

## The Role Of Society in Prevention and Eradication of Corruption Criminal Actions in Indonesia's Legislation Perspective

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### ARTICLE INFO

Received: 17 September 2019  
Accepted: 25 September 2019  
Published: 19 Desember 2019  
Volume: 2  
Issue: 2  
DOI:  
<https://doi.org/10.33019/berumpun.v2i2.19>

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### KEYWORDS

*The role of society; Corruption criminal acts; Indonesia's legislation.*

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### ABSTRACT

Law Enforcement issues including corruption, both prevention and eradication of corruption are not only the duty of law enforcers, but the duties of all parties including the public. The role of society in prevention and eradication of corruption have been regulated. This study aims to explain how the arrangements and forms of the role of society in the context of preventing and eradicating criminal acts of corruption are seen in the perspective of legislation in Indonesia. The type of research in this study is a normative legal research. The research examines matters that are theoretical, principles, conceptions, legal doctrines and legal rules relating to the role of the society in the framework of preventing and eradicating corruption in the perspective of legislation in Indonesia. The legal materials used are primary, secondary and tertiary legal data. The results of this study state that the public or the society is given the freedom to report the patterns of corruption occurred through various media. The society could submit the reports directly to the Corruption Eradication Commission's office (KPK), by telephone, post, electronic mail (e-mail), short message service (SMS), and facsimile (fax). The forms of the public participation in the prevention and eradication of criminal acts of corruption have been also regulated in statutory regulations in Indonesia, including stipulated in Law No. 31 of 1999 and Law No. 20 of 2001 specifically ruled under Articles 41 and 42.

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## 1. INTRODUCTION

Corruption issue is always interesting to discuss from time to time. It is because corruption is not an ordinary or conventional crime but is an Extraordinary Crime or often also called a "white collar" (white crime), in terms of the perpetrators. In addition, the amount of state financial losses that have been corrupted continues to increase.

Starting from 1998, Indonesia has always been ranked in the "top ten" of the most corrupt countries in the world. In 1998, Indonesia is the 6<sup>th</sup> of the most corrupt from 85 countries, in 1999 is the 3<sup>rd</sup> of the most corrupt from 98 countries, 2000 is the 5<sup>th</sup> of the most corrupt from 90 countries, 2001 is the 4<sup>th</sup> of the most corrupt from 91 countries, 2002 is the 6<sup>th</sup> of the most corrupt from 102 countries), in 2003 is the 6<sup>th</sup> most corrupt out of 133 countries, and finally in 2004 the International Transparency ranked Indonesia as the 5<sup>th</sup> most corrupt country out of 166 countries. Although according to Transparency International (TI) data, Indonesia's GPA score continues to improve from a score of 32 in 2013 to a score of 37 in 2017<sup>1</sup>, all efforts to prevent and eradicate corruption in Indonesia must be optimized continually.

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<sup>2</sup><https://seruji.co.id/hukum/korupsi/presiden-perpres-54-2018-upaya-pemerintah-bangun-sistem-pencegahan-korupsi>. Accesed on 26<sup>th</sup> July 2019, at 22.10.

<sup>3</sup>Hassan Suryono, *Pendidikan Integrasi Anti Korupsi Dalam Perspektif Pendidikan, Sosial dan Hukum*, Surakarta, Sebelas Maret University Press, Cetakan 1, Mei 2013, Hal. 29-30.

In addition, there is a more severe situation because more than half of the provinces in Indonesia are led by regional heads who are involved in legal issues; a number of 32 Governors, 7 of whom are involved in corruption cases, so they must be deactivated from their positions. Almost every year there are always regional heads suspected. The members of the House of Representative who stumbled on corruption cases are also very numerous, for example in the Malang area, there are also many provincial council members who have been suspected in a case known as "money for Gavelling", and there are many other examples in Indonesia.

Factors causing the State of Indonesia becoming the most corrupt country in the world are materialistic behavior, consumptive and political systems that prioritize money to gain power. The condition of people, who are greedy, immoral, consumptive and lazy, encourages them to commit corruption. In addition, weak of faith, dishonesty and no shame also play a role in corruption.

Corruption arises because of the opportunities and supporting conditions and situations. Conditions that can support the existence of corruption include:

1. Concentration of power in decision makers who are not directly responsible to the people, as occur in undemocratic regimes;
2. Lack of transparency in government decision makers;
3. Expensive political campaigns, with expenditures greater than normal political funding;
4. Projects involving large amounts of public money;
5. Weak law order;
6. Weak legal profession;
7. Lack of freedom of opinion or freedom of mass media;
8. Small salaries for government employees, which are out of balance with expenditure.<sup>3</sup>

Prevention and eradication of corruption in Indonesia can not only be burdened to law enforcement alone, but it also requires the participation of the community in terms of prevention and eradication of corruption. Some cases of criminal acts of corruption can be disclosed due to public reports that corruption practices have occurred around them. The intended community involves all levels of society, including students, academics, and the general public, including non-governmental organizations (NGOs) who are concerned with corruption issues. The role of the community in terms of preventing and overcoming criminal acts of corruption has been regulated in many laws and regulations in Indonesia from the Law, PP and Prepres. Although it has been regulated in the Law concerning the eradication of criminal acts of corruption as well as in Government Regulations and Presidential Regulations, the role of the community in terms of preventing and eradicating criminal acts of corruption must still be improved. There are many reasons why the community has not played an active role, one of which is because it takes courage in revealing corruption cases that occur around and must be supported by sufficient evidence

to report the incident. Corruption cases that have already developed in Indonesia, it is necessary to have a strong commitment from the government, law enforcement officials and the community to jointly carry out anti-corruption movements. Law enforcement for criminal acts of corruption continues to be carried out by law enforcers, both those examined by prosecutors, police and the Corruption Eradication Commission (KPK).

However, for perpetrators of corruption, law enforcement is not enough to reduce corruption cases, so preventive measures are also needed related to the prevention of corruption. In accordance with the slogan, namely: "Preventing is more important than eradicating", there is a demand for community participation that must be continuously improved to become a pioneer of anti-corruption movement from various lines, including in Higher Education with the establishment of an "Integrity Zone", as a basis and foundation for the campus community that shows a shared commitment to fight corruption. From the explanation above about corruption that still happens and even tends to increase, it is necessary to have community participation in helping to prevent and eradicate corruption more optimally. Three basic components in crime prevention are Community / school, Government and Police or Law Enforcement. The community has the role of being the subject as well as the object of the prevention and eradication of corruption, law enforcement officers, especially the police, become the facilitator and the government has the role of supporting the prevention and eradication of corruption by the community.

This community participation is regulated in many laws in Indonesia. Among them, the Corruption Eradication Act No. 31 of 1999 No. 20 of 2001, Government Regulation No. 43 of 2018 and several other regulations. In several articles, it regulates the role of the community in the prevention and eradication of criminal acts of corruption so that they are more optimal. To find out the arrangements regarding the community's participation, the researcher is interested in researching with the title, "Community Participation in the Prevention and Eradication of Corruption in the Perspective of Legislation in Indonesia".

Based on the descriptions that have been presented in the background above, the authors formulated several issues that will be the main study in the research to be conducted. The formulation of the problem is as follows:

1. How is the regulation on community participation in the framework of preventing and eradicating Corruption in the Perspective of Legislation in Indonesia applied?
2. How are the forms of community participation in the framework of preventing and eradicating Corruption in the Perspective of Legislation in Indonesia being applied?

## **2. RESULTS AND DISCUSSION**

### **a. Regulations Regarding Community Participation in the Prevention and Countering of Corruption in the Perspective of Legislation in Indonesia**

Corruption has long existed in Indonesia and has been increasing every year. Corruption is a common problem for this nation, it has been very detrimental to the life of the nation and state. Corruption is a crime that gets the attention of the wider community. Since the reform era, corruption has become a crime that constantly receives attention for serious handling. Seriousness to eradicate corruption because corruption is a crime that reduces citizens' rights and causes misery among the people. Various studies show that corruption has damaged the joints of people's lives and amputated people's rights to prosperity.

Corruption in Indonesia continues to increase from year to year. Corruption has been widespread in society, both in the number of cases that have occurred and the number of losses to the state and in terms of the quality of criminal acts committed more systematically and the scope that enters all aspects of people's lives. Corruption is a crime that enriches oneself, class, and relatives by way of violating the rule of law which directly harms the country or the country's economy. So, the element of corruption includes two aspects. Aspects that enrich themselves by using their position and aspects of using State money for their interests. The causes include the absence and weakness of leaders, weaknesses of teaching and ethics, colonialism, the occupation of low education, poverty, the absence of harsh penalties, the scarcity of a fertile environment for corrupt behavior, low human resources, and economic structure. Corruption can be classified into three types, namely form, nature, and purpose. The impact of corruption can occur in various fields including democracy, the economy and the welfare of the country.

Legislation is a manifestation of the political law of the State institutions that were drafted and ratified as laws against corruption. Partially, it can be concluded that the government and the Indonesian people are seriously fighting and eradicating criminal acts of corruption in this country. In several laws that regulate corruption and contain about the participation of the community including Law No. 31 of 1999 Jo Law No. 20 of 2001 concerning Eradication of Corruption Crime contains what is corruption, the types of acts that include corruption, sanctions or criminal threats for corruptors also make articles about the participation of the public in the prevention and control of criminal acts of corruption.

The role of the community in efforts to prevent and eradicate corruption is manifested in the forms of seeking, obtaining, providing data or information about corrupt acts and the right to submit suggestions and opinions responsibly towards the prevention and eradication of criminal acts of corruption. In accordance with the principle of openness in a democratic country which gives the right to the public to obtain true, honest and non-discriminatory information regarding the prevention and eradication of criminal acts of corruption.

When related to law enforcement issues in the field of corruption in Indonesia, it is this aspect of the legal culture that tends to get less attention. Substantially there have been many laws that can be utilized to eradicate corruption. Starting from Law No. 31 of 1999 as amended by Law No. 20 of 2001, until Law No. 28 of 1999 concerning Anti-Corruption,

Collusion and Nepotism and Law No. 30 of 2002 concerning the Corruption Eradication Commission.

While structurally, this has been owned by many institutions that can be used to tackle and eradicate corruption. Like the Police, Prosecutors' Office, National Ombudsman Commission. While in the field of supervision there has been a Supreme Audit Agency (BPK), the Financial and Development Supervisory Agency (BPKP), Inspectorates and so on.

Seeing such conditions, Indonesia has the most complete legal instruments to prevent and eradicate corruption from this country. Law No. 31/1999 concerning Eradication of Corruption, as amended by Law No. 20/2001 concerning Eradication of Corruption, also regulates community participation in efforts to prevent and eradicate Corruption, regulated in Article 41- 42 as a new breakthrough in combating corruption.

This community participation is regulated further in Government Regulation Number 71 of 2000 concerning Procedures for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption, which was changed to Government Regulation of the Republic of Indonesia Number 43 of 2018 Procedure for Implementing Community Participation and Awarding in the Prevention and Eradication of Corruption, explains how community procedures can contribute to the prevention and eradication of corruption in Indonesia. There was also a Presidential Regulation No. 54 of 2018 concerning the National Strategy for Corruption Prevention. Through this Government Regulation, people who have information about allegations of corruption can inform the authorities or law enforcement officials. Community participation in reporting corruption allegations in government No. 43 of 2018 regulates the awarding and appreciation of the public who report on corruption. In terms of realizing community participation, the Corruption Eradication Commission has opened the widest possible access to the public in submitting complaints about corruption. Complaints can be submitted through various media, namely direct submission to the Corruption Eradication Commission office, by telephone, post, e-mail, short message service (SMS), and facsimile (fax).

As proof of the determination and very strong intention of the legislators in the effort to eradicate corruption is the inclusion of provisions regarding the participation of the public in efforts to eradicate corruption in Indonesia. This participation is motivated by the view that:

- 1) the granting of the rights and obligations of the community in the fight against corruption is seen as a positive thing in efforts to prevent and disclose corruption cases that occur and
- 2) the problem of overcoming corruption is seen not solely to be a matter of government or law enforcement, but is a problem of all people and the affairs of the nation. Everyone must participate and play an active role in tackling the crimes that are undermining this country.

As previously explained, the role of the community is regulated in Articles 41-42 as a form of a new breakthrough in eradicating corruption, which contains the following articles:

#### **Article 41**

- 1) The community can participate in helping prevent and eradicate corruption.
- 2) Community participation as referred to in paragraph (1) is manifested in the form of:
  - a. the right to seek, obtain and provide information on the allegation that a criminal act of corruption has occurred.
  - b. the right to obtain services in searching for, obtaining and providing information on the allegation that a criminal act of corruption has occurred to law enforcers handling corruption cases;
  - c. the right to submit advice and opinions responsibly to law enforcers handling corruption cases;
  - d. the right to obtain answers to questions about its reports given to law enforcement within a maximum period of 30 (thirty) days;
  - e. the right to obtain legal protection in the case of:
    - exercising their rights as referred to in letters a, b and c;
    - requested to be present in the process of investigation, investigation, and at court hearings as witnesses, reporters, or expert witnesses, in accordance with the provisions of the applicable laws and regulations;
    - The community as referred to in paragraph (1) has the rights and responsibilities in the efforts to prevent and eradicate corruption;
    - Rights and responsibilities as referred to in paragraphs (2) and (3) are implemented by adhering to the principles or provisions stipulated in the applicable laws and regulations and by obeying religious norms and other social norms.
    - Provisions regarding the procedure for carrying out community participation in the prevention and eradication of criminal acts of corruption as referred to in this Article, shall be further regulated by Government Regulation.
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#### **Article 42**

- a. The government gives awards to members of the public who have contributed to helping prevent, eradicate, or disclose corrupt acts.

- b. Provisions regarding awards as referred to in paragraph (1) shall be further regulated by Government Regulation.

The regulation of community participation in the Corruption Eradication Act is very good in encouraging all people to play an active role in the prevention and control of corruption that occurs within the community itself. With the participation of the community actually gives high motivation to the community. Therefore, by involving or empowering the community in eradicating criminal acts of corruption, it is necessary to hold awards to the people who have contributed to efforts to prevent and eradicate corruption in the form of charter or premium, so that the community will be more active in revealing criminal cases that happened.

The role of the community is intended to realize the rights and responsibilities of the community in the administration of a State that is free and free from corruption. In addition, with this participation the community will be more passionate to carry out social control over criminal acts of corruption.

Arrangements regarding community participation in the prevention and handling of criminal acts of corruption that exist in Law Number 31 of 1999 and Law No. 20 of 2001. In addition to the Law on the Eradication of Corruption, the Republic of Indonesia Government Regulation No. 43 of 2018 concerning Procedures for the Implementation of Community Participation and Awarding in Prevention and Eradication of Corruption, is regulated and mentioned in Chapter II of the regulation, concerning procedures for the implementation of community participation, part one, general which can be described in detail as follows:

Article 2 paragraph (1):

- a) The public can play a role in helping prevent and eradicate corruption.
- b) Part Two: Regarding Procedures, Obtaining and Providing Information. Paragraph 1, Regarding the Procedure for Finding and Obtaining Information, is arranged in

Article 3 and Article 4.

- a) In paragraph 2, it is regulated about the Procedure for Providing Information, which is contained in Articles 5 to 10.
- b) Part Three, concerning Procedures for Submitting Suggestions and Opinions, is regulated in Article 11.
- c) Part Four, regulates the Legal Protection contained in Article 12.

#### **b. Forms of Community Participation in the Framework of Prevention and Management of Corruption in the Perspective of Legislation in Indonesia**

Many forms of community participation in the prevention and eradication of corruption in various laws and regulations in Indonesia, including regulated in Law No. 31 of 1999. In

addition, Law No. 20 of 2001 concerning the Eradication of Corruption Crimes has been regulated regarding community participation in the framework of preventing and overcoming Corruption Crime, namely in Articles 41 and 42. Specifically containing the regulation of the forms of participation, regulated in Article 41 paragraph (2) the form has been determined, namely as follows;

1. the right to seek, obtain and provide information on the allegation that a criminal act of corruption has occurred;
2. the right to obtain services in searching for, obtaining and providing information on the alleged occurrence of a criminal act of corruption to law enforcers who handle cases of corruption;
3. The right to submit advice and opinions responsibly to law enforcers who handle cases of corruption.
4. the right to obtain answers to questions about the reports given to law enforcement within a maximum period of 30 (thirty) days.
5. the right to obtain legal protection in terms of:
  - a) exercising their rights as referred to in letters a, b and c;
  - b) requested to be present in the process of investigation, investigation, and at court hearings as witnesses, reporters, or expert witnesses, in accordance with the provisions of the applicable laws and regulations.

What is meant by the right to provide information is the right to submit all kinds of information regarding the alleged occurrence of a criminal act of corruption, one of which is "reporting" submitted to law enforcement or the commission to eradicate corruption. The law enforcers referred to here are the police and prosecutors. The reporting party referred to in the meaning of this Law is not the same as the reporting entity referred to in Article 1 point 24 of the Criminal Procedure Code. Reporting in this case specifically on the alleged occurrence of criminal acts of corruption, whereas according to the Criminal Procedure Code, the reporter is the person who provides information for all types of criminal acts.

As for the procedures for the implementation of public participation in the form of reporting in preventing and eradicating criminal acts of corruption regulated in Government Regulation Number 43 of 2018. Article 2 paragraph (2), community participation in this is manifested in the form of:

- a. Finding, obtaining, and providing information that allegations of corruption have occurred;
- b. The right to obtain services in searching for, obtaining, and providing information on the allegation that a criminal act of corruption has occurred to Law Enforcement who handles cases of corruption;



- c. The right to submit suggestions and opinions responsibly to Law Enforcement who handle cases of corruption;
- d. Right to obtain answers to questions about reports given to Law Enforcement; and
- b. The right to obtain legal protection.

Furthermore, in Article 2 paragraph (3), it regulates:  
Rights as referred to in paragraph (2) are implemented in accordance with statutory provisions, religious norms and social norms.  
In addition to regulating the role of the community in the framework of preventing and eradicating criminal acts of corruption in Government Regulation No. 43 of 2018 also includes the Legal Protection of Reporting Corruption Crimes, which is regulated in:

### **Article 12**

The right to obtain legal protection as referred to in Article 2 paragraph (2) letter e is given by Law Enforcement to the public in terms of:

- a) Carry out their rights as referred to in Article 2 paragraph (2) letter a, letter b, and letter c; and
- b) is requested to be present in the process of investigation, investigation and examination at a court hearing as a reporter, witness or expert.
- c) Legal protection is given to Reporting Parties whose reports contain truth.
- d) Legal protection as referred to in paragraph (1), is carried out in accordance with statutory provision.
- e) In providing legal protection as referred to in paragraph (1), Law Enforcement may cooperate with the Witness and Victim Protection Agency.

In addition to what is stipulated in the Corruption Eradication Act, there are also forms of community participation in eradicating corruption in general, namely:

#### **1. Participation through the media**

Newspapers, magazines, radio and television, social media are powerful tools prevent and tackle corruption. Allegations of corruption cases that occur in a government institution or allegations of corruption by a state official can be reported through the media. By the authorized institution, the results of reporting can be followed up. Through the media, citizens can also convey allegations of corruption, corruption, or other related matters. For example, by reader letters, post boxes, opinions, reader columns, or telephone rings or news through online media.

#### **2. Participation through direct activities**

Activities directly and openly by a group of people related to efforts to tackle corruption are called direct activities. For example, rallies went to government institutions accused of corruption and demonstrations to institutions to the KPK to seriously deal with a corruption case. Many non-governmental organizations (NGOs) currently are involved in the field of corruption prevention and eradication, which consistently pay attention to corruption issues. They actively and diligently carry out activities that have core efforts to tackle corruption, such as reporting corruption by an official, giving input and criticizing

the use of a department's budget, reporting a department's alleged corruption, and others. Examples of these non-governmental organizations are as follows:

1) Indonesian Corruption Watch (ICW) or abbreviated as ICW is a non-governmental organization (NGO) that has a mission to supervise and report to the public about corruption in Indonesia. ICW was born in Jakarta on June 21, 1998 in the midst of a reform movement that wanted a post-Soeharto government that was democratic, clean and free of corruption. ICW is a non-profit organization consisting of a group of people who are committed to eradicating corruption through efforts to empower the people to engage or actively participate in fighting corruption.

2) The Indonesian Transparency Society (MTI) is an international organization that aims to fight political corruption. The organization which was established in Germany as a non-profit organization is now a non-governmental organization which is moving towards an organization with a democratic structure.

Some large cases and involve community leaders who are suspected of corruption, are inseparable from the community's role in making complaints to law enforcers, including to the KPK institution, particularly in the directorate for public complaints. Of the many reports that come in, it will be followed up which one is indicated as a criminal act of corruption.

All pillars related to law enforcement efforts and processes must sustain and strengthen so that corruption can be suppressed to the point where it can be controlled. Thus the process of law enforcement is a long and interrelated series of aspects that influence each other in efforts to eradicate corruption.

The government should not lose the support of the community due to its seriousness in fighting corruption. For whatever reason, the government must not buy time to eradicate high-level corruption. If the government is afraid of dealing with high-level corruptors and only prosecutes or processes small-scale corruptors, then the risk is losing people's trust and fostering distrust of the government and even the public will think that the government protects big-time corruptors.

To do something we must know in advance what the causes and types are. Likewise to eradicate corruption, we must understand and understand what are the types of corruption and their causes. Corruption can have enormous economic, political, socio-cultural and legal consequences. Many people do not realize that acts of corruption have a very bad effect on the life of the nation and state, but people rarely can feel it immediately.

### **3. CONCLUSION**

Arrangements concerning the Role of Community Participation in the Prevention and Countering of Corruption in the Perspective of Legislation in Indonesia, among others,

are regulated in Law Number 31 Year 1999 Jo Law Number 20 Year 2001 Concerning Eradication of Corruption Acts regulated in Article 41 to Article 42 and Article 7 through Article 11 of Government Regulation Number 43 of 2018 concerning Procedures for the Implementation of Community Participation and the Awarding of Corruption Prevention and Eradication, in Articles 2 through 12.

Forms of Community Participation in the Prevention and Countering of Corruption in the Perspective of Laws in Indonesia, according to Law Number 31 of 1999 Jo Law Number 20 of 2001 concerning Eradication of Corruption Crimes is regulated in Article 41 paragraph (2) and Government Regulation Number 43 of 2018 concerning Procedures for the Implementation of Community Participation and the Awarding of Corruption Prevention and Eradication, namely Article 2 paragraph (2), Article 2 paragraph (2) and Article 12.

Community participation in the prevention and control of criminal acts of corruption must continue to be increased, by providing knowledge and understanding of the impacts or consequences of losses caused by Corruption in Indonesia for the community itself. Moreover, there has been a special regulation on the role of the community for the prevention and control of criminal acts of corruption, so that the public is expected to already know about the participation, it is expected that related parties such as the Police, Attorney and other law enforcement agencies and academics can provide knowledge and understanding about the need for the community to play a role in preventing and overcoming criminal acts of corruption through various supporting activities, such as the socialization of the Corruption Eradication Law or seminars and workshops with the theme of combating corruption.

After the community is aware of the arrangements and forms of community participation in the framework of preventing and overcoming criminal acts of corruption according to Law Number 31 of 1999 Jo Law No. 20 of 2001 concerning Corruption Eradication, they are expected to be able to apply it in practice to play an active role in helping the authorities to prevent and deal with corruption in the community, for example, being brave to report to relevant parties if they find out or there is corruption in the vicinity.

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