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Institutional Problems In The Prevention Of Corruption Based On Local Wisdom In Village Government In Indonesia

Boy Yendra Tamin, Hendra Hidayat, Yasnur Asri

Abstract: Prevention of corruption is as important as law enforcement efforts. However, the prevention of corruption cannot be done with general models such as the handling of corruption in the village government in Indonesia. The problem of corruption in the village has its own characteristic of corruption appeals at higher levels of government. The prevention of corruption in the village government requires its own strategies and models and cannot be released from local wisdom. This is a legal research study that uses several approaches. The results showed that the development of the corruption prevention model based on local wisdom in the village government is the right choice in realizing the management of a corruption-free village government, especially due to differences The village community and its institutional diversity. The incentive of local wisdom has a strategic role in the prevention of corruption and the strategic role must be integrated in the institutional arrangement of the village and its government, especially since the village is the local wisdom itself.

Index Terms: village, institutional, Nagari, corruption prevention, local wisdom.

1 INTRODUCTION

THE problem of corruption in substance is not limited to money or only the issue of misuse of authority by government officials. Corruption is a matter of value and behavior and hence the prevention of corruption at all levels of government is equally important. In Indonesia, data show that the prevention of corruption still requires hard work, requiring the arrangement of norms, concepts and models. This is demonstrated by the Indonesian Corruption Perception Index (CPI) figures in Transparency International 2018, where corruption in Indonesia is severe. Although the indicators in assessing the level of corruption can still be debated, but the most important is the need for a proper strategy to minimize corruption in Indonesia, especially in village governance. This is especially after the policy of village funds allocation from the central government. From various studies on the eradication of corruption in Indonesia, it tends to highlight corruption issues with common indicators and is conceptually inappropriate. In this context, the problem of corruption in the village government from the aspect of local wisdom (customary institutional) has not been done much. The study of corruption in the village government tends to aspects of behavior related to administrative processes. Not infrequently the conclusions taken in the study of corruption in the village government are understood in the context of corruption crimes alone.

From empirical data, development of the corruption prevention model at the lowest governance level based on local wisdom becomes a necessity in a country. There are many reasons for that, in Indonesia for example, there are quantitatively 82000 more low-government units with autonomy rights (Tamin, 2017). Historically, the village grew and developed with their own characteristics. On that basis is understandable, how need in Indonesia the concept of development of corruption prevention model based on local wisdom in the village government, especially in the perspective of institutional relations. The increasing corruption case at the lowest government level (village) in Indonesia is a signal of failure in the prevention of corruption efforts that have been done during this time. There are a number of factors that cause corruption in the village, among others; First, lack of involvement and understanding of citizens in the Village development process. Secondly, there are surveillance functions in the village that can contribute to preventing corruption, including encouraging villagers to jointly supervise the development of the village. Thirdly, there are limited residents to access the village budget information and give birth to low participation of citizens to supervise village development. Fourth, corruption in the village is not always due to the will of the village chief deliberately corruption, but corruption in the village government in Indonesia occurs because of limited ability and village unpreparedness to manage a large amount of money (Indonesia Corruption Watch, 2018). No exception is the use of erroneous disagreements of the village head (Tamin, 2018). This condition clearly requires the answer, whether the corruption in the village government is only a matter of government administration process, limited access to information, and lack of supervision in the implementation of village government or hence the problem Corruption relating to the policies, arrangements/regulations of the village's institutional and government systems.

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2 LITERATURE REVIEW

2.1 Corruption and Prevention of Corruption

Corruption can be analyzed using three perspectives (Getz, 2006); Firstly, a functional perspective, where corruption refers to actions that facilitate and study the exchange of goods, services or other financial transactions; Secondly, a perspective that considers corruption as a distraction or a violation of the decision-making process or commonly referred to as a dysfunctional perspective; Thirdly, a normative perspective means, that corruption is a violation of normative and true value. Therefore, corruption cannot be resolved only by relying on repressive efforts. Benveniste (Guy, 1997) understands corruption as an evil or bad deed and can be seen as a more detailed incubation of the sense of corruption given by the Black "s Law (Henry). Robert Klitgaard (1988) defines corruption as a series of evil imagery, meaning everything that corrupts integrity, or can be bribed and there is a moral stain. Thus, efforts to prevent corruption are more complex and broad in its scope than the prevention of criminal acts of corruption. There are many reasons why corruption occurs and there are no exceptions to the social conditions of each country and the development of its history, customs and culture (Horvat, 2008). It can be understood that local wisdom is a factor that can explain corruption. On the other, how cultural values relate to corruption (Davis, 2003). This also confirms the difference between concepts and models of corruption prevention. From the substantial difference between corruption and corruption as a criminal act, the prevention of corruption will evolve as the corruption is alive. According to United Nation, preventing corruption requires the efforts of all members of the public in general (United Nations, 2003). Even for that reason, the Convention appealed to the State to actively promote non-governmental involvement and community-based organizations, as well as other elements of civil society, and to raise public awareness about corruption and Efforts that can be done about it. In Indonesia, normatively regarding the prevention of corruption can be found in article 1 Jo article 13 UU No. 30/2002 and its forms include the implementation of anti-corruption education through educational institutions, conducting anti-corruption campaigns, including Devised a corruption eradication socialization program. The corruption prevention concept does not fully cover the scope of corruption-scoring proposed by United Nation. In this context according to the United Nation, optimization of the involvement of non-governmental institutions and communities (local wisdom) to contribute to the prevention of corruption shows different symptoms in different countries. On the other hand, the presence of local wisdom is the incentive and the power to prevent corruption. Although there is a view that assesses the speed of local wisdom low (Fukuyama, 2004), but the humility of speed is actually dependent on how to place local wisdom in the prevention efforts of corruption in the village. There is already an international standard in the prevention of

corruption, but not enough. From analysts by Sumah et al (2018) in some countries shows the relationship between corruption and its negative impact, but most studies are unlikely to determine what the cause is and what the consequences are. Stefan Sumah finally concluded, there is no right answer to how to deal with corruption and suggests to start using best practices from similar countries to one another such as religion, customs, traditions, ethics and morality. This analysis shows how the existence of local wisdom in all its dimensions is one of the defining factors of the success of the corruption prevention in a country. In line with that analysis, there is no doubt that there is no one theory capable of pushing corruption to zero point, but it can be pushed to the optimal level (Wijayanto & Ridwan Zhucrie, 2009). For this condition, corruption is an equally old behavior with human history. According to Jyoti Khanna & Michael Johnston (2007), corruption is often likened to scary illness, bringing havoc on and off if not examined. The war against corruption in the European Union, for example, aims to reduce the likelihood of corruption. Thomas Taro Lennerfors suggests, the risk of corruption is not only restrained by "gentle" means of creating "culture" in which public officials promote values such as trust, honesty, and honor (Thomas Taro Lennerfors, 2007). In this context clearly, the prevention efforts of corruption-based local wisdom (culture) are no less important than law enforcement efforts based on the provisions of positive and administrative laws. From the fact of corruption in some countries, there are several reasons why corruption prevention efforts should consider the value of culture (local wisdom) of its target. The thought is in consideration, that cultural integration enhances the reception of anti-corruption messages (Pratama Bayu Indra, 2017). The establishment of local wisdom in the prevention of corruption in a synergistic village government by the opinion of international transparency, wherein in combating corruption puts an important role of access to information. In this case, an access to information increases the responsiveness of government agencies, while simultaneously having a positive effect on the level of public participation in a country. In addition, strengthening and empowering the community to prosecute government accountability is a sustainable approach that helps build mutual trust between society and the government. How access to that information is realized cannot be released from the institutional structure in the village government. This thesis is at the same time a criticism of the use of a corruption prevention model manned by universal concept that tends to focus on anti-corruption education through cultural values. Learning from the success rate of prevention of common model corruption, the proposed development of a model of corruption prevention based on local wisdom is not limited to strengthening the value of anti-corruption, but while establishing synergy between village government agencies by empowering the strength of indigenous institutional (local wisdom). Further than that, in the context of Indonesia,

drafting a village government by adopting the local wisdom can be believed to give unexpected effects in the prevention efforts of corruption in the village government.

2.2 Village Government Structure and Corruption Prevention Model

It's hard to dispute, combating corruption generally focuses on individuals, role changes, decisions, or incentives and that's not enough. On that basis, institutional multiplicity can reduce the risk of failure in every step of the corruption process, increase available resources, and/or enhance institutional performance (Lindsey, 2016). This solution is an alternative in the prevention of corruption and one of the most important messages of the institutional multiplicity solution is the prevention of corruption is not necessarily about behavior, but also institutional performance. While the performance of an institution is free from corruption, it is not separated from how the institution was compiled. In a broader scope, the prevention of corruption with institutional multiplicity is within the scope of a structural approach (Albanese, 2018), emphasizing the role played by broader systemic factors, such as local power structures or even countries, Corrupt government or incompetent leadership and the way in which the law is enforced in practice. Although in this factor does not directly cause corruption, but the potential creates conditions for corruption develops. In this context the institutional structure becomes the starting point, whether corruption is has potentially occurred. Functional or not an institution depends on its position, the provision of relevant and adequate functions to achieve the set target.

2.3 Local Wisdom in Institutional Perspectives

In general, local wisdom is understood as a local thought or idea that contains good grades, wisdom and behavior adopted between generations (Radmila, 2011) and serves as a cornerstone of positive attitudes and actions against harmonization. Local wisdom is also understood in the same analogy as referring to a certain classification (Koentjaraningrat, 2009), whereby every phenomenon and cultural expression is always based on several factors such as values and norms, activity patterns and individual actions. Local wisdom is usually scattered in various media of local people, for example, in folklore, philosophy (law) indigenous peoples, Community institutions (customs), art, folksong, artifacts and so on. Local wisdom can be a message (content) or a strategy to convey certain content. In the perspective of corruption prevention in the village government, local wisdom includes local wisdom as a compilation of ethnic cultures and local wisdom as the meaning system of communal society (Meliano, 2011). This opinion confirms that local wisdom is unified with a long process of human learning where there is trial and error in expressing three forms of culture: thoughts, behaviors, and artifacts. This social action highlights the phenomenon of patterned human behavior, where in each section it is either dynamic or static. Thus, it is clear, potential and effective local wisdom to prevent corruption in village government. Minogue (1997), defines

good governance as a strategy used to strengthen local community institutions with the aim of making governments more accountable, more open, transparent, and more democratic. The term good governance is in the sense of following the laws of the local community. However, good governance does not happen by chance, but it can be done by developing a model based on local wisdom. This thought did not hurry to be understood, that local wisdom as ideas or ideas from the past and traditions and should be remembered, that what is already in the past is sometimes beyond the present. This is when local wisdom is understood by its essence and substance. A number of studies have demonstrated a strategic position of local wisdom. At the conclusion of his research, he concluded that public participation had great power to help fight corruption because of its ability to be a large-scale anti-corruption supervisor. However, its effectiveness is highly dependent on the belief, culture, and law of local unwritten (local wisdom). Indonesians, unfortunately have lost a lot of local idealism and positive value in practice, this led to the decline of public participation in Indonesia.

3 METHODS

This is a legal research study (sociological Law research) that is applied specifically to the field of legal sciences. In legal research This is used by several shortcut, conceptual approach, of approach, and case approach (Setiadarma, 2017). In addition, this legal research is combined with development research, which is the process used to develop and validate products (Cohen, 2010). Problems of the village's institutional structure and its Government in the context of prevention of local wisdom-based corruption will be answered using the approach. With such methods and approaches, the results are expected to be obtained in depth analysis, thus discovering the root causes of corruption in the government of the village in Indonesia and its prevention prospects based on local wisdom

4 RESULTS AND DISCUSSION

4.1 Problems of Village Existence in Indonesia

Each country has its own territorial structure and government. In Indonesia, at the time of the study there were four layers of government, namely; 1) Central Administration; 2) Provincial government; 3) city/district administration; and 4) village governance. The village or other term existed before Indonesia was formed as a country. The villages are based on customary law. In its development, the village as the original institution of the community is almost lost when the state process enters the village, and the village is incorporated into the country. In colonial times in Indonesia, the colonial government recognized the village by juridical principle. But its reality, the village was incorporated into the bureaucracy system and political economy of the colonial government. The colonial government made the village an object of exploitation,

especially for political economic interests. The village's exploitation policy resulted in a change in local cultural instruments in the village, especially in economics, politics and social. This historical fact shows that the marginalization action of local wisdom in Indonesia has been happening for a long time. The change of local cultural instruments in the era of colonialism, at least seen from the governance of the village in Indonesia in three types of village leadership, namely; 1) The leadership of the village government is held by a head and executive power and responsibility is in the hands of the head. This type of leadership is like in East Java; 2) The leadership of the village government is held by a council, and in this case the executive power and responsibility are held by the Government Council. This type of leadership is like in Minangkabau; and 3) The village leadership is held by two village heads, one who manages land affairs and another takes care of maritime affairs. This type of leadership is like in Kampar Kiri. Constitution in Indonesia, the village's existence is affirmed in the explanation of the constitution 1945 which essentially states, that self-government and communities such as villages or other names, have the original arrangement and considered a special area. The country respects the villages and country regulations concerning the village will remember the rights and the origins of the village. The message of the Constitution of Indonesia is very clear and is also an awareness of the Indonesian founder of local wisdom. That realization is explicitly indicated by recognition and respect for the village or other names in the Constitution. In addition, any legislation that will be made about the village based on the explanation of the Indonesian constitution cannot be released from the aspect of local wisdom. However, empirically demonstrated, villages are conceptually arranged and laid out under the domination of the bureaucratic system and tend to ignore local wisdom. In this context, the institutional arrangement of villages that tend to the bureaucracy system gives room for corruption in the village government with all its limitations. On the other hand, the approach to the village and its weakness, realizing it or not, becomes one of the causes of villages in Indonesia further away from local wisdom and almost lost its original entity as a Community institution.

4.2 Village Institutions and Corruption Prevention

From the study of the Indonesian village regulations, the concepts used vary from time to time. Structurally, since the beginning of Indonesian independence, the village is within the scope of local governance structures. In the new Order period, under Law no. 5 of 1979, the village as the lowest government directly under the district. The village tends to be a unit of administrative governance, although it is normatively stated to be entitled to set up its own household (autonomous rights). In both eras, the institutional arrangement of the village tends to ignore the local wisdom aspect of the village governance arrangement, although it has been mandated by

the Indonesian Constitution. Based on Law No.22 of 1999, conception of the village has changed again. Conceptually, Law No 22 of 1999 restores the spirit of local wisdom to the village government. The village was given the autonomy to manage its community interests based on the recognized origins and customs in Indonesia's national governance system. Nevertheless, the institutional structure of the village is still fragmented and dualistic. Village governance is more dominant in bureaucracy and formal administration systems. The existence of customary institutions (local wisdom) is not yet part of the village's governance structure. The reality of the village governance in Indonesia shows; Firstly, the institutional government is dominated by bureaucratic and administrative system, although there is a factor of local wisdom that functionally is part of the task of the village representative body. Secondly, the village in a special sense (based on customs) such as Nagari in West Sumatra, the structure of his government does not put local wisdom in it. The Nagari government (village) consists of the Guardian Nagari and the House of Representatives of the Nagari (DPRN), excluding customary institutions. In its development, the concept of village institutional in Indonesia again changed with the reunited Law No 16 of 2014. The Act introduces two types of villages, namely; Villages and indigenous villages. The two types of villages show; First, a village based on the formal governmental bureaucracy system and in its implementation includes ADAT as one of the foundations of its operation. Secondly, the indigenous village is a custom-based village and at the same time a common affairs and administrative Administration. The two types of villages that were introduced seemed to be the central way to the mandate of the Indonesian constitution amid the strong tendency of village governance under the bureaucracy system. On the other hand, this type of traditional village is not the answer to a shape mandated in the confusion of constitution 1945, where the village is intended to be a village as a unity of the customary law Society, a village based on local wisdom and local wisdom is the village itself. With the conception of the village as a local wisdom, local wisdom will be an incentive for the prevention of corruption in the village government, and even the potential to institutionalize the prevention of corruption in society.

This research shows also, that local wisdom tends to be localized in the arrangement of villages in Indonesia, both in terms of institutional and as a system of value that lives in rural communities. Local wisdom with its strategic position is not given enough space to contribute to the implementation of village governance, even including for corruption prevention effort. There are a number of factors, why it can happen, among others; First, until now the institutional structure of the village and its government is still dualistic. The village of bureaucracy-based system is very dominant, and with the introduction of two types of villages (villages and indigenous

villages), the existence of the village under the bureaucracy system if the classification is called a traditional village. Secondly, bureaucracy-based village government tends to erode the presence of local wisdom that is actually the core of village community systems. Thirdly, no binding relationship between indigenous institutions and village government agencies resulted in the low participation of residents and indigenous institutions in supervising the implementation of the village. Fourth, customary as the core system of the value of the people of the village has not received adequate portions in the activities of the village government, although later questioned what is called the customary village. The reality of village institutional (including Nagari) in Indonesia shows, that in addition to the ability factor of weak administrative management and the limitations of village apparatus manage finances, corruption in the village government can not be released from Relations between village government and indigenous institutions. The absence of relations between indigenous institutions and village government institutions is correlated with the low participation of villagers' supervision, although only in the sense of public control. In addition, the existence of leadership dualism (bureaucracy and customs) in the village such as the Nagari in West Sumatra province created a "blank space" between village government agencies and indigenous institutions. The absence of institutional relations is one of the factors that have limited access to information on development activities and village budgets. In relation to the "empty space" between the government agencies of the village and the customary institutions, the legislation on the village does not organize it. In this connection, the village law and technical provisions do not govern the establishment of a joint institution that brings together the Government of the village and indigenous institutions. Nevertheless, the void of law is an opportunity for village components to form institutions with the village and at the same time to coordinate local wisdom in the implementation of village governance. The establishment of an institution with the village can be developed in such a way and as a counterbalance between the dominance of bureaucratic systems in the village government with the empowerment of local wisdom. Institutions with the village are needed mainly in public villages and in special villages such as Nagari in West Sumatra province will be dynamic. The need for the institution with the village was less-than-so to empower local wisdom in the prevention of corruption in the village government, and in the wider scope as a means of coordination and participation and transparency in village development.

4.3 Discussion: Problematic Nagari (village) and its Government Structure

Nagari is the lowest government in West Sumatra province and its characteristics differ from the village. The Nagari can be categorized as a prototype of a custom-based village

government (local wisdom) and is the right object to have the existence of local wisdom in the prevention efforts of corruption in the village government. Normative, Nagari is the "unity of Customary Law Society", while the village is "the unity of the law community". The difference of normative concept as well shows the existence of Nagari as the lowest government in West Sumatra province. Nevertheless, the current structure of the Nagari government (2019) does not reflect its Nagari and his reign in its original order. In its original arrangement, Nagari was a collection of several Koto. In Koto, there are at least two or three tribes, but in one Nagari there must be four tribes led by the tribe of "Datuk Ampek Suku" (Datuk four tribes) (Edison & Nasrun, 2010). Although the tribe in the Nagari grew and the number grew, the fragments of the tribe were returned to their tribes. Historically, Nagari was not born, but it originated from taratak, kampung, hamlet, and koto. The group of several koto was then a dragon. From the process of forming a Nagari, the Nagari is understood as a unity of indigenous peoples. The process of forming a Nagari shows the difference between ordinary villages. And as it has been presented, the current Nagari arrangement of his government is not much different from the village, the difference, in the Nagari there is a customary institution called the customary density of Nagari (KAN) that is managing customary affairs, while in the village there is no institution Such custom in Nagari. Nagari is the unity of customary law society, but Nagari is not a traditional village. As with the village, Nagari and his reign also experienced ups and downs, both the weakness and the structure of the government. The Nagari has been formed long before the establishment of Indonesia and based on customary law (local wisdom). However, it is not so after Indonesia's independence, the institutional arrangement and government of Nagari experienced a conceptual shift, in addition to being viewed as a colonial product (Zuhro, 2009), there is also a national regulation of the village. The Nagari government structure consists of a Nagari guardian and a representative body of Nagari (BPRN), minus the customary institution. Although KAN formation is an implementation of local regulations, but not part of the Nagari government. From the research conducted in Nagari Lawang Mandahiling, Tanah Datar Regency, West Sumatra province, the government of Nagari manages public affairs and government administration under bureaucracy system, while customary affairs become KAN business. Both of these Nagari institutions are not in structural relations. Wali Nagari and BPRN are formal government agencies, while KAN is a Nagari social society. The absence of instruments as a bridge of synergy between government institutions and traditional institutions, so that customary institutions do not have access to information on village government programs, especially to the village budget. In this connection, in a broader perspective, public participation has a significant effect in achieving development success (Jackson Estomih Muro, 2015), not least in the villages,

particularly in efforts to prevent corruption in the village or Nagari governments. Nagari and his reign in West Sumatra province once switched to the village governance system. Nagari is broken down into villages. The result of the transition system of the Nagari government, in addition to damaging the customary, also destroys the genealogical bonds (Yayan Hidayat, 2017). Due to the transition of villages to the Nagari it is still felt today, where the local wisdom that becomes the essence of the Nagari and his society, in addition to the existence of local wisdom is weakened and marginalized in the bureaucratic Nagari system of government. The reality that occurs in the Nagari is the best example, how the urgency of local wisdom in the institutional arrangement of village governance and its strategic position in the prevention of corruption. The dualistic leadership (bureaucracy and customs) in the Nagari resulted in the low participation of citizens supervising the administration of Nagari. In addition, the reality experienced by Nagari and his reign, while reflecting an ambiqu policy (M. Husein Maruapey, 2016) in the arrangement of the lowest government (village) in Indonesia, especially Nagari. In its development, the Nagari institutional arrangement again underwent a change of post-enacted Perda (local regulation) of West Sumatera province No. 7/2018. This regional regulation has an institutional new concept in Nagari. The Nagari institutional concept tried to implement the Nagari institutional model in its original arrangement, but rather the structure of its weakness. The institutional structure of Nagari in the new concept has not been drafted into the local wisdom sexiness, but rather the setting of power in the Nagari. KAN, which was in the local regulation of the previous state as a customary institution and not part of the Nagari government institutions, in the new settings of the function and the position of KAN changed such as the function and position of BPRN. In addition, the new institutional concept of Nagari introduces an institution named "Tungku Tigo Sajarangan". From the study of the village (Nagari) and its weakness shows, the village or Nagari institutional changes in the concept and model, both the form of the institution and the concept. Nevertheless, changes in the institutional concept of the village are more likely in the perspective of bureaucracy and the village's institutional arrangements (Nagari) have yet to optimize local wisdom as an incentive to prevent corruption in the village government. Institutional village and its government that seemed more prominent as bureaucracy agencies organizing general Affairs of government and the same conditions are also seen in Nagari government, the difference is, the existence of customary institutions is recognized beside the institution Government of Nagari. In addition, the institutional arrangement of Nagari and its government based on new regulations has not been carried out, although in a structure different from the previous institutional structure. From research to village institutional or Nagari, conceptually \still looking for the appropriate form

and dominated bureaucracy system. In this context, it lies the urgency of local wisdom in the prevention efforts of corruption in the village government, but local wisdom does not have enough space in the government of the village in Indonesia, even in the Nagari is the unity of indigenous peoples.

5 CONCLUSION

Corruption in village governance because the management of village finances is not accompanied by the principle of transparency, participation, and accountability, is the impact of the institutional arrangement of villages in Indonesia that tend to ignore the wisdom of (indigenous institutions). The lack of participation of the public and indigenous institutions that supervise the village finances is the result of the absence of structural relations between indigenous institutions and village government institutions (Nagari). Potential local wisdom has not been empowered to be maximized in village governance. The village government is very dominant under the bureaucracy system, while in the perspective of preventing corruption in the village government, local wisdom (indigenous institutions) has a strategic position because the village is essentially local wisdom itself.

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