

Implementation of the principle of Transparency Good Governance as an Effort to prevent & overcome Judicial Corruption in Judicial Institutions

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Abstract

Anyone who has ever dealt with a case in court will immediately feel and know that judicial corruption exists and is a reality that even tends to increase and become bolder. A series of empirical cases involving judges in the vortex of judicial corruption. Judicial corruption in judicial institutions to date has fundamentally and will continue to threaten the existence of law in society and the Indonesian rule of law because judges are one of the law enforcers. the purpose of this study is to analyze efforts to prevent and overcome juridical corruption. This research is included in a qualitative approach using secondary data. The results of the study state that efforts to prevent judicial corruption by judicial institutions are carried out by optimizing information technology in court administration which is the principle of transparency of good governance, while efforts to handle it through increasing the institutional capacity of the Judicial Commission strengthen by adding authority to the prevention aspect of supervision of judges' behavior through improving the system and organization within the judicial institution which is the principle of government effectiveness. The Judicial Commission is a watchdog institution that acts as a catalyst institutionally and organizationally.

I. Introduction

The term judiciary is used to refer to the judicial branch of government, which includes all judicial bodies. Although the judiciary is part of the larger justice system, it is an important tool in the fight against corruption. If acts of corruption in society at large are to be punished, they must be prosecuted, brought to court and punished. Therefore, the judiciary is indispensable in the fight against

corruption in society. In short, a well-functioning judiciary is the most important institution in the fight against corruption.

Ironically, corruption can occur within the justice system itself, which in turn erodes the legal system and public trust in the justice system. In the past, it has always exhibited "legitimate trade" behavior that makes the public "angry". If public trust in the judiciary is low, it will lead to compliance with the law and there will be consequences. The classification of corruption prevalent in the courts is corruption of an administrative or light bureaucratic nature, in the form of bribery related to the implementation of a law, statute or regulation, settlement, handling of cases and judges' decisions in the courts on a day-to-day basis.

Judicial Corruption referred to in this article is corruption in the form of bribes, tips, and conflicts of interest that occur in court practices when justice seekers participate in trials. Incidentally, Indonesia is often referred to as a "country of suspects" inseparable from the practice of law enforcement in corruption cases, especially since the celebrities involved often suddenly disappear without any legal process but still end up being "sanctioned" by the court. with acquittal. This phenomenon will further complicate the creation of good governance, especially the rule of law.

Eradication of corruption can only be done effectively and optimally by competent and honest law enforcement officers. In order to enforce the law with integrity and quality, it is necessary to start by reorganizing the human resource management system in law enforcement officials, especially starting from the recruitment process, management, education and training. Reward and punishment. (Sjafruddin Rasul, 2009)

2. Research Method

This research is included in a qualitative approach using secondary data. It is in the realm of government science which is eclectically close to the science of law related to the institutional aspects of the Judicial Commission in its efforts to prevent and overcome the practice of judicial corruption in the judiciary, by applying the principles of transparency Good Governance is believed that the practice of judicial corruption can be minimized. Relevant and recent secondary data in the form of journals and books published for a maximum of 10 years are used to analyze the results of research which are then presented descriptively.

3. Results and Discussion

Judicial corruption is like a spirit that cannot be seen with the naked eye, but its presence can be felt by the public. A lot of "slanted" news about this

phenomenon almost always adorns the mass media.¹ Corruption is not only associated with the government and other civil servants, but the practice is widespread and entrenched in the Indonesian judiciary. The police are a major component of this problem. Where corruption is most prevalent is in the public sphere, particularly in the area of law enforcement. This shows that the Indonesian criminal justice system is still considered vulnerable to corruption. (Fadli M, Iskandar, 2022).

According to Wikipedia's definition of Judicial corruption, judicial corruption refers to corruption related to misconduct by judges, through accepting or offering bribes, wrongful conviction of criminals, bias in judicial review, and corruption of trial and adjudication arguments and other similar misconduct, in particular, corruption by good judges. What an irony of the rule of law, when officials who are supposed to uphold the dignity of the rule of law are caught in the trap of betraying the law by committing corruption.

The only way to secure a favorable or favorable court decision is to bribe the judge.² The reason judges accept bribes is because of greed and mental inability to overcome temptation, not because of low income (Kompas.com.2022). Another opinion is that many judges fall into the trap of corruption due to a lack of integrity, the sometimes problematic recruitment process of judges, and ineffective supervision of judges.

In principle, if a form or judicial act of corruption almost always involves at least two parties. Like the Tango dance, it requires two people. First, the parties offer bribes to law enforcement officials (usually from disputing parties such as suspects, defendants, complainants, defendants, their families, or their attorneys). Second, the law enforcement officer accepts the bribe. The phenomenon of case brokers (Markus) is also a product of the public's tendency to take shortcuts, instantly and quickly dealing with the law.³

Siri Gloppen, 2014 states that Bribes offered by users of the justice system can take many forms, including illegal "fees" collected by court personnel to do things that should be done. Court users simply pay to get their case through the system, to influence the outcome of a particular case or to delay it. Bribes may be paid to judges, assistant staff, or lawyers to clear records or assign cases to a particular judge.⁴

¹ M Abdul Kholiq, "Fenomena Cyberporn Dalam Optik Hukum Pidana," *Jurnal Hukum IUS QUIA IUSTUM* 9, no. 21 (2002): 9–22.

² Dory Reiling, *Teknologi Untuk Keadilan* (Penerbit Alumni, 2022).

³ Agus Velliana Yosephus, "Penguatan Fungsi Pengawasan Dalam Sistem Penegakan Hukum Sebagai Upaya Menekan Judicial Corruption," *Masalah-Masalah Hukum* 43, no. 2 (n.d.): 161–71.

⁴ Siri Gloppen, "Courts, Corruption and Judicial Independence," *Corruption, Grabbing and Development: Real World Challenges*, 2014, <http://www.cmi.no/publications/file/5091-courts-corruption-and-judicial-independence.pdf>.

Some empirical evidence of bribery cases to TIPIKOR judges

1. Kartini Marpaung, special judge of Semarang Corruption Court. Kartini allegedly received a bribe of IDR 150 million related to the alleged corruption of Grobogan Regency official vehicle maintenance costs involving the non-active president of the Grobogan Regency DPRD, M Yaeni. (two thousand thirteen).
2. Heru Kisbandono, Ad Hoc Judge of Pontianak Corruption Court. Bribed a corrupt judge in Semarang to influence the verdict against defendant M, Yaeni, Chairman of Grobogan Regency DPRD. Caught by KPK receiving IDR 150 million (2013).
3. Pragsono, Judge of Semarang Corruption Court, Grabogan District Corruption Case, Abnormal Service Car Maintenance Case, 2013.

From the various empirical cases involving the ad-hoc Corruption Court judges above, it appears that the judges received gratuities at the beginning and bribes in the process, buying and selling corruption case decisions in the end. Bribery of judges is a type of petty corruption, where the value of corruption is small and the scale of exposure is also narrow.

Causes and Modes of Judicial Corruption

According to Yudi Kristiana, 2016 The legal sector is indeed the most affected by the emergence of judicial corruption⁵ Why is that? Because with the phenomenon of judicial corruption, at the same time it also affects three areas of the justice system, namely the legal body, legal culture, and legal culture. identified include:

- 1) Decreased dignity of law enforcement officers;
- 2) Decreased credibility of the law;
- 3) Leads to public distrust of the law;
- 4) Resulting in the non-achievement of the objectives of the law and judicial corruption, so that only these people can enjoy the benefits of the law. who can provide compensation to law enforcement in cases of judicial corruption, the benefits of the law can only be owned by those who can provide compensation to law enforcement.

The opinion of Aulia Rahman, 2017 that the factors that cause corruption in the courts are:⁶

⁵ Yudi Kristiana, "Judicial Corruption dan Pembaharuan Hukum Pidana," *To-Ra* 2, no. 2 (2016): 325–34.

⁶ Aulia Rahman, *Politik Hukum Pencegahan Dan Penanggulangan Judicial Corruption Lembaga Peradilan* (Rajawali Pers, 2017).

1. Aspects of personal behavior of judges. Related to personal internal factors such as greed, arrogance, feeling that income is not enough to meet their needs, and not being stable enough against temptation from the disputing party. The root causes of corruption are low wages, poor working conditions, and scarcity of resources, all of which are real incentives for judges and court clerks and staff to accept bribes to help meet their needs because the only way to get a favorable court decision is to bribe the judge. Judges, clerks, and staff may abuse their power when the risk of arrest is low or the penalty for arrest is minimal, such as a reprimand.
2. In terms of organization. Examples are lack of exemplary leadership as well as permissive organizational culture, minimal accountability, and also organizations that hide corruption. Another variable that affects the level of risk is organizational performance. For example, when operations are not transparent, it facilitates corrupt behavior because it reduces the risk of detection. Low risk of detection indicates weaknesses in institutional aspects. The extent and form of institutional weaknesses are important determinants of the likelihood of corruption.
3. Societal aspects. With respect to the parties to a dispute in court. This includes suspects, lawyers. disputants feel that they are used to giving in the form of bonuses. It has been cultivated.
4. Legal aspects. This aspect is related to the character of the oligopoly, such as favoring relatives or rulers, lack of meaningful participation in law-making to provide judicial control and application, light sanctions.

Another cause, according to H.M.Arsyad Sanusi, 2009 is the bargaining power factor when judges, clerks and court staff are influenced by the existence of a monopoly of exclusive decision-making power, the level of authority and the level of accountability.⁷ Bargaining power becomes relative to the judges, clerks and staff and the plaintiffs who compete with each other, mainly determined by financial needs, resources and competition. Influenced by the presence or absence of a monopoly, the amount of discretion and the level of accountability.

Indonesian Corruption Watch (ICW), Kompas.com.2019 mapped the types of corruption that occur in the judiciary, especially those involving judges. The first form of corruption that often occurs is when the plaintiff registers the case with

⁷ H M Arsyad Sanusi, "Relasi Antara Korupsi Dan Kekuasaan," *Jurnal Konstitusi* 6, no. 2 (2009): 83–104.

the court. At this point, corruption occurs in the form of service requests. This means asking one of the parties to get a case number faster and then someone at the court promises that they can resolve the case. The second model is at the pre-test stage. Corruption at this stage is identifying a panel of judges who are known to have the power to set the verdict. The third pattern occurs during testing. This is the most widely used mode, bribing judges to rule in favor of one of the parties.

In several corruption cases involving judicial officials, both judges and clerks, forms of judicial corruption, especially in criminal cases, can be defined as follows:

- 1) acquittal of the defendant from the prosecutor's charges;
- 2) reducing the sentence compared to the request of the Public Prosecutor's Office;
- 3) limiting the participation of other parties as stated in the request that are not mentioned in the decision of the Public Prosecutor's Office;
- 4) suspension of punishment in criminal cases with permanent legal consequences;
- 5) delay in filing a lawsuit filed by the Public Prosecutor's Office;
- 6) selecting the judge who will handle the case so that the case can be resolved properly;
- 7) authorizing pre-trial prosecution of cases under investigation;
- 8) submit a subpoena to request the PTUN to declare the subpoena invalid.⁸

Efforts to prevent & overcome Judicial Corruption in Judicial Institutions by implementing Good Governance

Achievements in the field of information and communication technology are something to be grateful for because these advances will make it easier to carry out tasks. Information and communication technology in government, known as e-government, creates conducive conditions for citizens to access government policies. Conversely, e-government can also contribute to effective administrative management.⁹

Good governance is an emerging issue in public administration. This is reflected, among others, in the continuous public demand that state administrators, both in the government, in the DPR, and in the judiciary, be

⁸ Kristiana, "Judicial Corruption dan Pembaharuan Hukum Pidana."

⁹ Achmad Nurmandi, *Teknologi Informasi Pemerintahan* (Yogyakarta: UMY Press, 2020).

reasonable. This need comes not only from the Indonesian people but also from the international community.¹⁰

The characteristics of good governance according to UNDP-2007: 1. participation, 2. rule of law, 3. transparency, 4. responsiveness, 5. consensus-oriented, 6. equality, 7. efficiency and effectiveness, 8. accountability, 9. strategic outreach. The key to eradicating corruption is the application of the character or principle of openness and the need for accountability from every part of the organization. For example, if good governance is created, then corruptive behavior by itself can be prevented. On the other hand, the principle of good governance creates a balance of performance between the government as a servant of society and society as a servant.

We must believe that building good governance can help prevent corruption and nepotism. By paying attention to some of the characteristics of good governance, when the principles of effectiveness, efficiency, accountability, law enforcement and justice can be upheld, the abuse of power can be minimized. In addition, the application of good governance characteristics such as accountability, transparency and law enforcement can limit the potential for corruption so that efforts to eradicate corruption become more effective.¹¹

Implementing the principle of openness as an effort to prevent and counter judicial corruption in judicial institutions in the form of:

- 1) An electronic court or e-court is a court system in which participants and other stakeholders perform some administrative and procedural aspects of court functions, such as presenting evidence, filing court papers, or receiving testimony remotely.
- 2) Paperless courts. Among other things, the aim of these systems is to reduce reliance on paper or printed documents during court proceedings. On a larger scale, e-courts are often used to improve court efficiency by speeding up access to information. (Toebagus Galang, 2022).
- 3) E-filing (online filing). Electronic filing or online case registration is done after registering as a user or having an account on the Electronic Court application by selecting a district court, religious court or administrative court that has actively provided e-court services. All case filings are submitted electronically through the Electronic Court application of the Supreme Court of the Republic of Indonesia.
- 4) E -Skum (estimated cost of payment). By registering a case online through E-Court, the customer will automatically receive an estimated payment

¹⁰ Sjahrudin Rasul, "Penerapan Good Governance Di Indonesia Dalam Upaya Pencegahan Tindak Pidana Korupsi," *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 21, no. 3 (2009): 538–53.

¹¹ Rasul.

fee (e-SKUM) and a payment number (virtual account) that can be paid through various available electronic channels (multi-channel).

- 5) Electronic payment (online payment for case handling), can be used to prepay case fees through the e-SKUM application after electronic registration. Multichannel Payment Currently, the Supreme Court is working with commercial banks to facilitate the management of case fee payments. These banks are BRI, BTN, Banque Mandiri, BNI and BSI. These banks provide virtual accounts as a means of payment to the Court where the case is registered. Having a virtual account will make it easier to pay legal fees. Simply switch to online banking on your mobile phone.
- 6) Electronic summons (online appeal of related parties) According to articles 11 and 12 of PERMA No 3 of 2018 stipulates that the summoning of plaintiffs to attend court hearings can be done by electronic means of death. For electronic summons, it is sent to the plaintiff who is registered electronically and with written evidence, while the first summons of the respondent is carried out through the bailiff. The court and can be summoned electronically by stating written consent to be summoned electronically, and legal counsel must obtain written consent from the power of attorney to conduct the summons electronically.¹²

Good governance is very important for state administrators to avoid unwanted impacts, especially to prevent and eradicate corruption in government. The concept of good governance as a leaning approach will not guarantee a reduction in corrupt practices, if central government officials do not set an example for local officials. This is quite acceptable given the reach and dominance of the center as the center of power and money.

4. Conclusion

The implementation of good governance principles such as transparency in the form of optimizing the use of information technology can limit the opportunity to commit judicial corruption in the judicial environment. Because the main key to eradicating corruption is transparency and the need for accountability from every party in the bureaucratic organization. The implementation of good governance, especially in relation to the eradication of corruption, must be carried out through effective and balanced prevention strategies and prosecution strategies.

¹² Toebagus Galang Windi Pratama, "Peran Integrasi Teknologi Dalam Sistem Manajemen Peradilan," *Widya Pranata Hukum: Jurnal Kajian Dan Penelitian Hukum* 4, no. 1 (2022): 65–83.

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