



Monitoring Corruption Trials: The Joint Efforts of Higher Education Institutions and Courts in Indonesia

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Abstract

In order to create a clean and transparent judiciary as a form of achieving legal objectives (certainty, usefulness and justice), the Indonesian Corruption Eradication Commission collaborates with several universities throughout Indonesia to carry out audio and visual recording of Corruption Crime trials. The aim of this activity, apart from being a form of monitoring from the judicial side, is also to be used as study material for students involved in this recording activity to deepen their study of criminal procedural law. This research produces a study in the form of empirical data on the benefits of recording corruption trials. In the research, it was stated that this trial monitoring activity was systematically carried out because in legal substance it had received legal recognition. The results of the study found that the implementation of KPK supervision in handling corruption cases in the regions was able to be realized well.

Introduction

There are three trends in upholding the supremacy of law through the establishment of judicial institutions; (1) The peak of judicial power rests on two institutions, namely, the Supreme Court and the Constitutional Court with a "one roof" policy; (2) There has been a consolidation of non-Constitutional Court judicial powers which integrates the court's administrative authority with judicial authority; (3) The Constitution provides justification for establishing various types of courts that are special and specific in accordance with developing needs.

The fact that corruption is systemic and increasingly structured is no longer indisputable (Wallis, 2006). There is a lot of evidence that can be presented to show that corruption occurs from morning to night, through managing burial plots, procuring goods and services, health, street vendors, and buying and selling positions in certain government positions. Corruption is endemic and works systematically, undermining the power bureaucracy and destroying public trust in the government in Indonesia. On the one hand, the impact of corruption is not only detrimental to state finances because it is used incorrectly or manipulated in various development projects and financing, but its impact is very devastating for public trust and world trust (Szeftel, 2000). In a social context, the impact of corruption causes very big problems, where corruption causes investment in human capital to decline and corruption even destroys investment in human capital (Lambsdorff, 2007).

The direct and indirect impact of the absence of infrastructure development related to public services, such as education and health, causes people to become vulnerable to disease and have low competence. Damage to the quality of transportation and communication infrastructure causes population mobility to decline and has the potential to cause social insecurity (Salomon, 1986). Likewise, the increasing poverty rate due to economic stagnation has a broad influence on social and political stability.

Another impact is that there is a distortion of political interests where the legislative process takes place because the people's representatives are elected through an election process that is not completely honest and fair, where corrupt attitudes become an inseparable part of every election process. Therefore, political elites and institutions have a tendency to ignore the aspirations of the people and their constituents (Bachrach, 2017). In this context, it is interesting to pay attention to the signal put forward by one of the anti-corruption institutions, Indonesia Corruption Watch, which stated that "now oligarchic corruption is occurring, leading to multiparty corruption and this situation is the main inhibiting factor in the reform process to get out of the multidimensional crisis."

The various cases above show that there are several things that accompany the issue of corruption, namely; there is a process of tug-of-war between party elites at the center and the interests of party elites in the regions and a process of political learning in managing party consolidation. The division of authority and unclear control mechanisms are supporting factors for political corruption in regional government areas. The argument of the author of the book *Controlling Corruption*, by Klitgaard (1988), regulates discretionary authority and accountability clearly and firmly and is relevant. Procedural law in handling corruption cases is an important factor that must receive attention to ensure a good trial.

In relation to detention and suspension of detention, corrupt people often find it easier to enjoy detention facilities compared to other prisoners. Excessive discriminatory policies against defendants in corruption cases are contrary to the principle of Equality before the Law and affect public perception of the courts. The result is a loss of public trust in judicial institutions. It is also important to pay attention to the examination of witnesses, especially expert witnesses and witnesses who are difficult to pay attention to for certain reasons. In various corruption cases, the witnesses presented by the public prosecutor are actually witnesses who defend the defendants (Sullivan, 1971). In certain cases, expert qualifications are also an interesting problem to study, namely the issue of expert competence in providing information.

Currently, there is a growing need for a mechanism that can examine witnesses at long distances. In several trials, witness examinations are carried out via teleconference. The problem arises as to how the trial court can be sure that the witness being examined is not under pressure. It is very possible that witnesses who will be examined are pressured in such a way before appearing in the process. examination, no one can guarantee that this will not happen. Moreover, camera tricks can manipulate the situation so that witnesses can be questioned with or without pressure. If the court is linked to several authorities possessed by the Corruption Eradication Commission, then it is necessary to regulate how that authority is in the trial, for example the Corruption Eradication Commission has the authority to carry out temporary suspensions, whether the court has the authority to cancel the decision to temporarily dismissal and what other authorities the Corruption Eradication Commission has, regarding the inter-relationship between the authority of the Corruption Eradication Committee and the authority of the corruption court. Another important thing is the trial schedule for the consolidation of minutes of examination at trial as well as the drafting and reading of the judge's decision. If there is a saying that good judges are not born but made, then it could be an instrument to produce good judges.

The Corruption Eradication Commission (KPK) in implementing monitoring, evaluation and enforcement tasks requires trial recording instruments to obtain the real situation of the trial process facts which will later become important documents in the context of monitoring and evaluating the trial process for certain criminal acts of corruption. To realize this interest, the Corruption Eradication Commission (KPK) as a law enforcement institution for criminal acts of corruption collaborates with universities through the Faculty of Law to record trials at the

Corruption Crime Court where the universities are located. In this regard, the Corruption Eradication Commission (KPK) asked universities to prepare Law Faculty students to carry out trial recording at each specified trial. This of course brings comprehensive benefits to higher education institutions and corruption courts.

Methods

The research was carried out at the Manado District Court as the North Sulawesi Corruption Court and at the Sam Ratulangi University Faculty of Law as the implementer of Corruption Crime Trial Recording Activities. This research is legal research, because legal science has a special character (it is a *sui generis* discipline). The nature of legal research always focuses on rules, which are guidelines for analyzing statutory regulations. Specifically, this research focuses on written law. Legal materials to achieve research objectives are in accordance with the method used, namely the normative legal research method, so legal materials are needed to be researched, such as: a) primary legal materials, such as the 1945 Constitution, Law no. 31 of 1999 in conjunction with Law No. 20 of 2002, Law No. 30 of 2002 in conjunction with Law no. 19 of 2019, b) books containing theories. Other legal materials, namely in the form of documents resulting from surveys at locations spread across the Manado Corruption Court and at the Faculty of Law, Unsrat.

Legal materials as support in addition to materials relating to the Corruption Law, the Law on the Corruption Eradication Committee and the Corruption Court, namely; (1) Law no. 31 of 1999 concerning Eradication of Corruption Crimes; (2) Law no. 20 of 2001 concerning amendments to No. 31 of 1999 concerning Eradication of Corruption Crimes; (3) Law no. 30 Tahun 2002 concerning Eradication of Corruption Crimes jo. Law no. 19 of 2019 concerning amendments to Law no. 30 of 2002; (4) Law no. 2 of 2002 concerning the Police; (5) Law no. 14 of 2004 concerning the Prosecutor's Office; (6) Government regulations regarding the Implementation of the Criminal Procedure Code

Collecting legal materials is carried out in several ways, including; (1) Identify legal materials using specific interviewing techniques in the form of unstructured questions and answers with respondents positioned as key informants who are deemed to have knowledge, understanding and/or experience in monitoring trials. The equipment used in this interview activity is using a list of questions (questionnaire) as an interview guide; (2) Observation, namely the collection of legal materials carried out by directly observing the activities carried out by respondents in monitoring court trials; (3) Documentation study or literature study. namely a technique for collecting legal materials which is carried out by studying journals, reports and various documentation or written texts that are related to the legal system in the Corruption Crime Court.

After collecting legal materials and questionnaire materials, the most important stage in this research is carrying out an analysis of the legal materials and information obtained. Analysis of legal materials is carried out in four stages; (1) In the first stage, a literature review was carried out regarding aspects of legislation and implementation of legislation in the field of justice and criminal law literature, especially in the field of criminal acts of corruption related to the Corruption Crime Trial Procedure Law (Tipikor); (2) The second stage carried out a qualitative analysis of the legal principles and principles of Corruption Crime Law; (3) The third stage is a policy analysis using prospective techniques by analyzing; the relationship between the legal system in the Corruption Crime Court in Indonesia; (4) The fourth stage is to identify the benefits of Corruption Crime Trial Recording for Universities and Corruption Crime Courts.

Results and Discussion

In eradicating criminal acts of corruption, there are two important things that must be understood, the first is about positive law or statutory regulations that regulate criminal acts of corruption, and the second is about the institutions that have the authority to handle criminal acts of corruption both in the investigation, prosecution and trial stages. This is deemed necessary because there will be specificities in the regulations regarding criminal acts of corruption and criminal procedural law.

In reviewing the history of the regulation of criminal acts of corruption, the existence of criminal acts of corruption can be divided into two, namely, criminal acts of corruption which originate from articles of the Criminal Code in the form of criminal acts of bribery, crimes in office and criminal acts of corruption which are regulated outside the Criminal Code. In the history of eradicating corruption, there have been many regulations issued by previous governments, including; (1) Military Rule No. Prt/PM-06-1957 concerning Eradication of Corruption; (2) Military Rule No. Prt/PM-08-1957 concerning Ownership of Property; (3) Military Rule No. Prt/PM-011-1957 concerning Confiscation and Forfeiture of Property Originally Obtained by Unlawful Actions; (4) Military Ruler Regulation no. Prt/PM/Peperpu/013-1958 concerning Prosecution and Investigation of Corruption and Property Ownership; (5) Government Regulation in Lieu of Law no. 24 of 1960 concerning; (6) Investigation, Prosecution and Inspection of Corruption Crimes Legalized by Law no. 1 of 1961 which later became Law no. 24 of 1960; (7) Law no. 3 of 1971 concerning the Eradication of Corruption Crimes; (8) Law no. 31 of 1999 concerning Eradication of Corruption Crimes; (9) Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning Eradication of Corruption Crimes.

From the identified legal regulations, seen from a policy perspective, the formulation of the offense shows improvements. As an institution for eradicating criminal acts of corruption, the Corruption Eradication Committee (KPK) was formed in December 2003 based on Law no. 30 of 2002 concerning the KPK. The Corruption Eradication Committee (KPK) is often dubbed by legal circles as a super body institution because the authority it has is so extraordinary in order to investigate, investigate and prosecute every person, civil servants, state officials and even corporations who are suspected of having committed criminal acts of corruption, causing financial losses. /country economy.

Among the authorities of the Corruption Eradication Commission are coordinating and supervising law enforcement in handling cases of criminal acts of corruption, carrying out investigations, investigating and prosecuting perpetrators of criminal acts of corruption. Carrying out various efforts to prevent corruption, monitoring state officials (Article 6 points b, c, d and e of Law No. 30 of 2002). In carrying out its supervisory duties, the Corruption Eradication Commission (KPK) has the authority to carry out supervision, research or review of agencies carrying out their duties and authority relating to the eradication of corruption and agencies carrying out public services (Article 8 (1) of Law No. 30 of 2002).

The Corruption Eradication Committee (KPK) also has the authority to take over (take over) the investigation and prosecution of perpetrators of corruption cases which are being handled by the police or prosecutor (Article 8 (2) Law No. 30 of 2002) therefore the police or prosecutor are currently investigating or prosecuting if a corruption case is requested by the Corruption Eradication Commission (KPK) to handle it, it is mandatory to hand over the suspect and all case files, evidence and other documents to the Corruption Eradication Commission (Article 8 (3) of Law No. 30 of 2002).

The KPK taking over corruption investigations and prosecutions being handled by the police or prosecutors can occur in the following cases; (1) Public reports regarding criminal acts of corruption are not followed up; (2) The process of handling corruption is protracted/delayed without justifiable reasons; (3) Handling of corruption is aimed at protecting the real perpetrators of corruption; (4) Handling of corruption contains elements of corruption; (5) Obstacles in dealing with corruption due to interference by the executive, judiciary or even the legislature; (6) Other circumstances that according to the police or prosecutor's office handling corruption are difficult to carry out properly and responsibly; (7) The Corruption Eradication Commission (KPK) is also given the authority to carry out investigations, inquiries and prosecutions for corruption (Article 11 of Law 30 of 2002 in conjunction with Law No. 19 of 2019) which; (8) Involve law enforcement officials, state officials and other people who are related to corruption committed by law enforcement officials and state officials; (9) Receiving attention that disturbs the public and/or; (10) Concerning state losses of at least 1 billion Rupiah; (11) In carrying out inquiries, investigations and prosecutions of corruption cases, the Corruption Eradication Commission (KPK) is given additional authority (Article 12 of Law 30 of 2002 in conjunction with Law No. 19 of 2019), namely; (12) Wiretapping and recording conversations; (13) Order the relevant agencies to prohibit someone from traveling abroad; (14) Order information from the bank or other financial institution regarding the financial condition of the suspect or accused being investigated; (15) Order banks or other financial institutions to block accounts suspected of being proceeds from corruption; (16) Request data on the suspect's or defendant's wealth and tax data from the relevant agency; (17) Temporarily suspend financial transactions, trade transactions and other agreements or temporarily revoke permits, licenses and concessions carried out or owned by the suspect or accused; (18) Request assistance from Indonesian Interpol or other country's law enforcement agencies to search, arrest and confiscate evidence abroad; (19) Request assistance from the police or other relevant agencies to carry out arrests, detention, searches and confiscations in the corruption case being handled.

Based on the broad authority of the Corruption Eradication Committee in investigations, investigations and prosecutions, Chairman of the Corruption Eradication Commission (KPK) Firli Bahuri views universities as having a role as agents of change in carrying out cultural transformation towards better and more advanced societal conditions. Because education is the key to developing human resources with character and integrity. Because education not only provides knowledge but also plays a role in changing individual behavior through the process of instilling values, one of which is anti-corruption values. Because of the importance of education in efforts to eradicate corruption, the Corruption Eradication Commission collaborates with educational institutions through various programs, one of which is the Anti-Corruption Summit (ACS).

In order to support the performance of the Corruption Eradication Committee (KPK) in obtaining the widest possible information about criminal acts of corruption that are currently on trial or that have already been tried, the Corruption Eradication Commission (KPK) needs equipment to carry out trial recording in every province throughout Indonesia. To make this happen, the Corruption Eradication Commission (KPK) is collaborating with universities, especially the Faculty of Law, by providing trial recording equipment which can later be installed during Corruption Court trials. Sam Ratulangi University, especially the Faculty of Law, has been trusted by the Corruption Eradication Committee (KPK) to carry out these recording activities at the Manado Corruption Court in the hope of obtaining information through trial recordings in the form of DVDs which must be submitted to the Corruption Eradication Commission (KPK) to the universities concerned and to the Corruption Crime Court. Implementation in the field (Tipikor court) is carried out by students from the Faculty

of Law, Court Monitoring Team, who are selected based on the idea that students still have independence, obedience, enthusiasm and are trustworthy in carrying out this noble task. Therefore, in selecting the Court Monitoring Team, a strict selection was carried out by the university lecturer who was selected as Head of this collaboration Team. The task of the trial recording team students is to install equipment at the trial location where the equipment can record audio and visualization of the judge, defendant, public prosecutor and legal advisor separately and record it via DVD as monitoring material for the Corruption Eradication Commission.

Regulations underlying the implementation of Corruption Crime Court Trials

Regulations regarding the Corruption Crime Court are regulated in Law Number 46 of 2009 concerning the Corruption Crime Court, where the Corruption Crime Court (Tipikor) is a special court within the General Court which is located in each regency/city capital whose jurisdiction is covers the jurisdiction of the relevant district court (Article 2 & Article 3 of the a quo Law). The Corruption Crimes Court itself is the only court that has the authority to examine, try and decide cases of criminal acts of corruption (Article 5).

The Corruption Crime Court judges who have the authority to examine, try and decide cases consist of career judges and ad hoc judges (Article 10) who fulfill the requirements clearly written in Article 11 and Article 12. The existence of ad hoc judges is necessary because their expertise is in line with the case (Brower & Lando, 2020). Criminal acts of corruption, both regarding modus operandi, evidence, and the breadth of the scope of criminal acts of corruption, including in the fields of finance and banking, taxation, capital markets, procurement of government goods and services. Trials for criminal acts of corruption are carried out by a panel of judges consisting of an odd number of at least 3 people and a maximum of 5 judges, consisting of career judges and ad hoc judges. And to determine the number and composition of the panel of judges, it is determined by the chairman of the court and the composition of the panel of judges is determined by the Chairman of the Court no later than 3 (three) days from the submission of the case files.

The trial process in the criminal justice system in Indonesia in cases of criminal acts of corruption is no different from the flow of criminal cases in general, namely; (1) Indictment by the Public Prosecutor; (2) Exception by the Defendant/Legal Advisor (optional); (3) Response to the Exception by the Public Prosecutor (optional); (4) Interim Decision (if there is an exception); (5) Proof (examination of evidence); (6) Requisition/Claim by the Public Prosecutor; (7) Pleidoi/Defense by the Defendant/Legal Advisor; (8) Reply by the Public Prosecutor; (9) Duplicate by the Defendant/Legal Advisor; And (10) Final Verdict.

At each stage of the trial, the court monitoring team has carried out monitoring through trial recordings. So you don't miss any of the existing stages.

Forms of cooperation between the Indonesian Corruption Eradication Commission and universities in recording session activities

The Corruption Eradication Commission of the Republic of Indonesia or often known by the abbreviation KPK RI is an executive authority (auxiliary agency) which carries out the task of preventing and eradicating Corruption Crimes in accordance with this Law. However, in the institutional system in Indonesia the Corruption Eradication Committee does not have representation in the regions, so this results in a lack of intensity in law enforcement for criminal acts of corruption (tipikor) in regions in Indonesia. Because of this, as a form of responsiveness, the Corruption Eradication Committee (KPK) formed collaborations with several universities in several regions in Indonesia to increase attention to corruption in the

regions. This collaboration takes the form of providing trial recording equipment to universities so that these universities can record every corruption case in the region, which will later be sent to the Corruption Eradication Committee (KPK) as a form of monitoring. This is a supervisory action carried out by the Corruption Eradication Commission towards related agencies.

The Corruption Eradication Commission collaborates with several universities in Indonesia by forming a Court Monitoring Team, whose task is to carry out recording activities for trials of criminal acts of corruption in the Corruption Crime Courts in the District Courts in each region. The KPK Court Monitoring Team, apart from recording trials for criminal acts of corruption, also has the task of creating minutes containing legal facts and trial facts which will be sent via the application provided by the Corruption Eradication Commission (APIK). The recordings from each trial are also included on a DVD which will be submitted to the KPK.

Therefore, as a result of the collaboration between the Indonesian Corruption Eradication Commission and universities in the regions, there are several benefits felt by both the Corruption Eradication Commission and universities. These benefits include the benefits of collaboration between the Indonesian Corruption Eradication Commission and Universities in monitoring corruption trials, which is actually a form of external supervision by the Corruption Eradication Commission (KPK) towards Judges. Where so far there have been so many judges' decisions regarding criminal acts of corruption that are not in accordance with the facts at the trial which of course can cause problems, namely the decisions do not contain a sense of justice which ultimately gives rise to a sense of public distrust towards the judge and the court.

In fact, corruption is an extraordinary crime, which of course must be handled simultaneously. So the judge's accuracy in making decisions based on the facts in the field is very important. Of course, with this cooperation program, the supervision of law enforcers (legal structure) will be more alert and will carry out their duties and functions well, because during the trial the law enforcers are recorded by students using special trial recording equipment from the Corruption Eradication Commission and recording This will definitely be sent to the Corruption Eradication Commission and will be monitored. So, the synergy between the Corruption Eradication Committee and Universities in Recording Corruption Trials will certainly result in developments and even improvements in the law and methods of law enforcement which can certainly provide justice for justice seekers (yustisiaben). In addition to the Corruption Eradication Commission's form of supervision of the Judge himself, the existence of the Corruption Court trial records can also be used as a guide for the court, where if necessary, the Judge can look back at the trial recordings and of course can review what happened during the trial so as to avoid missing any facts during the process. The trial takes place so that this can then result in a decision later that provides a sense of justice based on the facts of the trial. This will certainly maintain a sense of trust and openness in the court trial process which will certainly improve the rule of law in our country.

When viewed from the perspective of the University itself, the benefits of this collaboration are truly extraordinary. Students can see directly the process of a criminal justice system in Indonesia through trials of criminal acts of corruption and can assess whether the practices applied are in accordance with the theory they have studied so far or not, such as understanding the ideology of academics who say that "What is studied in theory, that is what is practiced" even though this adage is an antithesis to the paradigm "theory and practice are very different". Apart from that, of course the recording of trials for criminal acts of corruption can be an encouragement for institutions, both the courts and the Supreme Court, to improve every policy for the better. What is certain is that this is a very extraordinary breakthrough in which a large state institution such as the Corruption Eradication Commission involves students as potential

future leaders to take part in law enforcement in Indonesia, especially criminal acts of corruption which also have the widest possible impact.

Apart from the benefits to the Corruption Eradication Committee and universities through students, it also benefits the courts. By recording the trial, it can help the court to archive trial data. Because in reality the recording of the trial in question is also carried out from the day of the first trial, namely the reading of the indictment by the Public Prosecutor before the trial which is open to the public until the final decision by the Panel of Judges. So it is clear that the trial process has been backed up and can be helped by cooperation between the Corruption Eradication Commission and Universities through recording the trial.

The results of this collaboration are able to save time and costs and provide large output to the Corruption Eradication Commission, Universities and the Courts. So that it is able to provide a sense of justice to the community through massive enforcement of criminal acts of corruption in the regions.

Implementation of collaboration between the Corruption Eradication Commission and Sam Ratulangi University and the Manado TIPIKOR Court

Sam Ratulangi University collaborates with the Corruption Eradication Commission by forming the FH Unsrat Corruption Eradication Commission (KPK) Trial Recording Team (Court Monitoring Team) which is tasked with recording trials of criminal acts of corruption that occur within the North Sulawesi Regional Corruption Crime Court and the Manado District Court and reporting the results of the trial recordings. to the KPK in hardcopy form, namely DVD. Like at other universities, the KPK FH Unsrat Session Recording Team is also tasked with making minutes of each trial in a predetermined format which will later be collected. The Sam Ratulangi University Faculty of Law Session Recording Team consists of 1 (one) supervisory lecturer and 16 (sixteen) team members who are active students at the Sam Ratulangi University Faculty of Law. To become a member of the trial recording team, selection has been carried out both in writing and in interviews, and after being selected, training will be carried out in using the equipment. Training on the use of these tools is carried out by direct guidance from the Corruption Eradication Commission (KPK) to students in the area or university. The members of the Trial Recording Team have also been trained in how to operate the equipment used so that they can minimize errors in recording trials of corruption that occur.

Conclusion

From the collaboration between the Corruption Eradication Committee and the Casu Quo College, Faculty of Law, Sam Ratulangi University, it can be seen that many benefits have been generated, both for the Corruption Eradication Commission and the Faculty of Law, Sam Ratulangi University. Then, the implementation of KPK supervision in handling corruption cases in the regions can be realized well. Therefore, for progress and development in eradicating criminal acts of corruption in the regions, the following stage plan should be implemented: Continue to build cooperative relations between the Corruption Eradication Commission of the Republic of Indonesia and the Faculty of Law, Sam Ratulangi University, so that they can continue to pay attention to cases of criminal acts of corruption in area.

To support the spirit of eradicating criminal acts of corruption, of course it can be accompanied by the existence of good facilities and infrastructure. Considering that the trial recording equipment is now a facility of the Corruption Eradication Commission of the Republic of Indonesia, there must be an update to the equipment that is more supportive. So that there are no undesirable things happening, in case equipment is damaged when recording the trial.

Regeneration in the court monitoring team at the Faculty of Law, Sam Ratulangi University will continue to be carried out, considering the academic demands for final year students. So that the eradication of criminal acts of corruption in the regions will never stop because there is no human resources support.

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