

The Role of Investigators in Disclosing Corruption Cases of Village Fund Allocation in Kuningan District

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Abstract : *The number of corruption cases in the state administration system is increasing year after year. One of corruption cases occurred in the state administration system is corruption case of village funds. This study aims to identify the roles of and the obstacles faced by Kuningan District Prosecutor's Office investigators in disclosing corruption cases of village fund allocation. This qualitative study applied a sociological juridical research method in which the data is presented in a systematic description and is analyzed by employing qualitative data analysis method. The results showed that Kuningan District Prosecutor's Office investigators as law enforcement officers have a significant role in disclosing corruption cases of village fund allocation, namely identifying the crime of corruption, carrying out actions (full data, full bucket), conducting investigation, checking the suspects' identity, and conducting detention and searches. Further, there are some obstacles faced by Kuningan District Prosecutor's Office investigators in disclosing corruption cases of village fund allocation, including the mismatch between regulations and actual practices in the field and the lack of human resources, facilities and infrastructures, and community roles.*

Keywords: *Investigators' Roles, Investigation, Corruption Cases, Village Funds.*

Peran Penyidik dalam Mengungkap Kasus Korupsi Alokasi Dana Desa di Wilayah Hukum Kabupaten Kuningan

Abstrak : Angka kejadian korupsi dalam sistem penyelenggara negara masih mengalami peningkatan dari tahun ke tahun. Salah satu tindak pidana korupsi yang banyak terjadi dalam sistem penyelenggara negara adalah korupsi dana desa. Penelitian ini bertujuan untuk mengetahui peran dan hambatan penyidik Kejaksaan Negeri Kuningan dalam mengungkap kasus korupsi alokasi dana desa. Penelitian ini merupakan penelitian kualitatif dengan metode penelitian yuridis sosiologis. Data disajikan dalam uraian sistematis dan dianalisa dengan menggunakan metode analisis data kualitatif. Hasil penelitian ini menjelaskan bahwa penyidik Kejaksaan Negeri Kuningan sebagai aparat penegak hukum mempunyai peran yang sangat aktif dalam mengungkap kasus korupsi alokasi dana desa yaitu menemukan adanya tindak pidana korupsi, melakukan tindakan (*full data full bucket*), melakukan tindakan penyidikan, memeriksa identitas tersangka, melakukan penahanan dan penggeledahan. Terdapat beberapa hambatan yang dialami oleh penyidik kejaksaan dalam mengungkap kasus korupsi alokasi dana desa di antaranya ketidaksesuaian antara peraturan dengan tindakan di lapangan, kurangnya sumber daya manusia, fasilitas dan sarana yang belum memadai dan kurangnya peran masyarakat.

Kata Kunci: Peran Penyidik, Penyidikan, Korupsi, Dana Desa.

INTRODUCTION

The crime of corruption, year after year, are increasingly sophisticated and spread to all levels of the state administrators ranging from the elite to the lowest employees. Corruption cases, which were used to be committed by the executive and the judiciary, have now spread to the legislative with its political parties so that corruption cases in Indonesia become more comprehensive.¹ On the top of that, criminal act of corruption has permeated to the village level, namely the village government leaded by a village head. The forms of corruption commonly committed by the village government are embezzlement, misuse of budget, abuse of authority, illegal levies, mark-ups, fictitious reports,

¹ Surachmin dan Suhandi Cahya, 2011, *Strategi dan Teknik Korupsi*, Sinar Grafika, Jakarta, pp.3-4.

budget cuts, and bribery.² The increasing number of corruption cases requires a serious effort of the government to enforce the law against the eradication of the crime of corruption so that its number will not increase.³ Thus, the role of prosecutors and law enforcers as investigators is crucial in handling corruption cases.⁴

Kuningan District Prosecutor's Office has a basis in carrying out the role of investigation of corruption cases in Village Fund Allocation (ADD) committed by village heads. Thus, based on the description, the problem discussed in this study is formulated into the following questions; 1) what are the roles of Kuningan District Prosecutor's Office, especially Kuningan District Prosecutor's Office investigators, in disclosing corruption cases of Village Fund Allocation (ADD) and 2) what are the obstacles faced by Kuningan District Prosecutor's Office investigators in disclosing corruption cases of village fund allocation?

RESEARCH METHODS

The method employed in this study was a sociological juridical research method. This study focuses on law as a social institution associated with other social variables. Thus, in this case, law is seen as a social phenomenon in which its interaction cannot be separated from non-legal factors.⁵ The data used in this study were secondary and primary data. By applying qualitative data analysis method, the collected data were processed using data reduction and categorization methods, and were then presented in a systematic description.⁶

RESULTS AND DISCUSSION

1. The Roles of Kuningan District Prosecutor's Office investigators in Disclosing Corruption Cases of Village Fund Allocation

In a corruption case committed by village officials in Kuningan District, Kuningan District Prosecutor's Office investigators have a role in disclosing the corruption case. The role of the prosecutor's office investigators, as stated in Article 26 of Law No. 20 of 2001 concerning Amendment to Law No. 31 of 1999 concerning Eradication of the Crime of Corruption, is to conduct investigation, prosecution, and hearing in a court of law in corruption cases in accordance with the applicable criminal procedure, unless determined otherwise in the Law.

In the same line, Article 30 paragraph (1) letter d of Law No. 16 of 2004 concerning the Prosecutor's Office, in essence, describes that prosecutor has the role to conduct an investigation on certain criminal acts. Further, according to **O.C. Kaligis**⁷, the role of prosecutor's office investigators is as an investigator and prosecutor in a corruption case in which its role cannot be controlled by anyone in the Indonesian criminal justice system. In addition, **Wiyono**⁸ states the role of prosecutor's office investigator is to investigate the crime of corruption because,

² Achmad Surya, 2018, *Problematika Penyidik dalam Penetapan Tersangka Tindak Pidana Korupsi Dana Desa di Kabupaten Aceh Tengah*, <http://jurnal.stihmat.ac.id/index.php/resam/article/view/5>, Accessed on April 1, 2019.

³ IGM. Nurdjana, 2010, *Sistem Hukum Pidana dan Bahaya Laten Korupsi : Perspektif Tegaknya Keadilan Melawan Mafia Hukum*, Pustaka Pelajar, Yogyakarta, pp. 35.

⁴ Yasmirah M saragih, Teguh Prasetyo, Jawade Hafidz, 2018, *Analisis Yuridis Kewenangan KPK Sebagai Penuntut Pelaku Tindak Pidana Korupsi*, Unifikasi, Jurnal Ilmu Hukum, Vol. 05 No. 01, January 2018, pp. 35-44

⁵ Amiruddin, 2004, *Pengantar Metode Penelitian Hukum*, PT. Raja Grafindo Persada, Jakarta, p. 133.

⁶ Haris Budiman, 2016, *Corruption Potencies In Land Use Policy*, The 2nd Proceeding "Indonesia Clean of Corruption in 2020" Unissula Press, Semarang, p. 126

⁷ O.C. Kaligis & Associates, 2006, *Pengawasan Terhadap Jaksa Selaku Penyidik Tindak Pidana Khusus dalam Pemberantasan Korupsi*, PT.Alumni, Bandung, p.. 129.

⁸ Wiyono, 2009, *Pembahasan Undang-Undang Pemberantasan Tindak Pidana Korupsi*, Sinar Grafika, Jakarta, p.. 170.

basically, before the prosecutor conducts an investigation on a corruption case, it must be preceded by an investigation. One of the cases handled by Kuningan District Prosecutor's Office investigators was a corruption case of village fund allocation of the 2015 and 2016 fiscal year committed by MU. According to the investigator himself, the investigation process was conducted based on Article 7 Paragraph (1) of the Code of Criminal Procedure.

Thus, it is clear that prosecutor's office investigator has a crucial role in disclosing the crime of corruption. Most of corruption cases of village fund allocation are disclosed by Kuningan District Prosecutor's Office investigators. Investigators are the first foundation in disclosing corruption cases.⁹ Based on the description, it can be concluded that the role of prosecutor's office investigators in conducting investigations in an effort to disclose corruption cases in Kuningan District has been in accordance with the provisions in the code of criminal procedure as regulated in Article 7 paragraph (1) of the Code of Criminal Procedure. This regulation is used as a legal basis for Kuningan District Prosecutor's Office in conducting investigations on corruption cases in Kuningan District. One of the examples of corruption cases handled by Kuningan District Prosecutor's Office investigator is a corruption case committed by MU. In this case, the roles of the investigator include collecting information (full data, full bucket), conducting searches to find evidence related to the corruption case, carrying out examinations and confiscation of documents and objects related to the corruption case, and determining a suspect until the process is submitted to the court.¹⁰

2. The Obstacles Faced by Kuningan District Prosecutor's Office Investigators in Disclosing Corruption Cases of Village Fund Allocation

The efforts made by prosecutor's office investigators in disclosing corruption cases are part of law enforcement process. This law enforcement process will certainly face various obstacles that can affect the process itself. In this regard, this study tries to identify the obstacles faced by investigators, especially those in Kuningan District Prosecutor's Office, in disclosing the crime of corruption by considering Soerjono Soekanto's view. According to Soerjono Soekanto, several factors influencing the process of law enforcement are¹¹:

- a. Factor of law.
- b. Factor of law enforcers.
- c. Factor of facilities and infrastructures supporting the law enforcement.
- d. Factor of society.
- e. Factor of culture.

These five factors are considered to be the most influencing factors in the process of law enforcement. In relation to this study, these five factors are described below.

a. Factor of Law,

Law is a written regulation that has strict and binding sanctions developed by authorized officials. One of the legal products produced is the Law. Yet, the number of regulations contained in the Law cannot cover all problems. The Law is developed with the aim to prevent similar problems to occur. Hence, people violating the Law will receive strict and binding sanctions with the aim to create a deterrent effect. The problems

⁹ Rooseno, 2015, *Pencegahan dan Pemberantasan Korupsi*, Majalah Hukum Nasional, Badan Pembinaan Hukum Nasional, Kementerian Hukum dan HAM RI, Nomor 1 Tahun 2015, p. 133

¹⁰ Franciska Mifanyira Sutikno and Indah Dwi Miftachul Jannah. "Implementing the Code of Ethics for Police Officers as Corruption Actors". *UNIFIKASI : Jurnal Ilmu Hukum*. 6(2). 2019. 116-125

¹¹ Soerjono Soekanto, 2003, *Faktor-Faktor Yang Mempengaruhii Penegakan Hukum*, Jakarta, Ghalia Indonesia, p. 5.

occurred or the obstacles faced in the process of law enforcement coming from Law may be caused by:

- 1) The principles of the law are not followed;
- 2) There is no guidance to implement the law;
- 3) Unclear meaning of words in the law which results in confusion in its interpretation and application.¹²

In terms of its legal factors, through the Circular of the Junior Attorney General Special Crimes to prosecutor's offices throughout Indonesia Number B-949/F/FJP/06/2008 on June 4, 2008 concerning the Establishment of Corruption Case Handling Performance Standards, the performance standard is issued in an effort to accelerate the completion of handling cases of corruption. This circular regulates strictly the maximum time at each stage, starting from the investigation to the prosecution. Yet, in its practice, the time needed to collect the data is not in accordance with the specified time because corruption cases are classified as complicated cases. As stated by the Head of Special Crimes Section of Kuningan District Prosecutor's Office¹³, corruption is a complicated case so that it requires a lot of human resources and a long time to disclose the case. Therefore, the legal factor itself needs to be revised.

By considering the existing regulations and the results of interviews conducted at Kuningan District Prosecutor's Office, it can be stated that what is regulated in the circular of the Junior Attorney General could hamper the process of disclosing criminal acts of corruption. The facts found in the field also show that the process of disclosing corruption cases requires a long time because the calculation of the loss itself is quite a long process. Hence, it is clear that there is a contradiction between the regulation and the actual condition in the field. This regulation should give the investigators time to disclose corruption cases so that the verification process is not in a hurry and the results can be optimal.¹⁴

b. Factor of Law Enforcers,

The term "law enforcement" has a broad scope. Yet, in this study, the term "law enforcement" is limited to those who are directly involved in the field of law enforcement which not only covers law enforcement, but also peace maintenance. Thus, it can be assumed that these groups include those who work in the fields of justice, prosecutors, police, law and penal services.¹⁵

The obstacles encountered by law enforcers may come from themselves or from their environment. The obstacles include:

- 1) Limited ability to place themselves in other party's role;
- 2) Low level of aspiration;
- 3) Limited excitement to think about the future so that it is very difficult to make a projection;
- 4) Lack of ability to hold gratification of certain needs, especially material needs;
- 5) Lack of innovative power which is actually a pair of conservatism.¹⁶

¹² *Ibid.*, pp. 17-18.

¹³ Interview results with the Head of Special Crimes Section of Kuningan District Prosecutor's Office on July 5, 2019

¹⁴ Fitria Kusumawardhani. "Sanctions Towards the Treasurers of Government Amil Zakat Agency in Pagaralam, Indonesia". *UNIFIKASI : Jurnal Ilmu Hukum*, 6(1), 2019. 14-22

¹⁵ Soerjono Soekanto, *Op.cit.*, p. 19.

¹⁶ *Ibid.*, pp.. 34-35

As stated by the Head of Special Crime Section of Kuningan District Prosecutor's Office,¹⁷ the main obstacle faced by Kuningan District Prosecutor's Office investigators in disclosing corruption cases is a long time needed to calculate state losses as the Prosecutor's Office must coordinate with BPKP, BPK, or Inspectorate. Thus, calculating state losses is not an easy task as the prosecutor's office cannot calculate state losses without the assistance of relevant institutions (in this case BPKP, BPK, or Inspectorate). They cannot assign a suspect or conduct an investigation without sufficient evidence. Another obstacle faced is a lack of human resources. According to him, the educational background of the majority of prosecutors is bachelor, only supporting staffs who are not all bachelor. Yet, although prosecutors are highly educated, their ability and experience in in corruption cases are still lack. Thus, additional education and training related to the crimes of corruption are needed.

In the same sense, a functional prosecutor in Kuningan District Prosecutor's Office¹⁸ states, quantitatively, the number of human resources in Kuningan District Prosecutor's Office is lack. In fact, a huge number of human resources are needed in conducting investigations on the crime of corruption. With so many tasks and programs, the number of prosecutors is still considered lacking in Kuningan District Prosecutor's Office.

The factor of law enforcer is one of the inhibiting factors in disclosing corruption cases in Kuningan District where the number of human resources owned by Kuningan District Prosecutor's Office is not comparable to the tasks and programs of Kuningan District Prosecutor's Office. This can be seen from the number of prosecutors in Kuningan District Prosecutor's Office in which it only has 12 prosecutors.

The number of prosecutors, who are only 12 people, is not comparable to the area in Kuningan District which consists of 32 sub-districts. Thus, additional personnel are needed in areas that have not been well covered. Meanwhile, in terms of improving the quality of the personnel, it is indeed an obstacle experienced in various agencies, but there should be a priority for officials who carry out the duties concerning human rights (in this case law enforcement officials).

c. Factor of Facilities and Infrastructures

Facilities and infrastructures are ones of the elements contributing to the success of law enforcement process because the process of law enforcement in the field may not be able to run optimally if the facilities and infrastructures needed are inadequate. Without certain facilities and infrastructures, it is impossible for law enforcement to proceed optimally. The facilities and infrastructures include educated and skilled human resources, good organization, adequate equipment, adequate fund, etc. If the need for these facilities and infrastructures is not fulfilled, then it is impossible for law enforcement to achieve its objectives.¹⁹ In fact, the certainty and speed of case completion strongly depend on the supporting facilities available in the fields.

In terms of facilities and infrastructures, the obstacle faced by investigators in Kuningan District Prosecutor's Office in disclosing corruption cases is related to inadequate room and budget. First, if the available room is comfortable and conducive, it will lead to the maximum results. Yet, if the room is less comfortable, small, and is

¹⁷ Interview results with the Head of Special Crimes Section of Kuningan District Prosecutor's Office on July 5, 2019

¹⁸ Interview results with Yana Yusuf, S.H., as a functional prosecutor in Kuningan District Prosecutor's Office on July 5, 2019

¹⁹ Soerjono Soekanto, *Op.cit* pp. 34-35.

occupied by several staffs, then the work will not be conducive. Second, as we know that the success of an achievement target requires a maximum form of business, then how the maximum business can be done if the work performance is only driven by minimal funding. Therefore, concerning this facilities and infrastructures problem, Kuningan District Government should consider it deeply so that the law enforcement process can be done optimally with adequate facilities and infrastructures.

d. Factor of Society

Law enforcement comes from the society and aims to create peace in the society. Basically, every citizen or group has legal awareness. The problem occurred is the result of the level of legal compliance, namely high, moderate, or poor legal compliance. The degree of community legal compliance is an indicator of the functioning of the law itself.²⁰

According to a community leader in Cimara Village²¹, a village head is a community leader who is a role model for the surrounding society so that all his actions must be based on the interests of the village. In the same sense, a villager in Kahiyangan states that the society trusts the village head or *kuwu*. Therefore, the position of village head is above the average person so that it is not possible for the society to participate in supervising the activities carried out by a village head. Meanwhile, the villagers of Padabeunghar argue that a village official was appointed by the village head so that they have no rights to criticize the use of village fund allocation by the village head. Even if the village officials knew that it was a mistake or violation, the village officials do not dare to do anything. Based on the interviews conducted with societies in three villages, it can be concluded that:

1. Position of village head is an honourable position. This position is filled by a community leader who is a role model for the surrounding society so that people do not dare to audit or supervise the use of village fund allocation.
2. The society trusts the village head. This condition makes the village head free to use village fund allocation as he wishes. Sometimes, the use of village fund allocation is not discussed with BPD or other village officials.
3. The village head has a significant role in the appointment of village officials. Thus, the appointed village officials have a service debt to the village head. This condition makes the village head free to carry out various activities without supervision, including the use of village fund allocation.

e. Factor of Culture

Friedman formulates legal culture as attitudes and values that have a relation with law and legal system, along with attitudes and values that have both positive and negative impacts on legal behavior. Likewise, pleasure or displeasure to litigate is part of legal culture. Therefore, legal culture is the overall factors determining how the legal system has a logical place within the cultural framework of the society. In short, it can be said that legal culture is the overall attitude of the society and the existing value system in society that will determine how the law should apply within the society.²²

Legal culture tends to refer to community attitudes and trust as well as values adopted by them and their ideas or expectations of the law and the legal system. In this case, legal culture is a picture of attitudes and behavior towards law as well as the factors determining how the legal system has a logical place and can be accepted by society within the cultural

²⁰ Ellya Rosana, 2014, *Kepatuhan Hukum Sebagai Wujud Kesadaran Hukum Masyarakat*, Jurnal TAPIs Vol.10 No. 1, p. 18.

²¹ Interview results with a community leader in Cimara Village on November 6, 2019

²² Proborini Hastuti, 2018, *Reduksi Kewenangan Artibusi Pemerintah Daerah Dalam Pengaturan Pemilihan Kepala Desa*, Jurnal Yudisial "Ius Bonumque", Vol. 11 No. 1 April 2018, p. 113

framework of the society. The higher the legal awareness of the society, the better the legal culture will be and the higher the possibility of legal culture to change the mindset of the society. Simply, the level of community legal compliance is an indicator of the functioning of the law.²³ Based on the description, it can be concluded that the level of society's legal awareness in Kuningan District is still low. The societies in the area of corruption cases of village fund allocation see the village head as a role model so that all his actions are considered to be based on the interests of the village. This low level of society's legal awareness results in the existence of a village head that uses village fund allocation freely without any supervision.

CONCLUSION

Based on the analysis, it can be concluded that the role of Kuningan District Prosecutor's Office investigators in disclosing corruption cases of village fund allocation is to conduct investigation, starting from collecting information (full data bucket full), conducting searches and detention, conducting inspections and confiscation, bringing in witnesses and experts, and determining a suspect. Kuningan District Prosecutor's Office investigators play an active role in the disclosure of the crime of corruption as most of the corruption cases are disclosed by the investigators. In addition, in conducting investigations, investigators are guided by Article 7 paragraph (1) of the Code of Criminal Procedure.

The obstacles faced by Kuningan District Prosecutor's Office investigators in disclosing corruption cases of village fund allocation are; 1) factor of law, namely the specified time for the investigation until the prosecution stated in the law does not match with the actual practice in the field since corruption is classified as a complicated case that requires a considerable amount of time in its verification; 2) factor of law enforcers, namely the lack of human resources which causes the process to disclose corruption cases a little late; 3) factor of facilities and infrastructures, namely inadequate facilities owned by Kuningan District Prosecutor's Office, such as inadequate room and budget; 4) factor of society, namely the position of village head is an honourable position in which this position is filled by a community leader who is a role model for the surrounding society so that people do not dare to audit or supervise the use of village fund allocation; and 5) factor of culture, namely the low level of society's legal awareness in Kuningan District which causes village heads to carry out their activities arbitrarily.

SUGGESTION

Based on the description, some suggestions are proposed. First, concerning the time for the investigation until the prosecution regulated in the law, there needs to be an adjustment between the existing regulation and the actual practices in the field so that the process of disclosing corruption cases can run optimally. Second, Kuningan District Government needs to add the number of Human Resources (HR) in Kuningan District Prosecutor's Office in order to increase the number of members handling corruption cases so that it can be dealt with quickly because it is not easy to disclose corruption cases when the number of HR is still lacking. Third, providing adequate facilities and infrastructures in Kuningan District Prosecutor's Office as well as adjusting the budget are needed in order to facilitate investigators in disclosing corruption cases. Fourth, counselling is needed to improve society's legal awareness so that the society can take an active role in reporting any incidents which constitute a criminal act of corruption to the prosecutor's office. Lastly, socialization

²³ Bernard L Tanya, Yoan N Simanjuntak, Markus Y Hage, 2013, *Teori Hukum* (Yogyakarta, Genta Publishing), p. 8.

conducted by either the government or the prosecutor's office is also needed to improve society's legal awareness in Kuningan District.

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