

# The Role of Law Enforcement Agencies in the Effort of Corruption Prevention and Eradication in the Perspective of Progressive Law in Indonesia

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**Abstract**--Corruption is a white collar crime that is difficult to eradicate. To eradicate corruption, the optimization of the act of corruption prosecution through an integrated paradigm with qualified professional law enforcement officers is necessary. This article seeks to explore the role of the law supremacy in Indonesia in the prevention and eradication of corruption in a progressive law perspective through a literature review. The results of the study show that internal and external factors cause obstacles in coping with corruption cases in Indonesia. Law enforcement efforts against corruption will succeed if law enforcement officers play an active role in the efforts of prevention and dealing with corruption cases objectively. Law supremacy can be upheld if the character of its human resources has high integrity, discipline, principles abiding, and consistent with implementing a new model of criminal law enforcement based on the principles of progressive law.

**Keywords**--- Corruption, Crime, Progressive Law, Indonesia, Law Enforcement, Officers, Law Supremacy.

## I. INTRODUCTION

The evolution of Information and Technology (IT) and transportation (Okamoto, Yumiko & Sjöholm, Fredrik, 2003) [1] directly affect the development of modus operandi of crime (Minor, Dylan & Persico, Nicola & Weiss, Deborah, 2018) [2] in Indonesia. Corruption is one of the most significant crimes and becomes a prominent issue in developing countries [3] Olken, Benjamin & Pande, Rohini., 2011). In this context, the government organizational structure and the political process are significant determinants in the corruption rate [4]. Robert S. Mueller (2001) put corruption crime into the number 1 threat to a country over terrorism. This idea shows that corruption crime [5] is an extraordinary crime. Therefore, it needs exceptional and systematic measures [6], which promote consistency in the effort of prevention and law enforcement.

The uncontrolled corruption rise philosophically will bring about disasters not only for national economic life (Dreher, Axel & Herzfeld, Thomas, 2005) [7]; Azhar, Muhamad & Sujoko, Ajik & Suharso, Putut, 2019) [8], but also the life of nation in general (Sumah, 2018)[9]. The social and economic rights of people of the country are disturbed and violated by the widespread and systematic corruption that has occurred (Nezhina & Tamara, 2014) [10]. Corruption can no more be classified as an ordinary crime but as an extraordinary crime (Djajadiningrat, 2016) [11].

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One of the factors identified to be the cause of the thrive of corruption is light punishment for the guilty (Zhu, Jiangnan, 2012)[12]. This matter sometimes inflicts vigilantism (Hartanti, 2005) [13] by the people in the name of justice, which cannot be realized through the law, legal system, and law enforcers in Indonesia. Corruption (Mauro, 1995) [14] is found to reduce the investments, hence slows down economic growth. From the investigation of the causations of corruption (Cheryl W. Kaufman, & Daniel, 1998)[15] in developing countries and transition economy, mostly the corruption is in the form of bribery, (Gray, Chaufman & Daniel, 1998)[16] asking for tribute by increasing taxes for foreign investments in every region. Corruption (Jain & Arvind K, 2001) [17] roles as the main barrier preventing growth and development. Corruption (Mo & Pak Hung, 2001) [18] lower the level of human resources and the private investment segments. Is corruption good, bad, or irrelevant to the growth of the economy (Kaufmann, 1997) [19]? A multinational data (Swamy, Anand, et al., 2001)[20] shows that corruption is not excessively severe wherein the government bureaucracy, more women chair the positions of senior and participate in a larger number of the workforce. This condition raises a question, what are the constraints faced in coping and handling the corruption cases in Indonesia?.

This literature review aims to explore the problems of corruption eradication and its solutions. The research question are:

1. What are the problems faced in the effort of improving the role of law enforcement agencies in eradicating corruption to increase people's trust?;
2. What effort necessary to optimize the role of law enforcement agencies in eradicating corruption to improve people's trust?

## II. METHODOLOGY

The method used in this research is a literature review (Ramdhani, Abdullah & Ramdhani, Muhammad & Amin, Abdusy., 2014)[21] Arshed, Norin & Danson, Mike., 2015)[22] to explore things that are related to corruption through legislation. The steps taken to collect and analyze the data is by collecting legislation manuscripts and journals relating to corruption coping process in Indonesia. After that, the documents are being analyzed accordingly according to the issues being explored in this article. The presentation of the results and the discussion is written from the simplest to the most difficult (Chenail, 1995.)([23].

## III. RESULTS AND DISCUSSION

### **Problems faced in the effort of improving the role of law enforcement agencies in eradicating corruption to increase people's trust.**

Indonesia is a law country (*Rechtsstaat*) (Bedner, Adriaan., 2016) [24], which means, Republik Indonesia is a country which in the blood's vein consisting of laws as the element of every aspect of life. The proof that law supremacy is being enforced, if the elements of state law exist (*Rechtsstaat*), namely, the existence of collateral that the government in carrying out their power always and constantly based on the laws and regulations. For the sake of upholding law and justice, legal institutions in handling crime or criminal offenses should be more serious in handling cases of violations and criminal acts that exist in society in order to create welfare and justice for the community.

In law enforcement in Indonesia, the position and function of law enforcement agencies have a central role. Law enforcement officers, in taking care of their institutions, whether the existence or the profile, theoretically ought to refer to the conception of state law and the practical normative direction based on the applicable legislation. It also means that in carrying out their duty and authority, law enforcement agencies have standing as an institution related to judicial power in law enforcement. They must uphold law supremacy as an absolute requirement in maintaining the social, national, and state's life. Supriyono & Kusumawati, I. (2020) [25] laws and the enforcement in Indonesia should have been using humanist legal concepts for the sake of justice and prosperity.

Law enforcement officers, when carrying out their duty and authority, sometimes they deal with various obstacles in the process of investigation of certain criminal offense and the process of prosecution (Kleinig, 2007) [26]. Many obstacles faced in the corruption eradication, in truth, come from the dynamics of Law Enforcement Agencies (Fachner, George & Thorkildsen, 2016) [27]. Therefore, emerge notions in the society that Law Enforcement Agencies are only going sharp downwards but blunt upwards (Villalobos, J. & Williams, Michael & Davis, Deborah, 2014) [28]. This issue can be more contrast when there is a case involving strong political interest and dominant political powers (Pildes, 2010) [29].

Some of the cases, for example, a corruption case of the Governor of East Kalimantan, Awang Faroek Ishak. *Kejaksaan Agung* (Supreme Attorney General) released a *Surat Perintah Penghentian Penyidikan* (SP3/Investigation Termination Warrants) after three years of investigation of the suspected corruption case of stock divestment of PT Kaltim Prima Coal in 2011. Supreme Prosecution General also released an SP3 for a corruption case of Governor of South Kalimantan, Rudy Arifin. Previously, Rudy was caught as a suspect in a corruption case of compensation granting for a recent Martapura Paper Mill's land acquisition by the *Panitia Pengadaan Tanah Kabupaten Banjar Tahun Anggaran 2002-2003* (Banjar Regency Land Procurement Committee for the Year 2002-2003 Budget.) One year earlier, *Kejaksaan Tinggi* (High Attorney General) of Central Java also stated an SP3 for a suspect of corruption case of Mayor of Semarang, Sukawi Sutari, who at that time served as the Chair of Central Java *Demokrat* Party. She was enacted as a suspect for Semarang City APBD (Regional Budget Plan) for the year 2004 in the corruption case of mail communication budget valued Rp. 5 Billion [30] These cases could happen due to the weak ability of legal officers to show evidence of those violations (Allain, 2004) [31]. The professionalism and commitment of Law Enforcement Agencies in eradicating corruption sometimes do not work as it hoped by society.

The other problematics faced by law enforcement officers is detention. In some cases, the suspects of corruption tried to evade the legal process and arrest by law enforcement officers. Moreover, many suspects used alibi to escape from the restraint of the officers. They feigned their health condition with the support of a letter of recognition from doctors.

Indriyanto Seno Adjie [32] asserted that the problems with law enforcement in Indonesia not only the substantial regulations but also relating to the system, especially the penal code system because corruption has destructed the system (destructed to the system). In a broad context, it cannot be denied that corruption is a *White Collar Crime* with dynamic modus operandi from every side of aspect and along with the times. Corruption is also regarded as an invisible crime, which is difficult to obtain its cause of action. Therefore, it often needs a systematic approach to be eradicated.

The people still remember: *KPK (Komisi Pemberantasan Korupsi/Corruption Eradication Commission)* caught Prosecutor Urip Tri Gunawan due to corruption cases. Likewise, the Prosecutor Cirus Sinaga, who was forced to undergo conviction for collaborating with Gayus Tambunan. However, in the democratic era and with highly developed Information Technology (IT). The carrier coaching at *Kejaksaan Republik Indonesia* (Attorney General of Republik Indonesia) does not publish the work performance of some members of Attorney General who got discipline punishment and or got fired. Some corruption cases even involving law enforcement officers such as the former chair of *Kejaksaan Negeri* (District Attorney General) of Praya, Central Lombok, West Nusa Tenggara, Subri. SH convicted for 12 years in prison due to receiving bribery for a trial at *Pengadilan Tindak Pidana Korupsi* (Tipikor/ Court for Corruption Crime) Mataram. These things show that the integrity of law enforcement officers is low in the context of dealing with corruption [33].

The implementation and application of Law No. 8 of 2010 on Prevention of the Crime of Money Laundering also can be said to be a problematics in the eradication of corruption, especially regarding the corruption eradication at Attorney General of Republik Indonesia in the regions. Therefore, the eradication of corruption in the regions has not caused a frightening deterrent effect for corruptors and their colleagues. The presence of the Corruption Eradication Commission to help the implementation of corruption eradication presents its challenges to the Attorney General's institutions to do more self-introspection to increase its role and professionalism in handling corruption. Ideally, law enforcers, Referring to Sidharta [34], need to see and pay attention to the *Tri Atmaka* or three characters and essence, namely, single, independent, and qualified; also the *Tri Karma Adyaksa* which uphold the qualities of *Satya, Adhy and Wicaksana* or Loyalty, Perfection, and Wisdom. However, in today's' phenomenon, some aspects are being deviated. The fact that there has been so far is that law enforcement officials are less optimal in handling corruption because of several factors and obstacles that exist in handling these corruption acts.

Based on the explanation above, we can identify that the internal or external obstacles in handling corruption cases are as follows:

**Table 1.** Obstacles in handling corruption in Indonesia

Obstacles	Indicators
Law professional organization factors.	Still cannot be relied upon due to the existence of an indication of a tendency to consider private interest rather than professional ethics.
Intra-organization coordination	It seems to be lacking in integrated cooperation between organizations. Each organization tends to accentuate their institution.
Case complexity	Require coordinative measures
Corruption cases come from public regulations.	Some public regulations allegedly to be made to legalize corruption. The corruption that comes from public regulation is severe because it can destroy a country in one generation.
People's less	People are still reluctant to report when they

awareness	witness some indications of corruption around them directly.
Educated perpetrators	The perpetrators of corruption crime mostly are officials who are highly educated.

Many obstacles and constraints above resulted in the weak of law enforcement and the treatment of corruption crime. We need to find solutions for these matters so that it is not prolonged and disturb the accountability performance of law enforcement officers.

### **Law Enforcement Agencies' Role Improvement Efforts in Eradicating Corruption to Increase People's Trust.**

To eradicate corruption, professional law enforcement officers bound to have proper skill and ability. The skill and ability to comprehend and understand legislation and the development of science and technology for a better rate of success in eradicating corruption. Possessing the source of knowledge and mastering technology is essential. This notion is necessary for balancing and anticipating the modus operandi used by the corruptors who gradually possess higher knowledge and master better technology.

The prosecution of the corruption suspect should be counterbalanced with the professionalism of *Jaksa Penuntut Umum* (Public Prosecutor), and this professionalism should be gradually improved. Referring to M. Syamsudin (2010) [35], in investigating corruption cases, judges cannot stand by themselves. Judges are bounded to the indictment of the Public Prosecutor, who always charges the defendant with Article 2 or Article 3, UUPTPK (Law on Corruption Eradication), and the variations.

Law enforcement should be conducted wisely and professionally and able to provide safety toward the Indonesian people who become the victim of the thrive of corruption. Based on Yukerawan, S (2013) [36], the essential matters to be analyzed is the linkages between suspects' individual gradation interest with the victims' personal interest, and between social community interest with the existences of legal principles. Law enforcement officials must be able to work optimally and structured in order to realize a sense of justice and public welfare, as stated by Allain (2004) that law enforcement officials must work professionally, starting from taking action and resolving corruption cases.

Integrity, discipline, principles abiding, and consistency of officers are necessary for the sake of nation and state. Some concerns exist in Indonesia. According to Satjipto Rahardjo (2006) [37], the clever Indonesian humans are obtaining fewer chances to show as the leader and regulator of society.

Law enforcement agencies should be able to cooperate with the other institutions in carrying out their duty and authority because, to eradicate corruption, a single Law Enforcement Agency cannot work by themselves maximally without cooperation with the other institutions. Since the enactment of K.U.H.A.P (*Kitab Undang-Undang Hukum Acara Pidana*/Criminal Procedure Code), Attorney General not only stand as a public prosecutor and executor of the court decision but also as an investigator (*opspring*) in carrying out their duty and authority. Good and integrated collaboration is needed with other institutions so that the handling of cases can be quickly resolved and the creation of justice. Cooperation is carried out in coordination with other institutions such as the AGO in handling corruption cases.

Besides the POLRI (Police of Republik Indonesia), the Attorney General of Republik Indonesia can also involve the KPK (Corruption Eradication Commission) to eradicate corruption. These three institutions should be able to cooperate and support each other for the success of corruption case investigation. The synergy between Law Enforcement Agencies also should be counterbalanced with the inline perception of the importance of vertical and horizontal synchronization.

The beginning of vertical synchronization is necessary as an initial effort to deal with corruption. This synchronization is essential because in dealing with corruption cases, it always starts from the investigation until the execution of the court judgment. This measure is essential to ensure the success of the investigation. To achieve satisfactory results, the same view in determining which articles have been violated by a suspect who committed corruption is necessary. With efforts to synchronize both vertically and horizontally so that the handling of cases handled by fulfilling justice and welfare of the community can be created.

The successfully implemented vertical synchronization then followed with the effort of horizontal synchronization by every subsystem and the criminal justice system to fulfill the formal requirement in the process of HAP (*Hukum Acara Pidana*/Criminal Procedure). This matter is supported by the opinion of Ismail Saleh in O.C. Kaligis (2006) [38] that one of the elements of surveillance is the cohesiveness or togetherness in the coordination. Therefore, the relationship of Prosecutor and Police is mirrored in a group of *MahKeJaPol* (*Mahkamah Agung-Kehakiman-Kejaksaan-Kepolisian*/Supreme Court-Judiciary-Attorney General-Police). It is a place for leaders of each institution who have relevance with law enforcement in Indonesia to share information, discuss, and solve the problematics that require joint measures. The success of the horizontal synchronization should be supported by collective willingness and commitment between the leaders of every sub-system in the Corruption Criminal Justice System.

Referring to the matters above and witnessing how inefficient the law enforcement methods of conventional crimes (Muladi, 1995) [39]. Notably, in dealing with the modus operandi of corruption crime today that systematic and broad, and have also tended to be extraordinary crimes, at once to answer the concern of uncontrolled violation toward human rights. Therefore, we need a new model of law enforcement based on the principles of progressive law that put the nation and state's interest or the people's economic and social rights up above the suspects' or defendants' individual rights and interests. Success in solving legal problems from corruption will bring the spirit of law enforcement and apparatuses themselves in handling existing corruption.

The success of the legal settlement approach (Atmasasmita, 2004) [40] is not only measured by the yield of legislation products but also should be followed with a consistent law enforcement actions either in the form of moral preventive or proactive repressive. We considered with the progressive law approach because the idea of law enforcement not merely carrying out the legislation but also comprehend the legal desire of the people. Therefore, when a regulation (Kristiana, 2009) [41] seen to be threatening law enforcement, the creativity of the law enforcer is demanded to be able to yield law products that accommodate the will of people and concentrate on the values that live in the society. Corresponding with the idea above, Mahfud (2007) [42] stated that the effort of law enforcement in Indonesia needs a C-section or unconventional measures, moreover, to some extent, in a short period of time, we need to ignore the formal procedure.

The notion of law that campaigned by Prof Tjip, a casual name of Satjipto Rahardjo, Doctoral Program of Law Science (PDIH) Universitas Diponegoro Semarang, is principally contrary with the two basic

components in law, namely, rules and behavior. Progressive law that based on regulations bring about the consequences that every rule made and implemented has to be appropriate with the values, will, situation, and condition of the society. In the relevancy with the main issue in this article, it means that the Criminal Procedure that planted to be enacted not only needs to pay attention to the values, will, situation, and condition of the society. It also needs to pay attention to the characteristics of the crimes that become the foundation in enacting a criminal code.

Instead, progressive law that based on humans requires creativity. Creativity in the context of law enforcement, besides overcoming backwardness of law, it overcomes the law inequality, it also means to carry out innovation of laws. These innovations (Kristina, 2009) [43], which are hoped to be able to realize the humanities goals through the law, is termed as a happy-making law by Satjipto Rahardjo. According to Satjipto Rahardjo, to verify the quality of law, the benchmarks that can become the indicators are justice, prosperity, and siding with the people. Therefore, when laws come into the realization of law enforcement (Sudarto, 1983) [44], the entire process of the law enforcement instruments have to be able to be returned to the question of whether it has brought about justice? Does it yield prosperity? Is it already oriented to the people's interest?

To optimize the extraordinary crimes countermeasures, the Special Criminal Procedure substances that are meant also need to be built based on the contemporaneous judiciary principles. The contemporaneous judiciary principles as follows: (1) transparency in the process of trial; (2) accountability to every action taken by the law enforcement officers in the process of trial; (3) paying attention to the condition of every case, such as, when a case in trial in the state court and the ones in authority prone to elaborate something undesired, hence, the case can be put on trial in another state court enacted by the Supreme Court; (4) participation of the society (NGO) to surveillance and assess the work performance of the court, such as, examining the cases; (5) the utilization of Information and Technology (IT) in the process of criminal case investigations; (6) equality and balance of rights and duty of every party involved in the cases, and so on. Besides what mentioned above, the provisions of Special Criminal Procedure also need to be specifically oriented to the eradication of every modus operandi of extraordinary crime, for example (1) Availability to put on trial legal entity; (2) the ones involved the case even outside the country can also be put on trial in Indonesia; (3) law enforcement authority to foreclose intangible immovable property; (4) law enforcement authority to foreclose physical evidences of the deceased suspects; (5) unrepresented suspect can be put on trial or known as in absentia; (6) the availability to foreclose non-defendants' properties, and so forth.

Also, if we discern from the aspect of the structure, Law Enforcement Agencies, as the executor of Special Criminal Procedure, should be oriented appropriately to the special crime characteristics. As stated (Djajadiningrat, 2016) the act of corruption is an extraordinary act of speech, therefore handling must also be specific. Therefore, their status, duty, and authority will be adjusted suitably with the crime they try to eradicate; for example, corruption crime. Ideally, the Criminal Justice System of corruption is special, hence the investigation, prosecution, and the trial, even the executioner institutions are distinguished with the law enforcement agencies in general. The idea means that the eradication of corruption crime can only be executed by KPK (Corruption Eradication Commission) for the investigation and prosecution, and the trial conducted by the judge of *Pengadilan Tipikor* (the Court for Corruption Crime) and the corruption-crime oriented NGO. Besides that, the Special Criminal Procedure should be able to optimize the role of experts of many different

kinds of expertise and the role of society to assist law enforcement officers in eradicating special crimes. Therefore, it is necessary to realize Criminal Procedure regulations that oblige law enforcement officers in every investigation level to seek the opinions of experts in various fields before making a decision. The idea is to realize regulations that protect the law interest of the people who participated in the investigation.

The realization of the Special Criminal Procedure of Corruption Crime for the sake of investigation and prosecution, such as the use of forces, should be imperative or obligatory. Whereas the forms of forces need to be propagated from what already existed in the K.U.H.A.P (Criminal Procedure Code.) If the form of coercion in the Criminal Procedure Code including arrest, detention, shakedown, foreclosure, and letter checking. Therefore, in the Criminal Procedure Code of Special Criminal Procedure of Corruption Crime should be including special measures such as spying, bank account freezing with no need for the bureaucratic procedure, and temporarily shutting down certain companies. Whereas, the execution is conducted by law enforcement officers from a specifically formed institution with a certain function, such as the Corruption Eradication Commission, with the assumption that the officers in the institution possess knowledge (expertise) in the crimes that become their domain. For the sake of trial, the process of Procedural Law on Evidence besides by extending the proof or evidences such as written in the Criminal Procedure Code, namely, the witness' testimony, experts' testimony, letters or documents, indication and official statement of the defendants, also by accepting proof in a form of technology such as tapping/spying record, CCTV record, including using *omkering van het bewijslast*/reversal burden of proof.

The function of indictments and prosecutors' demands only as a foundation at the beginning of administering justice to the defendant. Whereas, the judges with their obligation to learn and explore the legal values living in the society as stated in Article 5 of the Judicial Power Law, free to prove that the defendant even when the articles as the foundation to verdict guilty the defendant is not limitedly defined in the indictment letter. Whereas, the executor institution is a special court such as The Court for Corruption Crime (*Pengadilan Tipikor*). Based on the arguments above, the existence of the Special Criminal Procedure listed in the special constitution today is normal, such as Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption as improved by Law No. 20 of 2001.

#### IV. CONCLUSION

Based on the analysis above, we can conclude as follows:

The problems faced by law enforcement agencies in the effort of eradicating corruption crime consist of internal and external problems. Internal problems include: the problem of detention, professionalism and commitment of law enforcement institutions in eradicating corruption that is not in line with the expectations of the community, the ability of human resources is still not optimal, the technical ability of investigators is still weak in handling cases of corruption, budget limitations and infrastructure, the granting of permission from the President of the Republic of Indonesia for the examination of legislative or executive members involved in legal cases by law enforcement officials, the functional supervision apparatus in carrying out audits of the intensity is still not maximal, there are limitations on the Attorney's authority in using tapping tools. External problems include: legal professional organization factors, coordination with other institutions is not optimal, corruption



cases are so complex that they require coordinative handling, the emergence of corruption through public policies, the level of public legal awareness is also still relatively low.

The effort essential to optimize the role of law enforcement officers in eradicating corruption in order to increase the people's trust as follows: Law Enforcement Agencies need human resources, who are highly integrated, disciplined, professional, principles abiding, and consistent upholding the national and state's interest.

Law Enforcement Agencies in carrying out their duty and authority should be able to cooperate because a single law enforcement institution cannot work maximally without cooperating with other institutions in eradicating corruption efforts. The next step is with the realization of the Special Criminal Procedure Code of Corruption Crime or *K.U.H.A.P Khusus Tipikor* for the sake of investigation and prosecution, namely, by elaborating that force is imperative or obligatory, whereas, the forms of forces are propagated in Criminal Procedure Code.

If in the Criminal Procedure Code, the forms of force are detention, arrest, shakedown, foreclosure, and letters or documents investigation. Therefore, the Special Criminal Procedure Code of Corruption Crime should include other forms such as spying, bank account freezing with no need for the bureaucratic procedure, temporarily shutting down certain companies.

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