EMPOWERMENT OF ANTI-CORRUPTION NGOs

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ABSTRACT

Corruption is one of the main constraining factors to Indonesia's development implementation, both in the political, economic and public sectors. Corruption extends to all sectors of the life of the state, both executive, legislative and judiciary have entrenched. Anticorruption NGOs are considered important to participate in the prevention and eradication of corruption. The question is (i) why the anti-corruption NGOs has not been able to make a significant contribution in combating corruption, and (ii) how models of effective anti-corruption NGOs empowerment so that the next significant contribution in combating corruption. In analyzing these two issues, conducted field research with socio-legal approach under of critical theory paradigm. The problems is analyzed by progressive law, critical legal studies, law system’s operation theory and empowerment theory. The research findings (i) the weaknesses of anti-corruption NGOs include funding, independence, transparency and accountability, networking and human resources. Responding to this problem, anti-corruption NGOs must reflect their vision, mission, strategies, programs and activities to be more specific, focused, measurable and complete. In order to improve funding, independence, transparency, accountability and human resources, public fund raising is important to maintain the independence and moral integrity of anti-corruption activists. (ii) effective empowerment model of anti-corruption NGOs is to build togetherness with social power groups of society to form social movement organization to realize good governance and free from corruption.

Keywords: corruption, anti-corruption NGOs, empowerment.

INTRODUCTION

Corruption\(^1\) has become one of the major inhibiting factor and a serious challenge to the implementation of Indonesia's development, both in the political, economic and public sectors. In politics, it undermines democracy and good governance by subverting formal processes (bureaucratic) government. In the field of economics, corruption undermines economic development by creating distortions and inefficiencies, increase the cost of trading because of losses from illegal payments, the cost of management in negotiations with corrupt officials, and the risk of cancellation of the agreement. In the public sector, corruption resulting in more chaos, such as reducing the compliance with building safety requirements, environment, reduces the quality of government services and infrastructure as well as adding the pressures on government budgets. Corruption penetrated into all sectors of life, nation and state, whether executive, legislative and judicial branches and has been entrenched. The impact of widespread corruption, damage, this is systemic and institutionalized, and then the corruption is classified and expressed as an extraordinary crime, so that the required mitigation measures are exceptional and extraordinary measures as well.\(^2\) Corruption combating use in ways beyond the habit by freeing itself from the legal efforts toward contextual law without leaving the content of the text as well as the need for shared understanding and inter-institutional synergy with all the components of the nation, including civil society and anti-corruption NGOs. Two problems studied: (i) why the anti-corruption NGOs not able to make a significant contribution in combating corruption\(^3\), and (ii) how the empowerment model of effective anti-corruption NGOs so that the future anti-corruption NGOs can make a significant contribution in eradicating corruption?

DISCUSSION

In analyzing two issues with socio-legal approach under of critical theory paradigm\(^4\). The problems is analyzed by progressive law, critical legal studies, law system’s operation theory and empowerment theory. Critical theory paradigm used in this

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Corruption arise from a process or a specific condition that led to the birth of this practice. Corruption has increased spending on goods and services, increase the debt of a country, increase the cost of debt servicing in the future, adversely affect the allocation and distribution of economic resources, so therefore the corruption have categorized as a super crime which were come in pervasive remarkable systemic and massive in the economic domain, political, social, bureaucratic and transnational. There are several causes of corruption, among others: (i) the concentration of power in decision-making that is not directly responsible to the people, as often seen in authoritarian government, (ii) the lack of transparency at the time of decision making, (iii) political campaign costly, (iv) weak rule of law, (v) the weakness of the legal profession, (vi) salaries of government officials who have been inadequate, (vii) lack sufficient controls to prevent bribery or campaign contributions, (viii) insufficient power of faith as a pious person, (ix) cultural background or culture of Indonesia which is the source or cause of widespread corruption, (x) management that are less good and less effective control and efficient, which give people opportunities for corruption, and (xi) the modernization of the breeding corruption. Corruption adversely negative affect of the allocation and distribution of economic resources, including: (i) cause the transaction is not legal, (ii) reducing investment and economic growth, (iii) lead to the allocation of public resources is low because more often used for the cost of bribes, (iv) causing public deficits, (v) reducing the role of government on the basis of the redistribution of taxes, (vi) result in low quality services and public facilities, (vii) causes the allocation of resources that are not appropriate, and (viii) in the field of enforcement of an impact on abuse of authority. The impact such a, empowering anti-corruption NGOs to play a role in advocating the combat of corruption is needed. As a voluntary organization established which is independent in order to provide services to the general public without obtaining benefits from its activities, the NGOs community to empower anti-corruption act intelligently conscious, critical, and dare to voice their aspirations so that the government provide services in a transparent, accountable and non-discrimination, which toward the creation of civil society where justice and equality become the fundamental. There are several factors that led to the birth of NGOs, among others: (i) the government is unable to meet the desires of the community in fighting for their rights, (ii) that people feel disillusioned with political parties and legislatures, because it can not absorb and realize the aspirations of the grassroots group, (iii), selective law enforcement so that equality before the law does not favor the grassroots of society, and (iv) the opening of the tap a very broad democracy, so that people can channel expression freely. Upon several factors, grow and develop an NGO with its basic character: (i) independent, (ii) the egalitarian, (iii) non-partisan, and (iv) nonsectarian. Generally there are 3 (three) categories of NGOs, namely: (i) NGO pressure groups, (ii) advocacy NGOs, and (iii) NGO research and publications. Looking at the vision, mission, goals and activities of NGOs, the authors categorize into 3 (three) types: (i) general NGOs: NGOs are the vision, mission, goals, or strategy does not mention explicitly about fighting corruption but the corruption issue to voice within the movement and activities program, for example: YLBHI (Yayasan Lembaga Bantuan Hukum Indonesia), (ii) plus general NGOs: NGOs are one of the vision, mission, objectives or strategies include the combatition of corruption and have an organizational structure in charge of fighting corruption issues, for example: MTI (Masyarakat Transparansi Indonesia), and (iii) specialized NGOs: NGOs are the vision, mission, goals or the strategy include the combation of corruption, for example: ICW (Indonesia Corruption Watch) Jakarta and KP2KKN (Komite Penyelidikan dan Pemberantasan Korupsi, Kolusi dan Nepotisme) Jawa Tengah.

The position and role of anti-corruption NGOs can be referenced in the Act No. 31, 1999 Article 41 and Article 42, Act No. 28, 1999 Article 8 and Article 9, Regulation No. 71, 2000, and also UNCAC in 2003 Article 5 and 13. In addition, the position of NGOs is also related to the political system in which NGOs become part of the political infrastructure together political parties and other civil society forces. The existence and role of NGOs has been confirmed by the UN Charter, in particular in Article 71 governing the consultative procedure with the NGOs. Role of the community grew rapidly after the passing of the International Covenant on Civil and Political Rights in 1996 and the end of the Cold War Era in the 1990.NGOs into a new form of

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8. Independent is not dependent on the government, especially in financial support, facilities and infrastructure.


community participation in public relations, which at the international level, based on international legal personality of the individual and the rights of peoples to self-determination, which has expanded way beyond the decolonization process of the last century to protect the rights of democracy. In Indonesia, although its existence can be traced before the time of independence, NGOs grow and thrive in the era of the late New Order and early Reform Order.

The existence of strong NGOs is encouraging the birth of some anti-corruption NGOs, including: (1) ICW (Indonesia Corruption Watch). With a vision to strengthen the bargaining position of the people to control the country and participate in the decision to create a democratic governance, free from corruption, economic justice, social, and gender, ICW realize this vision through advocacy in order to: (i) fight for the realization of the political system, legal, economic and clean bureaucracy from corruption and based on social justice and gender, and (ii) strengthen popular participation in decision and control public policy. In carrying out this mission, ICW took on the role of advocacy with: (i) facilitate and strengthen the people's movement (organized) to eradicate corruption and fight for the rights of citizens in obtaining better quality public services, (ii) facilitate the strengthening of the capacity of strategic groups in the process of making and oversight of public policies, (iii) improving the quality initiatives and community participation and network partners in exposing, reporting cases of corruption and monitor enforcement of the law, (iv) raise public awareness campaign to impose law reform, politics and bureaucracy that is conducive to the combat of corruption, (v) promoting policies that support the combation of corruption, (vi) disseminate ideas and anti-corruption instruments to organized groups of people across various sectors to improve the effectiveness of the combat of corruption, (vii) encourage potential actors in government, parliament and law enforcement to open space public participation in policy change, (viii) make public the legal efforts to promote legal reform, defended the rights of victims of corruption and policy changes that favor the people, and (ix) to encourage consolidation in enhancing and improving resource mobilization in anti-corruption movement. In addition it also serves as (i) advocacy, (ii) supplies information, (iii) triggers, (iv) monitoring and reporting whistleblowers cases of corruption, (v) the bearers of the proposed improvement policies, institutions or laws, (vi) facilitation of community participation in budgeting both at central and regional levels, and (vii) the guardian active in efforts to combat corruption by law enforcement officials, and conduct surveys and research.

KP2KKN (Committee of Inquiry and Combating Corruption, Collusion and Nepotism), Central Java. Through its vision to accelerate the prevention and combation of corruption, collusion, and nepotism, and the mission of deconstructing the system of government and a corrupt culture, KP2KKN specifically aims to: (i) help the community, nation and state in the rescue community and state property, (ii) give a boost to the community to live free from corrupt practices, (iii) encourage and empower people to be willing to help the government fight corruption, (iv) assist the relevant parties such as prosecutors and police in a corruption investigation, and (v) in short-term reduce corruption, the medium term to prevent and eradicate corruption in the long term. To realize this purpose KP2KKN formed various divisions specifically for the work of fighting corruption to be effective, among others: (i) the division of public services, (ii) corruption and budget division, and (iii) judicial corruption division. Beside that, there are also some NGOs who cares about fighting corruption, including: Transparency International Indonesia (TII), the Indonesian Transparency Society (MTI), the Indonesian Legal Aid Foundation (YLBHI), Center for Information and Data Against Corruption (SIDAK), Institute for Policy Research and Advocacy (ELSAM) and Transparency International (TI). Similarly with the institution of anti-corruption campaigners: Institute for Education Development Research, Yogyakarta Muhammadiyah University (LP3-UMY). Each plays a role in accordance with the existing character of the institution.

ICW prove its role in bring an action against all cases of corruption reported to the agency, a total of 199 cases with 378 defendants being examined and convicted by the courts, 224 defendants (59.26%) acquitted / off, 154 defendants (40.74%) convicted. Who was found guilty sentenced to less than 1 year imprisonment of 82 defendants (21.69%), between 1-2 years in prison sentenced to as many as 23 defendants (6.08%), sentenced to 2.1 to 5 years were 26 defendants (6.88 %), between 5.1 to 10 year sentenced the defendant as much as 6 (1.59%), there is only one defendant who was sentenced to 10 years (0.26%), an alarming 16 defendants sentenced to experiment (4.23%).

The results of interviews with informans ICW namely Dadang Tri Sasongko, Adnan Topan Husada, Ade Irawan and others related vision, mission, and program ICW.

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To understand the phenomenon of law enforcement that does not give a sense of community justice and does not give deterrent effect to the corruptors, the fact that the court decision tends to be below the standard provisions of the law, the theory of legal system’s operation explained as follows:

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11 The results of interviews with informans ICW namely Dadang Tri Sasongko, Adnan Topan Husada, Ade Irawan and others related vision, mission, and program ICW.

12 The results of interviews with informans KP2KKN namely Jabir al-Faruqi, Eko Haryanto, Abhan Misbah and others related vision, mission, and program KP2KKN.

13 The results of interviews with informans ICW.

Chart 1
The Role of anti-corruption NGOs
Adapted from Legal System’s Operation Theory (Chambliss and Seidman)

The chart explains that law enforcement is not in a vacuum. Many of the things that affect, among others, the pressure of the authorities, the pressure of politicians, the pressure of employers and the internal legal culture of the courts, as well as the demands of society including anti-corruption NGOs and lawyers. In the research findings that those who put pressure on it, the tendency is to use the funds as a medium to ease the verdict of the verdict. ICW once conducted a study in the Supreme Court with a sample of 103 respondents with the criteria of those who had or were dealing with the Supreme Court, the result was disclosed that 73% said that in the Supreme Court corruption.

Furthermore ICW disclose the results of his research in order to expose the judicial mafia veil, how to organize the composition of the panel of judges and to negotiate the verdict. The portrait shows how a sense of justice that law enforcement has contrasted sharply with that expected by society, in terms of legal substance is not true, especially associated with the legal culture. Easily understood by the fact that if corrupt behavior difficult to eradicate because the verdict does not give effect to the deterrent punishment to the corrupt.

With this explanation coupled with progressive law analysis and critical legal studies, it is hoped that Anti-Corruption NGOs will continue to guard the law

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15 The results of interviews with informans ICW (Adnan Topan Husada).
17 Lihat Wasingatu Zakiyah, Danang Widoyoko,(2002), Menyingkap Tabir Mafia Peradilan, Jakarta: ICW.
19 Progressive Law is aimed at human welfare and rejects the status quo when it leads to decadence, a corrupt atmosphere and so detrimental to the interests of the people that it necessitates progressive interpretation of the law for justice, dalam Satjipto Rahardjo (2005), Hukum Progresif: Hukum Yang Membebaskan, Semarang: Jurnal Hukum Progrsif, Vol. 1 No. 1 April 2005, Program Doktor Ilmu Hukum UNDIP.
20 Critical legal studies view that social institutions are fabricated institutions, containing uncertainty and imbalance. Critical legal studies favor the sense of community justice. Lihat Adj Samekto (2003), Sidi Hukum Kritis Kritik Terhadap Hukum Modern, Semarang: Badan Penerbit UNDIP, hlm 78.
enforcement process so that corruptors will be punished according to a sense of community justice. This is evidenced by ICW activities, contribute ideas in a variety of laws and regulations relating to the combation of corruption and the activities of survey and research. The same was done by KP2KKN that concluded none of the districts in Central Java that was free from corruption, and have pressed law enforcement agencies to investigate and prosecute them\textsuperscript{21}. Furthermore learning from other countries, the combation of corruption is the key word seriousness of the government to ensure anti-corruption strategy implemented consistently, such as Singapore, Hong Kong and Thailand. While Korea has a role in terms of the integrity pact.

A number of factors that become obstacles for anti-corruption NGOs include: (1) uncapabilities capital funding to run the organization. Anticorruption NGOs as nonprofit organizations, can not override the need for funds as capital to run the organization, therefore, for independence, militant ideology, the sustainability movement, and a commitment to stay awake values, independence of funding into key words for the sake of progress and development of anti-corruption NGO associated with self- and its institutions as well as when bargaining with the state (government, law enforcement agencies) and the mass media. Independence funding can be done through donations/contributions from individuals, professional institutions and companies with total and specific requirements, (2) problem independence of the organization. Independence of NGOs is very important to do and kept existence to ensure the purity of what be declare, so the anti-corruption NGOs will be able to voice things in accordance with the vision and mission, (3) issues of transparency and public accountability. Transparency and accountability need to be imposed on anti-corruption NGOs because of the presence of NGOs is usually "owned" by a group of people organized so that the process tends up to the controller. Through the principles of transparency and accountability is expected of all anti-corruption NGO activity is monitored from and at the same time be accountable to the public. The significance of accountability and transparency of budget anticorruption NGOs lies in 2 (two) complementary levels: (i) the first level is the internal commitment to anti-corruption NGOs in building accountability and transparency to himself and his own institutions, while (ii) the second level is located on public access in monitor anti-corruption NGO working to use these grants: public right to know what claims are being reported to the donors, NGOs, and (4) uncapabilities human resources (HR). Some NGOs still have the quality and quantity of human resources so that minimal affects institutional performance. Uncapabilities exist in anti-corruption NGOs are not only caused by internal factors, but also efforts to institute political superstructure that designed it in a way that smooth, sometimes also with how to criminalize. In view of the critical legal studies, the phenomenon is normal because a vocal anti-corruption NGOs will interfere with the interests of the political superstructure\textsuperscript{22}. If it gets developed into a social movement it will threaten the sustainability of the power he held. Basing on the theory of empowerment, to enhance the role and position of the maximum anti-corruption NGOs in fighting corruption is necessary to develop models of effective anti-corruption NGOs empowerment, namely by building the strength of all elements of the nation through the transformation of a new social movement (NSM) into an organization anti-corruption movement social (SMO, social movement organizations). Benchmarks of anti-corruption efforts and NGOs working within the framework of NSM is a change in the context of power distribution, property, privileges and status/position in society, where there is no longer a dominating and exploitative structures. NSM is the actor that continuously interacts with the state as the community changes. Thus, NSM become the challenger of the system of democratic representation and have a role in restructuring the relationship between state and civil society. The framework used in this sketch put NSM as an effort of a group of citizens to vote differently in order to change the political and economic structure based on ideology, consciousness with which then form a collective action. There are two factors to be considered in order to transform into SMO, namely: (i) external factors and (ii) internal factors. External factors originating from outside of the international agenda and these factors become the opportunities and pitfalls for anti-corruption organization of NSM. Opportunities can be seen from the incessant pressure and preconditions of multilateral institutions and bilateral against the Indonesian government. Mainstreaming good governance (for example), opening the door for social activists and groups of citizens to involve themselves in promoting structural change, thus giving hope for the creation of the decentralization NSM anti-corruption. While internal factors such conditions tend to weaken anti-corruption NSM compared to the beginning of 2000. If the earliest periods are mushrooming NGOs that inspired the disclosure of corruption cases, then often popping up on the next phase of organizations aimed at monitoring the political superstructure that seeking to control the corruption NGO that seeks leveldown seriously be challenging and control of policies and the use of public monies in the central and local. Therefore, NSM internal anti-corruption need to reform through 3 (three) strategies: (i) preventive: done as a form of corruption prevention strategies through improved systems and procedures to build a culture of organizations that promote the principles of honesty, openness, accountability and full responsibility to encourage each individual to report any corruption that occurs, (ii) investigative: used to combat corruption through the detection, investigation and enforcement against the perpetrators of corruption, and (iii) educational: done by encouraging people to actively fight against corruption in accordance with the capacity and authority of each. The values of honesty and hate against corruption inculcated from early on to society through messages of good morals and traditions. With the united strength of civil society, awakened social commitment and solidarity among fellow progressive forces will then be transformed into a social movement organization. At the point of this social movement organizations serve as models of empowerment to be effective anti-corruption NGOs in participation on combating corruption, Garut, West Java as an example. Anticorruption NGOs have not been able to contribute significantly due to the 2 (two) factors, namely internal factor and external factor. Internal factors caused uncapabilities anti-corruption NGOs in terms of: (i) the funding organization, (ii) independence of the organization, (iii) transparency and public accountability, and (iv) human resource and work program. While external factors, such as caused by: (i) state government officials, government agencies, law enforcement agencies have not truly take the spirit / spirit of fighting corruption, even collaborating to undermine the spirit of combating corruption, (ii) such institutions tend to be transparent.

\textsuperscript{21} The results of interviews with informans ICW and KP2KKN.

\textsuperscript{22} The results of interviews with informans ICW and KP2KKN and Chairman of the Muhammadiyah Organization and Nahdlatul Ulama of Central Java, and academics from the Diponegoro University of Semarang.
accountable to the public so require extra energy to get public documents in the skeleton to participate in preventing and oversee the implementation of the public agenda in order not to deviate, (iii) law enforcement agencies at this stage of investigation, investigation, prosecution and the trial process in court have not wholeheartedly carry out the mandate constitution even tend to enjoy the old culture that exploit the matter, (iv) no party agencies that perform carrying, guarding and fighting against corruption, even are busy taking care of his party members are caught in corruption, (v) has not been awakening networking togetherness solid inter-governmental organizations with journalists, universities, religious leaders, artists, business people and community, (vi) has not awakened the public consciousness to rise up together against corruption. Responding to internal context, then the anti-corruption NGOs should reflect on the vision, mission, strategies, programs and activities so that more specific, focused, targeted, measurable and thoroughly as the limited judicial watch escorting judiciary, police watch that limits on police performance, public service or watch a limit on public services. Similarly, to fixed the sides of the funding, independence, transparency and accountability and strengthen its human resources. Public fund raising must be optimized to be examples of institutional autonomy and the preservation of moral integrity anticorruption NGO activists. Furthermore, in the context of its external face of a weak point in the process of inquiry, investigation, prosecution and the trial court, it is important to assess anti-corruption NGOs formed an independent investigator at the level of inquiry and investigation, as well as independent prosecutor in the prosecution level, to accommodate the amicus curiae at the hearing level in court, and affirm the implementation of proof system upside down in a corruption case, where the NGO anti-corruption as an official representative in the position and role23.

CONCLUSION
From the results of this study it can be concluded that in response to internal problems of Anti-Corruption NGOs so that they have not been able to contribute significantly in eradicating corruption, anti-corruption NGOs must reflect their vision, mission, strategy, program and activities to be more specific, focused, focused, measurable and thorough. To improve funding, independence, transparency, accountability and human resources, public fund raising is important to maintain the independence and moral integrity of anti-corruption activists.

Effective anti-corruption NGO empowerment model in combating corruption: building a solid network of togetherness between anti-corruption NGOs by journalists, universities, youth, students, religious leaders, businessmen, professionals and community organizations to form social movement organizations (SMO) by conducting joint moves to urge governments and state institutions to combat corruption. With the togetherness of the whole power of society in a solid organization will bring significant results. For this purpose it is necessary to work hard to build public awareness by establishing that common enemy is corruption. With full awareness and belief that all the problems of this nation started from corruption, it must be formed social movement organization (SMO) as the Movement of Nusantara Anti Corruption.

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23 The results of interviews with informans ICW and KP2KKN and Chairman of the Muhammadiyah Organization and Nahdlotul Ulama of Central Java, and academics from the Diponegoro University of Semarang


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