CORRUPTION OPPORTUNITIES IN DIMENSION OF REGIONAL FINANCIAL MANAGEMENT

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Abstract: *The problem of corruption in Indonesia, both at the central as well as local governments, is increasing from year to year. The local government is a product of regional autonomy that posseses potential occurrence of corruption cases, especially in the area of financial management. Therefore, handling corruption conveyed specifically and consistently is to implement in the transparency and accountability of Government Regulation No. 58 Year 2005 on Regional Financial Management in connecting with Act No. 20 of 2001 on Amendments to the Law No. 31 Year 1999 on Eradication of Corruption.*

This study uses a qualitative method, whose aims is to reveal the essential matters related to the experience of the disputing parties and tendencies in their actions to resolve the dispute at hand. Data collection is taken through review of data that can be obtained in legislation, textbooks, journals, research, encyclopedias, bibliographies, indexes cumulative and others. Data analysis technique is performed on the results of the study of primary, secondary and tertiary legal materials.

The results of the research revealed that the negative impacts of decentralization are felt by the regions whose facilities exceeds that of other regions, especially the amount of revenue (PAD). The disease of corruption has spread to many regions and the spirit of decentralization is interpreted by actors of corruption's decentralization involving local authorities and the executive, legislative and judicial paries. Model of financial management is an effective model of financial management that can realize and optimize good governance in local government, namely by employing a participatory planning and budgetting model, which is a political process to obtain a collective agreement through the activity of negotiation between all development stakeholders.

Keywords: *Good Governance, Participation and management*

I. INTRODUCTION

Cases of corruption in Indonesia is a moderate systemic problem, since almost all levels of government ranging from the level of the central government to local government level. In this paper the problem is focused on the dimensions of the corruption level of local government, particularly with regard to financial management. According to Susanto (2002: 45) corruption at the local government

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level is in terms of revenue, extortion, bribery, providing protection, theft of public goods for private purposes. While this type of corruption according to De Asis (2000: 34) is political corruption, such fraudulent behavior, namely money politics in legislative elections or officials of the executives, illegal funds to finance the campaign, conflict resolution parliament through illegal means and techniques lobby distorted. The latter types of corruption that clientelism (the subscription relationship patterns).

Regional financial issues are not solely on the question of regional autonomy but lately, after the implementation of regional autonomy, regional financial sector has become the most vulnerable to corruption where local government budgets (APBD) as the object of corruption. Report of Indonesia Corruption Watch (ICW) stated that, 38 (thirty-eight) cases of corruption in the financial area occurred in the first semester in 2010, an increase of 23 (twenty three) cases of the same period in 2009. Some cases of revenues and expenditures budget with the potential loss of the state financial budget during 2010. One of which was burglary treasury in North Aceh Rp 220 billion, Budget (APBD) of Indragiri Hulu Rp 116 billion, cash areas in Pasuruan, East Java Rp 74 billion, and funding of regional autonomy in Digoel of Rp 49 billion. Overall, Indonesia Corruption Watch (ICW) recorded double prosecution of corruption cases during the first half of 2010, with 176 cases of corruption resulting in state losses as much as Rp 2.1 trillion.

In relation to the rampant corruption phenomenon of state finances, the Supreme Audit Agency (BPK) over the last eight years (2003-2011) found 318 cases of corruption causing the state loss of Rp 33.8 trillion. All cases have been submitted to the competent agencies, namely the police, prosecutors, and the Corruption Eradication Commission. However, the follow-up from those three law enforcement agencies is still minimal. Of the 318 new cases only 186 cases is done. The details are as follows: the delegation to the ranks of investigators more by 37 cases, exposure / research paper / coordination as many as 21 cases, the investigation of 30 cases, the investigation of 20 cases, proceedings were 2 cases, the prosecution of 11 cases, a verdict / appeal / cassation as many as 64 cases, and SP3 as many as 11 case. The remainder, still hangs on the three institutions (*http://www.bpk.go.id/web//*).

From those description, eventually the writer found a phenomenon in which the behavior of bureaucrats and political elite currently is very bad because they often deceived people, by manipulating facts and norms so that a factual reality can justify himself normatively rather than correct in terms of applicable norms. This is exacerbated by the strengthening of the authority of autonomy without being accompanied by transparency and accountability in the use of money of the country / region. Power is focused on the head of region and unfortunately institution controller in this case the Regional Representatives Council (DPRD) is not functioning optimally, so that if someone holds a monopoly on power and has the authority to decide who should get it. At the same time there is no public

transparency and accountability; accordingly legal violation and corruption occur rampantly.

A new phenomenon in a corruption case with the new mode is discretion use of regional head considered as a single manager with an narrow understanding of the regional finance authority discretion by instructing his staff to issue the money which is corruption-prone areas. The impact of the spirit of the law enforcement officers to combat criminals are felt in the area, many regional heads, heads of agencies, departments / sections, project leader as a burden and could take him to an examination of law enforcement agencies. This condition empirically can be stigma and can make bureaucrats helpless. Innovation policies, programs and policies that have been outlined temporarily ceased because they did not want to take risks. The positions related to financial management is not interesting anymore, and shunned the bureaucratic / political elite. In the end, the absorption of funds Budget (APBD) for public services is not optimal, because the bureaucrats / political elite fear involved in the use of public funds.

Incessant combat of corruption law enforcement agencies feel that authority of legal administrative domain has been taken by criminal law domain and as if criminal law can intervene administrative governmental policies. Building public administration domain has been devastated by cooptation domain of criminal law. So some cases showed that the bureaucrats who run the function or participation in a criminal act. Whereas the formulation of policies has involved stakeholders and processed legally, but in the way the administration could occur criminalization.

In Article 59 of Law No. 1 of 2004 on State Treasury, mentioned state loss can occur because of a violation of law or negligence of state officials or public servants not the treasurer. While compensation under article 35 of Law No. 17 of 2003 to replace the loss in private on state financial losses that are in the submission. Settlement of losses that is lost or reduced, and to improve discipline and accountability of civil servants / officials of the state in general and financial managers in particular areas.

In accordance with those background, then it can be formulated two (2) basic issues, as follows:

1. How are the characteristics of the actions of local government officials in the area of financial management possessing dimension of corruption?
2. How is the model of financial management in realizing and optimizing good governance in local government.

II. THEORITICAL REVIEW

Grand theory used by the writer is theory of Abuse of Authority, which includes the elements of the offense of abuse of authority (Djodjodirdjo, 1985: 35; Sudarto,

1996: 15; M.M Khan, 2002). The theory will be used to answer the research questions dealing with corruption. As a complement theory, the writer uses the middle range theory, in which the writer uses the theory of corruption concerning the elements of corruption, the causes of corruption, the rules governing the issue of corruption. Complementary analytical design is used by the writer in order to find a new model of financial management in developing good governance in local government for the creation of a dynamic public service for the sake of regional welfare.

In the application of this theory, the writer uses the theory criminal action whose dimension is corruption cases at regional finance management which is not in accordance with applicable laws. The theories used are taken from (Djodjodirdjo, 1985: 35); (Sinaga in Kompas, 2003: 1); Sudarto (1996: 115); Campbell (1990); Tanzi (1994); World Bank (1997) and Khan (2002).

III. RESEARCH METHOD

In this study, the researcher used the case-based approach as well as legislation to sustainable financial management and its implications for corruption. Accoridngly, in this study the researcher used a qualitative method, which aims to reveal the essential matters related to the experience of the disputing parties and tendencies in their actions to resolve the dispute at hand. Descriptive qualitative methods for the purpose of obtaining a good overview, clear and able to provide the data as accurately as possible about the object to be examined in this case to illustrate the areas of financial management based on Government Regulation No. 58 Year 2005 on Regional Financial Management.

The data that have been collected are cases of misuse of public finance management as well as the mode of corruption in the financial management area, among others are bribery to legislators in filing the draft budget, bribery to legislators in accountability budget, budget misappropriations regional head, tactical funds, misuse of social funds or fictitious grant proposal, the use of the remaining funds without justified or not in accordance with procedures. Manipulation of the rest of the budget for the local elections in the second period, the use of the budget for personal benefit regional heads, and mark-up budget for the procurement of goods and services.

Data collection was conducted by reviewing of data that can be obtained in legislation, textbooks, journals, research, encyclopedias, bibliographies, indexes cumulative and others. In principle, data collection techniques literature study. This technique can be done through an inventory of various products of legislation that have relevance to research problems. All the activities were carried out in a systematic and focused steps, in order to obtain an idea if the rules conflict with other rules or not (either vertically or horizontally); whether the legal principle corresponds to the applicable rules or not.

Processing and analysis of data basically depends on the type of data, for normative legal research with only secondary data only, consisting of primary legal materials, secondary law and tertiary legal materials, then in processing and analyzing the data can not be separated from the various interpretation of the law (Amirudin and Asikin, 2003: 163-166). Normally the normative legal research, the data were analyzed by juridical qualitative analysis with the help of descriptive-analytical and prescriptive decomposition. In doing this, analyzing starts from the historical and comparative juridical analysis.

IV. RESEARCH RESULT

1. Characteristics of the Regional Administrative Deeds in Regional Financial Management which Possesses Dimension of Corruption

Law Number 31 Year 1999 on Corruption Eradication which was amended by Act No. 20 of 2001 which came into force on August 16, 1999 is intended to replace Law No. 3 of 1971 on Eradication of Corruption and the law in lieu of Law No. 24 Prp Year 1960 About the Investigation, Prosecution and Investigation of Corruption. The purpose of the enactment of the law of corruption is expected to meet and anticipate developments and legal requirements for the community in order to prevent and combat more effectively any corruption which is very detrimental to the finances, the country's economy in particular and society in general.

In the law of corruption, there are 3 (three) legal terms that need to be clarified. They are the terms of corruption, public finance and economy of the country. Law No. 31 of 1999 Jo Act No. 20 of 2001 intends to anticipate on financial irregularities or the country's economy which has become even more sophisticated and complex, hence corruption stipulated in this Law is formulated as wide as possible in oder to accomodate deeds to enrich themselves or others as it is againts the applicable law.

With these formulations, unlawful deeds in terms of corruption can include acts of misconduct in which by the public sense of justice, it can be prosecuted and punished. The unlawful deeds here include unlawful act in formal and material in a sense that though such actions are not provided for in the legislation but if such actions are deemed reprehensible because it does not correspond to the sense of justice or the norms of social life in the community, then such actions can be imprisoned in accordance with Article 2 paragraph (1) of Law No. 31 of 1999 Jo Act No. 20 of 2001 on Corruption Eradication Corruption.

Explanation of the chapter is the perpetrators of corruption acts that meet the elements of the Article, where indemnification of the state or economy of the state that have been made and which do not eliminate the criminal perpetrator of that offense. Indemnification of the state or the country's economy is only one factor

mitigating punishment for the perpetrators. In this law it also stipulates regarding corporations as subjects of corruption that can be subject to criminal sanctions.

2. Financial Management Model to Implement and Optimize Good Governance at Local Government

Good Governance can be defined as a way of strengthening the institutional framework and the government (Bappenas, 2002). This is according to their means is how to strengthen the rule of law and predictability and enforcement. It means roots of corruption and also means to uproot the corruption and the activities of rent seeking, which can be done through a transparent flow of information and to ensure that the information to know the policies and performance and government institutions collected and provided to the appropriate community so that the community can monitor and oversee the management and funds from the public. Bovaird and Loffler (2003: 5) says that good governance brought a number of issues such as: stakeholder engagement; transparency; equality agenda (gender, ethnicity, age, religion, and others); ethical and honest behavior; accountability; and sustainability.

The New Governance Paradigm focuses on grandeur values that uphold the wishes and will of the people, and values that can increase people's participation in national achievement and social justice. The new governance paradigm was born to provide a balance between the strong spirit of the private in the public sector with people's role in development and public service. The last work of strengthening the new governance paradigm is the new public services serving rather than steering (Denhardt, Robert, 2002: 34).

According to the development of good governance paradigm in public administration, the issue of governance is the key discussions in public administration. It is associated with an attempt to create access public participation in public services and government administration. Strengthening this participation aims to enhance the effects of another form of accountability and transparency in government, services and development.

In this context, governance is defined as an interactive relationship based on the exchange of information between the various stakeholders in government. The government is not the only stakeholder governance, but also should involve the community and other interest groups. Strengthening participation is done through, among others, the so-called hearing citizen's charter and a complaints mechanism. Through the strengthening of community participation in public services the government should have the performance and orientation of the fulfillment of the rights of civil society. Furthermore, through the mechanism of such a complaint can submit objections and feedback on government performance, in this case the Ministry of State for Administrative Reform preparing the draft

Law of Government Administration are on the strengthening of the position of the government.

Currently, good governance is an issue raised in the management of public administration. Good governance is the coordination strategy; even more than that it is good manageability between governance in the govermental sector with governance in the public sector, especially the private sector, so that it can be produced transactional output through market mechanisms the most economical of community activities. Therefore, good governance is not only required a efficient and effective public bureaucracy, but also efficient and competitive private sector governance.

V. CONCLUSION

The negative impact of decentralization is experienced by the regions whose facilities exceeds the other regions, especially the amount of revenue (PAD) . The disease of corruption has spread to many regions, the spirit of decentralization did well interpreted by actors decentralization of corruption involving local authorities and the executive, legislative and judicial parties. The main characteristics of local government officials who have engaged in corruption in the financial management area are: The regional apparatus, always make use of potential opportunities as the corruption field, for example by exploiting the weaknesses contained in article 3, paragraph (3) of Government Regulation No. 69 of 2010. These characteristics, supported also by the supremacy of weak law which is, not authoritative, less consistent and more concerned about the absence of the culture of shame for corruption; then the actions of the officers who commit acts of corruption, was also marked by the behavior of misusing authority or act against the law, it is supported by conduciveness of autonomous regions that, in this case the local government apparatus, the harness of government and bureaucracy system that is conducive to the contrary, why this is done because the absence of the control system of a strong community, and the lack of regulatory law firm, especially those relying on the legal system that does not follow from any infringement invention which is still weak and has not shown any readiness by the institution leadership. Prominent characteristics of the actions of the officers is that the organizational aspects of individual behavior (culture), organizational aspects, as well as aspects of the communities in which individuals and organizations are located. Other factors that are characteristic of the actions of the officers in the financial management area possessing dimension of corruption are: the motivation of the local officials for corruption, both motifs economic and political motives, the element of motivation is often found in the indictment and court decisions, that the local government officers are always motivated to commit acts of corruption, and is supported by the opportunity, and weak supervision in decentralized systems.

The essence of the implementation of regional autonomy that is mandated by a decentralized system, the goal of fiscal policy is the empowerment of the area and take care of his own household. Then the regional financial system that is used to take care of the household, requires government administration system and development with rigorous surveillance system, in order to be efficient and effective. Then the model of financial management is an effective model of financial management to realize and optimize good governance in local government, namely by using a model participatory planning and budgetting, is a political process to obtain a collective agreement through the activity of negotiation between all development of stakeholders. The political process is done transparently and flexibly so that people gain leverage in obtaining information in any development process underway and every stage of its development. In this case, more participatory planning as a decision making tool which is expected to minimize conflicts between stakeholders. Participatory planning can also be seen as an instrument of social learning collectively through interaction among all development actors. This learning will ultimately improve the capacity of all stakeholders in an effort to mobilize its resources widely. With the model of participatory planning and budgeting, the planning activities should be directed at regional level based on the issues that are relevant to development.

References

Amirudin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, PT. Rajagrafindo Persada; Jakarta, 2003.

Black, Henry Campbell, *Black's law Dictionary*, Edisi VI, West Publishing, St.Paul Minesota, 1990.

Bovaird, Tony and Elke Loffler (Eds). *Public Management and Governance*, New York : Routledge, 2003.

De Asis, Maria Gonzales, *Coalition-Building to fight Corruption, Paper Prepared for the anti-Corruption Summit*, World Bank Institute, November 2000.

Denhardt, Robert B, *The New Public Service. Serving*, Not Steering, M.E Sharpe, New York, 2002.

Kartorius Sinaga, *Sanksi sosial bagi Koruptor, sebuah keharusan*, dalam Kompas 1. 2003.

M.A. Moegini Djodjodirdjo, *Perbuatan Melawan Hukum*, PT. Ersco: Bandung 1985.

Mukhamad Rakhmat, Ringkasan Disertasi : *Dimensi Korupsi dalam Pengelolaan Keuangan Daerah Berdasarkan Peraturan Pemerintah Nomor 58 Tahun 2005 Tentang Pengelolaan Keuangan Daerah di hubungkan dengan Undang-Undang Nomor 20 tahun 2001 tentang Perubahan atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi*. Program Doktor: Universitas Islam Bangung, 2012.

Sudarto, *Hukum dan Hukum Pidana*, Alumni : Bandung, Cetakan keempat, 1996, hlm.115.

Susanto, AA. *Mengantisipasi korupsi di Pemerintahan Daerah*, diambil dari http://www.transparansi.or.id/artikel/artikelpk/artikel15.hml:45,2002.

Vito Tanzi, Corruption, *Governmental Activities, and Markets*, IMF Working Paper, Agustus 1994.

World Bank, World Development *Report - The State in Changing World*, Washington, DC, World Bank, 1997.