

SUPERVISION FUNCTION URGENCY OF CORRUPTION CRIMINAL PREVENTION MEASURES IN BANTAENG DISTRICT

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ABSTRACT: This study aims to determine the supervision system carried out by the local government of Bantaeng Regency as an effort to prevent corruption in Bantaeng district and to find out the legal basis that underlies the birth of the surveillance system carried out by the Bantaeng district government. The results of this study indicate that the supervision system in the effort to prevent criminal acts of corruption in Bantaeng district is less effective because there are still indications of budget misuse that result in corruption. Based on available data, it is necessary to develop a more effective system in terms of preventing the occurrence of criminal acts of corruption in Bantaeng district by conducting supervision attached to each of the existing agencies, to prevent earlier irregularities that cause corruption in Bantaeng district.

Keyword: Corruption Criminal, Bantaeng, Supervision

INTRODUCTION

During national development efforts in various fields, people's aspirations to eradicate corruption and other forms of irregularities have increased, because, in reality, the existence of acts of corruption has caused huge losses to the State which in turn could have an impact on the emergence of crises in various fields. For this reason, efforts to prevent and eradicate corruption need to be intensified and intensified while upholding human rights and the interests of the people.

In the government system in Bantaeng District, supervision can be carried out by institutions outside the supervised government organs (external supervision) and can also be carried out by institutions within the government environment itself (internal supervision). External oversight is carried out by State institutions such as the Regional People's Representative Council, the Supreme Audit Board, the Supreme Court. Whereas internal supervision can be carried out by specialized institutions such as the Development Finance Audit Board (BPKB), Inspectorate General, Regional Oversight Agency, or by direct superiors from government officials.

To be able to reach various modus operandi of irregularities in state finances or the state's economy which is increasingly sophisticated and complicated, the criminal acts of corruption regulated in law number 31 of 1999, are formulated in such a way that includes actions to enrich oneself or another person or an corporation unlawfully in a formal and material sense. With this formulation, understanding against the law and criminal acts of corruption can also

include disgraceful acts which according to the sense of justice the community must be prosecuted and convicted¹.

In law 20 of 2001², corruption is formulated explicitly as a formal crime. this is very important for proof. With the formal formulation adhered to in law 31 of 1999, even though the results of corruption have been returned to the state, perpetrators of criminal acts of corruption will still be submitted to the court and still be sentenced³.

In addition to this, given that corruption in Indonesia occurs systematically and extensively so that it does not only harm the country's finances but also violates the social and economic rights of the community at large, the eradication of corruption needs to be done in extraordinary ways. Thus, the eradication of corruption must be done specially, including the application of a reverse proof system that is the evidence that is charged to the defendant.

The development of the surveillance system as an effort to prevent corruption in Bantaeng must be completed in the Indonesian way, which the authors mean by Indonesia is guided by the Pancasila and the 1945 constitution, specifically the Pancasila, the first principle of the almighty God, where the state administrators must be able to bring God in every day-to-day activity so that State administrators are not only afraid of sanctions received in the world but also sanctions received on the following day⁴.

DISCUSSION

Understanding Of The Supervision System

In the Indonesian dictionary, by the police, the term supervision is interpreted as: "a form of inspection or control from the upper party to the party under it". Furthermore, the State Administration Agency provides the meaning of supervision as an effort or activity to know and assess whether the implementation of the task or activity is appropriate or not.

Supervision (*controlling*) means an activity aimed at ensuring that the implementation of activities by the plan. In the perspective of administrative law, JBJM ten Berge stated that supervision is an important part of administrative law enforcement (*administrative reconfirmation*). Supervision is preventive law enforcement aimed at preventing violations of administrative legal norms. Through supervision, early violations can be known so that fatal consequences can be avoided. Before a greater impact arises from violations that occur, it can be immediately stopped through the monitoring instrument⁵.

¹ Pemerintah Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi," 2001.

² Undang-Undang Republik Indonesia Nomor, "Tahun 2001 Tentang Perubahan Atas Undang-Undang Republik Indonesia Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi," *Jakarta, Indonesia: Lembaran Negara Republik Indonesia Tahun*, no. 134 (2001).

³ Markhy S Gareda, "Perbuatan Menghalangi Proses Peradilan Tindak Pidana Korupsi Berdasarkan Pasal 21 UU No. 31 Tahun 1999 Juncto UU No. 20 Tahun 2001," *Lex Crimen* 4, no. 1 (2015).

⁴ Roni Ismail, "KEBERAGAMAAN KORUPTOR MENURUT PSIKOLOGI (Tinjauan Orientasi Keagamaan Dan Psikografi Agama)," *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 13, no. 2 (2012): 289-304.

⁵ Muhammad Zulfan Hakim, "Izin Sebagai Instrumen Pengawasan Dalam Mewujudkan Pemerintahan Yang Baik," *Jurnal Hukum Islah*, no. 29 (n.d.).

M. Manulang in his book “Dasar - Dasar Manajemen” defines Supervision as follows: It is a process to determine what work has been done, assess it and correct it if necessary with the intention that the implementation of the work by the original plan⁶.

According to Darmono in the Dissertation Summary entitled " “Eksistensi Lembaga Pengawasan Fungsional Dalam Kaitannya Dengan Upaya Pencegahan Tindak Pidana Korupsi” " at Padjadjaran University in Bandung, it is stated that the existence of a supervisory institution in an organization is, in essence, a tool or means that functions to control an organization with everything the equipment, including human resources, is running or functioning with the goals, organizational plans or prohibitions on time and target, without deviating or conflicting with the provisions outlined in the legislation or other provisions set by the organization.

Principles Of Clean Country In Relationship With The Supervision

The principle of clean state administration cannot be separated from the conception of the rule of law and democracy. When viewed from the background of the emergence of this principle in the Indonesian legal system. The principle of managing a clean state is positively formalized based on the stipulation of the Republic of Indonesia Number XI / MPR / 1998⁷.

The background of the issuance of MPR Decree Number XI / MPR / 1998 can be seen from the considerations that became the basis for the issuance of the decree, among others:

1. That the demands of people's conscience require the implementation of a state that can carry out its functions and duties seriously and responsibly so that development reform can be effective and effective (the consensus weighs the letter "c").
2. That is running the country there have been business tactics which have benefited certain groups which foster corruption, collusion and nepotism involving state officials with businessmen to damage the joints of state administration in various aspects of national life (the considerers consider the letter "d").
3. That is the context of rehabilitation of all aspects of national life with justice, it is necessary to administer a trustworthy state through an effort to inspect the assets of state officials and former state officials and their families allegedly derived from the practice of KKN (considerations to consider the letter "e")

Legal Basis Of Regional Financial Supervision

There are several legal bases for regional financial supervision, namely:

1. Supervision of Regional Financial Management in Law Number 32 of 2004 concerning Regional Government.
2. Supervision of Regional Financial Management in Government Regulation Number 58 of 2005 Concerning Regional Financial Management.

⁶ M Manulang, “Dasar-Dasar Manajemen Cetakan Ke-16” (Yogyakarta: Gajah Mada University Press, 2002).

⁷ George Junus Aditjondro, *Korupsi Kepresidenan* (LKIS PELANGI AKSARA, 2006).

3. Supervision of Regional Financial Management in the Regulation of the Minister of Home Affairs Number 13 of 2006 concerning Guidelines for Regional Financial Management.
4. Supervision of Regional Financial Management in Government Regulation No. 79/2005 and Regulation of the Minister of Home Affairs No. 23/2007.
5. Supervision of Regional Financial Management in Law No. 15/2004 concerning the Audit of State Financial Management and Responsibility.
6. Supervision of Regional Financial Management in Law Number 22 the Year 2003 and Law Number 27 the Year 2009.

Supervision And Principles Of Clean And Non-Free Country Management

To realize a clean and KKN-free government system, things that need to be done by the supervisory and law enforcement officers are as follows:

There is no need to protect employees or persons suspected of intentionally engaging in deviant behavior. Need to be dealt with firmly by the weight of the wrongdoing done, of course, if enough evidence meets the elements of a criminal offense that is carried out legally and convincingly in the Court and has legal force, the penalty is immediate to give a deterrent effect for the person concerned and for others to think seven times before acting disastrously and instead applying rewards for those who are performing well, praising and achieving, so that they have a positive influence on employee career development;

Continuous, continuous, brave, firm and consistent inherent supervision by all structural officials to their subordinates to the second degree below. Precautions must also be taken simultaneously so that the performance system is carried out by the duties and functions optimally. It is necessary to make all work units effective, supported by adequate infrastructure and authority by professional, proportional apparatuses so that the performance results will be maximally obtained; service to the public is not ignored;

Developed commendable behavioral habits, role models that touch positive performance behaviors. Structural leaders or officials are expected to be inspirators and increase the integrity, capability and credibility that are strong, responsive, responsive in carrying out their respective duties and functions.

Corruption Crime Prevention Systems

One way to help smooth the prevention and eradication of corruption in Indonesia is to give participation to the community. The public must be educated about the adverse effects of corruption and report any form of corrupt practices that occur even in the slightest. Moreover, corruption is not only a matter of the size of state funds taken, but people's perceptions in tolerating small corruption cases must also be changed because it will later hamper the eradication of corruption in Indonesia.

Understanding Corruption Crime

The word corruption comes from the Latin *corruptio*. It was further stated that corruption was also derived from the origin of *corrumpere*, an older Latin word. From Latin, it is down to

many European languages such as corruption and corrupt (English), corruption (French), and corruptie (korruptie) (Dutch). This word descends into Indonesian, namely corruption. (Dr. Azis. Syamsuddin. 2011)

Literally, according to Sudarto (1976), the word corruption refers to corrupt, rotten, dishonest acts related to finance. The Henry Cempbell Black (1991) defines corruption as an act committed with the intent to provide an unofficial advantage with the rights of other parties wrongly using their position or character to gain something for themselves or others, contrary to their obligations and the rights of other parties. Sayed Hussein Alatas in his book *corruption: Its Nature, Causes, and Consequences* (1999: 7) writes:

"Corruption is the subordination of the public interest under the interests of personal goals which encompass violations of norms, duties and general welfare, coupled with secrecy, betrayal, fraud, and extraordinary ignorance of the consequences suffered by the community. In short, corruption is the misuse of the mandate for personal gain. " (chaeruddin et. al: 2008) Acts of corruption according to law number 20 of 2001 concerning the eradication of criminal acts of corruption contain the notion of corruption which is almost identical to the notion of corruption itself (Corruption) itself, which is as follows.

1. Every one who unlawfully commits acts of enriching themselves or other people or a corporation that can harm the country's finances or the country's economy (Article 2 of Law No. 31 of 1991 jo.UU No. 20 of 2001).
2. Any person who aims to benefit himself or someone else or a corporation, misuse the authority, opportunity, or means available to him because of his position or position that can harm the country's finances or the country's economy (Article 3 of Law No. 31 of 1991 jo. Law No.20 of 2001).
3. Any person who gives or promises something to a civil servant or state administrator with the intention that the civil servant or state official does or does not do something in his office, which is contrary to his obligations. (Article 5 paragraph (1) of Law No. 20 of 2001).
4. Everyone gives or promises something to the judge to influence the case decision submitted to him for trial or promises something to someone who according to the laws and regulations is determined to be an advocate. (Article 6 paragraph (1) of Law No. 20 Know 2001).
5. Public servants or other public servants assigned to carry out a public position continuously or temporarily, intentionally embezzle money or a deviated price because of their position, or allow the money or securities to be taken or embezzled by another person, or assist in carrying out the act (Article 8 of Law No.20 of 2001).
6. Public servants or people other than civil servants who are given the task of carrying out a public position continuously or temporarily, deliberately faking books or lists specifically for administrative examination (Article 9 of Law No. 20 of 2001).

Supervision And Prevention Of Corruption Crime Action

Legal Section of the Bantaeng Regency Regional Secretariat

1. Legal basis for the supervision and Prevention of Corruption.

Law Number 28 of 1999 concerning State Administration that is Clean and Free of Corruption, Collusion, and Nepotism, One of the reasons for consideration in Law number 28 of 1999, in point c, explains that the practice of corruption, collusion, and nepotism is not only done between State Administrators but also between State Administrators and other parties which can damage the joints of social, national and state life and endanger the existence of the state so that it is necessary and the legal basis for prevention and the general provisions of this law 28 of 1999 have been explained that a clean State Operator is a State Operator who adheres to the general principles of state administration and is free from corrupt practices, collusion and nepotism, and other despicable acts.

2. Corruption Crime Supervision and Prevention System

- Establishment of Inventory Team

Based on Bantaeng Regent Decree No. 180/131 / II / 2014 concerning Formation of Inventory Team on Reports on Findings of Government Supervision Apparatus in 2014. Has the following tasks:

- Inventory the findings of the functional supervision apparatus.
- Carrying out other tasks in the context of resolving the findings of government functional supervisory apparatus
- Formation of the Follow-up Team

Based on the Bantaeng Regent Decree No. 180/129 / II / 2014 concerning the Formation of the Follow-up Team on Reports on the Findings of the Government's Functional Oversight Apparatus in 2014. Has the following tasks:

- Study and follow up on the findings of the functional supervision apparatus.
- Carrying out other tasks in the context of resolving the findings of government functional supervisory apparatus.

3. Establishment of the Advisory Council

Based on Bantaeng Regent Decree No. 180/130 / II / 2014 concerning the Establishment of the Advisory Council on Treasury and Claims for Compensation (TP-TGR) of Finance and Goods in Bantaeng District in 2014. Has the following tasks:

- Collecting, administering, analyze and evaluate cases of treasury claims and compensation received
- Process and execute treasury claims and claims for compensation
- Provide advice/considerations to the Regent on each case involving claims on treasury and compensation.
- Making the Regent's report on the progress of periodic settlement of regional loss cases to the Minister of Home Affairs Cq. Director-General, and Inspector General of the Ministry of Home Affairs

Corruption Of Criminal Accountability

Criminal responsibility in Corruption is known as a justification for reasons, which is dependent on article 17 paragraph (2) of Law no. 3 of 1971, that "if in the act the state is not harmed or done in the public interest." criminal liability in corruption is broader than general criminal law, among others as follows.

1. The possibility of convicting a person who is known in a narrow sense is not known in the Corruption Case, but it can also be examined by a hearing and a criminal sentence handed down without the presence of the defendant (ruling in absentia) by the provisions of article 23 paragraph (1) to (4) of Law no. 3 of 1971 and the provisions of Article 38 (1), (2), (3) and (4) of Law no. 20 of 2001.
2. The possibility of a State Attorney suing a civil heir of a suspect/defendant Corruption who died during an investigation/examination in a court of law, while there were losses of state losses (provisions of article 33 and article 34 of Law No.31 of 1999 jo. Law No .20 of 2001).
3. The possibility of a judge on the provisions of the public prosecutor determined the confiscation of goods that had been confiscated for the defendant who had died, who was suspected of having committed Corruption before the verdict remained upheld. There is no opportunity to appeal in this decision (provision of Article 23 paragraph (5) of Law No. 3 of 1971 and Article 38 paragraph (5) and (6) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001). A person who has died cannot possibly commit crimes. Delik was carried out while he was still alive, but his responsibility after death was limited to the confiscation of confiscated items.
4. Formulation of offense in article 1 paragraph (1) sub a and b of Law No. 3 of 1971, articles 2 and 3 of Law No. 31 of 1999 jo. UU NO. 20 of 2001 there are elements: "directly or not harm the country's finances and / or the country's economy" even in sub b there is an additional word "data" detrimental to state finances. This shows, according to Andi Hamzah, 'state losses' arising from acts against the law are things that must be accounted for (strict liability). Strict liability is a conception that requires proof of the intentional and negligent offender and is usually only used for regulatory offenses.
5. The interpretation of the word "embezzlement" on Corruption in the form of embezzlement by civil servants or officials (article 415 of the Criminal Code), which was drawn into Corruption (article 8 of Law No. 20 of 2001) by jurisprudence both in the Netherlands and in Indonesia was interpreted very broadly.

Criminal Witness Corruption Crime

According to Law No. 31 of 1999 jo. UU no. 20 of 2001, the forms of criminal sanctions imposed on Corruption Actors are Prison Crimes and Criminal Fines, depending on the weight and qualifications of the Corruption Act. The threat of imprisonment varies, which applies to Corruption Actors, ranging from imprisonment to a minimum of 4 (four) years in prison, a maximum of 20 years in prison, to maximum imprisonment for life. The threat of fines also varies, ranging from fines of at least Rp.200,000,000 (two hundred million rupiahs) to fines of a maximum of Rp1,000,000,000 (one billion rupiahs). (Article 2 paragraph (1) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001).

In fact, for cases of Corruption committed in 'certain circumstances', the perpetrators could be sentenced to the death penalty. (Article 2 paragraph (2) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001).

In Article 3 of Law No. 31 of 1999 jo. UU no. 20 of 2001, Corruption perpetrators face maximum life imprisonment and a maximum fine of Rp1,000,000,000 (one billion rupiahs).

In Article 5 of Law No. 20 of 2001, Corruption perpetrators face a maximum of 1 (one) year imprisonment and a maximum of 5 (five) years and or a maximum fine of Rp. 50,000,000 (fifty million rupiahs) and a maximum of Rp. 250,000,000 (two hundred and fifty) million Rupiah).

In Article 6 of Law No. 20 of 2001, Corruption perpetrators face imprisonment for a minimum of 3 (three) years and a maximum of 15 (five) years and a maximum fine of Rp150,000,000 (one hundred fifty million rupiahs) and a maximum of Rp750,000,000 (seven hundred fifty) million rupiah).

In Article 7 of Law No. 20 of 2001, Corruption Principals are threatened with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and / or a maximum fine of Rp 100,000,000 (one hundred million rupiah) and a maximum of Rp.350,000,000 (three hundred and fifty million rupiah).

In Article 8 of Law No. 20 of 2001, Corruption perpetrators face imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp150,000,000 (one hundred fifty million rupiah) and a maximum of Rp750,000,000 (to hundred and five) tens of millions of rupiah).

Article 9 of Law No. 20 of 2001, Corruption perpetrators face a maximum of 1 (one) year imprisonment and a maximum of 5 (five) years and a maximum fine of Rp.50,000,000 (fifty million Rupiah) and a maximum of Rp250,000,000 (two hundred and fifty million rupiah).

In Article 10 of Law No. 20 of 2001, Corruption perpetrators face imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a maximum fine of Rp 100,000,000 (one hundred million rupiahs) and a maximum of Rp.350,000,000 (three hundred and fifty million rupiahs)).

In Article 11 of Law No. 20 of 2001, Corruption perpetrators are threatened with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and / or a fine of at least Rp.50,000,000 (fifty million rupiahs) and a maximum of Rp250,000,000 (two hundred and fifty) million rupiah).

Article 12 of Law No. 20 of 2001, Corruption perpetrators face life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of Rp.200,000,000 (two hundred million rupiahs) and a maximum of Rp1,000,000 .000 (one billion rupiahs).

Provisions regarding criminal threats as stipulated in Articles 5, 6, 7, 8, 9, 10, 11, and 12 of Law No. 20 of 2001 does not apply to Corruption whose value is less than five million rupiah, is punishable by imprisonment for a maximum of 3 (three) years and a maximum fine of Rp 50,000,000 (fifty million rupiah). (Article 12A paragraph (1) and (2) of Law No. 20 of 2001).

The objectives of imposing criminal sanctions on Corruption Actors are:

1. Returning state money arising from state losses resulting from the Corruption Act (principles in UNCAC 2003)
2. Providing *deterrence effect* to Corruption Actors, and
3. Making steps to eradicate Corruption, to be able to ward off (*prevent effect*) the occurrence of Corruption

CONCLUSION

Based on the description above, the authors conclude as follows:

- a. Of the three agencies, namely the Legal Department, Inspectorate and Attorney General's Office, they have a supervision system as an effort to prevent different criminal acts of corruption, but the objectives are the same because the masses of these three institutions make every effort that can prevent corruption.
- b. That what has been done/carried out by the supervision system as an effort to prevent corruption in Bantaeng Regency from these three institutions shows that the implementation is different, but it cannot be separated from the prevailing laws and regulations.
- c. Whereas with the supervision carried out by these three agencies so that it gave birth to the Bantaeng Regency government as a government that has very significant progress when viewed in terms of the development and economy of the Bantaeng community, it is inseparable from the warfare of these three agencies as budget supervisors in every related element so that the budget right on target by applicable laws and regulations, the Bantaeng district was born as a clean district free from collusion, corruption, and nepotism.

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