in any kinds of corruption, although it is a simple mode of corruption, for example; coming late, asking classmate to fill the attendance list when cannot attend the class, giving an extra tips to scholarship committee and any other bad things. Students can also initiate to establish the intra-campus organizations on the effort of combating corruption. Those organizations are expected to be a forum to carry out discussions and seminars on the dangers of corruption. In addition the organization or community was able to become means of controlling the internal policy of the university.

b. Educate the society on the dangers of corruption.

Providing counseling and appealing public to participate in combating corruption happening in their neighborhood are the way to educate society. In addition, the society is demanded to criticize government policies that is irrelevant.

c. Being a controller of government policies.

University students as the agent of change also acts as an agent of control in the government. The government policy is necessary to be controlled and scrutinized if the policy does not have a positive impact on the justice and social welfare and further aggravate the condition of society. For example, by doing a demo to give government pressure or making a vote polling to obtain the best outcome of the negotiations.²³

CLOSING

A. Conclusion

Based on the Formulation of the problem and the Discussion that writer has already shown, the writer concluded as follows:

1. Anti-corruption education becomes very important as the systematic and massive efforts in building a new civilization of education. To implement this, the education system must also undergo to improve the educational process which aims at the formation of personality, intelligence, and skill. It is the right time of distortion in education and neglect of moral values to be improved in order to educate young generation who obeys the law and has good personality.
2. Education is one of the guiding young people to be in the right path. Education, as the producer of a great thinker, including corruptor, is actually an original aspect to change a person becomes corruptor or not. Education is one of the cornerstones of civil life in a democratic society and should have contributed in preventing corruption. One thing could

²³ <http://ratnygusdiwati.blogspot.co.id/2015/02/makalah-pendidikan-anti-korupsi.html>. Retrieved on Friday Date 2 December 2016 At 20:00 pm

be a good idea in this corruption case is the application of anti-corruption in the nation's character education in Indonesia.

3. The obstacles faced by the nation of Indonesia in reducing corruption are:
 - a. inconsistent law enforcement.
 - b. Upwards oriented bureaucratic structure, including the improvement of bureaucracy that tends on remuneration improvement without improving structure and culture.
 - c. Less optimal function of the components of supervisor or controller, so there is *no check and balance*.
 - d. A number of slits in political system and administrative system of Indonesia that can be maximized to do corruption.
 - e. Facing difficulty in reformulate the case, so in some cases the corruptors are easy to evade the charges filled by the prosecutor.
 - f. Sophisticated strategies applied by corruptors to deceive the examiner officials, communities, and countries increasingly.
 - g. The weakness of moral and self-control in running the trusteeship

B. Suggestion

Based on the descriptions above, the witer suggests/recommends:

1. That the government immediately declares and implements an anti-corruption education for all universities and schools and establish organizations engaged in anti-corruption in all universities and schools.
2. Students, society, government and relevant institutions need to work together synergistically to be able to implement and apply early anti-corruption education in all aspects of life.
3. All elements (state officials, society, academics, journalists) should have idealism, courage to reveal the distortions objectively, honestly and critically on the existing order and convinced on the principles of justice, mental and moral development through sermons, lecturing or counseling in the fields of religion, ethics and law. Because how good a system is, it is possible to misuse, diverted or corrupted if it is not carried out with the values of honesty and human dignity.

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