

KLEPTOCRACY OF BRIBERY IN PROMOTING POSITION IN INDONESIA THE PERSPECTIVE OF THE SOCIOLOGY OF LAW

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Abstract

Clean Government and Good Governance has realized yet in Indonesia. It is proven by selling and purchasing the positions in various places still exist. The process of rotation, transfer, and promotion of civil servant (ASN) that should have been given to the competent employees did not run as it should. The field investigation shows that the existence of power transaction that makes position as an object of commerce. This article aims to examine the kleptocracy of selling and purchasing the positions in Indonesia. The perspective used is the sociology of law. The research methodology implements a normative legal methodology through a qualitative approach and analysis of the fraud triangle theory, Gone theory, Ramirez Torres theory and Icebery Model theory. The result of the study concludes that bureaucrats are often not transparent, corrupt and tend to carry out transactional practices. For this reason, it is necessary to change the recruitment system and overall monitoring of civil servant (ASN) bureaucracy.

Keywords : *Kleptocracy, Sell and Purchase Positions, Sociology of Law.*

Abstrak

Clean Government and Good Governance masih belum terwujud di Indonesia. Salah satu indikatornya adalah masih terjadinya jual beli jabatan di berbagai tempat. Proses rotasi, mutasi, dan promosi Aparatur Sipil Negara (ASN) yang seharusnya diberikan pada pegawai berkompentensi ternyata tidak berjalan sebagaimana mestinya. Realitas di lapangan menunjukkan adanya perilaku transaksional kekuasaan yang menjadikan jabatan sebagai objek dagangan. Artikel ini bertujuan untuk mengkaji kleptokrasi jual beli jabatan di Indonesia. Perspektif yang digunakan adalah sosiologi hukum. Metode penelitian yang digunakan adalah metodologi hukum normatif melalui pendekatan kualitatif dan analisis teori fraud triangle, teori Gone, teori Ramirez Torres dan teori Icebery Model. Hasil penelitian menyimpulkan bahwa birokrat seringkali tidak transparan, koruptif dan cenderung melakukan praktik transaksional. Untuk itu perlu dilakukan perubahan sistem rekrutmen dan pengawasan secara menyeluruh terhadap birokrasi Aparatur Sipil Negara (ASN).

Kata Kunci : *Kleptokrasi, Jual Beli Jabatan, Sosiologi Hukum.*

INTRODUCTION

Kleptocracy has become an inseparable part of the bureaucracy administering practice in Indonesia.¹ The implementation of this kind of bureaucracy brings losses to society massively. Bureaucracy only benefits a small group of people who get certain privileges. In fact, the bureaucracy should provide fair services to all people regardless of class and type of service.² Kleptocracy is closely related to political intervention.³ According to the existing research, the kleptocratic atmosphere has enveloped Indonesia. There are two factors that are suspected to be the cause of the kleptocracy growth, namely the decline

¹ Anita Marwing, "Indonesian Political Kleptocracy and Oligarchy: A Critical Review from the Perspective of Islamic Law," dalam jurnal *Justicia Islamica*, No. 1 2021.

² Abdul Wahid, "Kolaborasi Kleptokrasi Birokrasi dan Korporasi," *Jurnal Yurispruden*, no. 1 tahun 2018).

³ Noore Alam Siddiquee and Habib Zafarullah, "Absolute Power, Absolute Venality: The Politics of Corruption and Anti-Corruption in Malaysia," *Public Integrity* 24, no. 1 2022.

in morals and political creeds. Morals basically direct the perpetrators to obtain some good habits. Good morals occur when someone understands religious teachings properly and the social environment supports them to behave well. Meanwhile, the creed plays a role in directing a person to behave and act in a measurable manner in providing useful values.⁴

Civil servant, in most cases, has relations with politicians. This relationship positively has a good function within the framework of working the government duties. The legislature, executive and judiciary ideally work together in operating their respective main tasks and functions. However, this relationship also allow some opportunities that substantively disserve the society. The satirical depiction for this situation is like bread and rats. Bread is the personification of bureaucrats meanwhile rats are the personification of politicians. The smell of the bread makes the rats scramble to taste indeed eat up the bread.⁵

This depiction is casuistic in nature. Not all bureaucrats and politicians build negative alliances. If a negative alliance occurs, this condition represents low credibility, less receptiveness, and lack of capacity.⁶ The current reality indicates the occurrence of various forms of deviation. Various efforts to prevent the selling and purchasing the positions, for example, have been made. UU no. 5 of 2014 concerning civil servant (ASN) and PP No. 11 of 2017 concerning Civil Servant Management are some rules that can make ASN work professionally.

This regulation directs the management of government apparatus to be built with a merit system that is competent, transparent, and competitive. The ultimate goal is the formation of ASN who are reliable, capable, and dedicated to the society. The management manifestation of the military with a merit system has been facilitated

⁴ Farabi Ferdiansyah, "*Wabah Kleptokrasi, Krisis Moral Dan Etika Politik*," (Jakarta: Kompasiana 2012).

⁵ *Ibid.*

⁶ *Ibid.*

through general recruitment for interpolation of high-ranking officials (Echelon I and II). Each stage is monitored by the ASN Commission.⁷

The existing regulations have actually been in such detail, that have outlined the provisions related to the apparatus and cut the loopholes for abuse.⁸ However, some behavior that breaks the rules is always found. An aspect that cannot be separated from this kind of perspective is practical politics. Practical politics in many cases has set a bad example that overshadows the bureaucracy in creating credible and competent officials.⁹

One form of violation that gets a lot of attention is the sale and purchase of positions.¹⁰ The Corruption Eradication Commission (KPK) has indicated that the crime of promotion of bribery or better known as the sale and purchase of positions within the local government is carried out in three ways, namely exploitation, bribes and gratification.¹¹ The practice of promotion of bribery indicates the interpolation of bureaucratic positions, both at the central and regional levels, which does not refer to reliability, competence, and good performance. The existence of such disgraceful practices is an obstacle to the process of bureaucratic reform. Positions obtained transactionally have implications for the orientation of collecting fund to cover the costs incurred. The implication is that public services are not the main priority.¹²

⁷ *Ibid.*

⁸ Nona Sandra Polihu, "Akuntabilitas Kinerja Aparatur Sipil Negara (ASN) Di Kantor Kementerian Agama Kota Manado," *Jurnal Administro: Jurnal Kajian Kebijakan dan Ilmu Administrasi Negara* 2, no. 2 (2021).

⁹ Andhi Kurniawan, "Brutalnya Jual Beli Jabatan Birokrasi," *DetikNews* (Jakarta, 2019), <https://news.detik.com/kolom/d-4475860/brutalnya-jual-beli-jabatan-birokrasi>.

¹⁰ Riris Katharina, "Reformasi Manajemen Aparatur Sipil Negara: Evaluasi Peran Pejabat Pembina Kepegawaian dan Komisi Aparatur Sipil Negara," *Spirit Publik: Jurnal Administrasi Publik* 13, no. 2 (2018).

¹¹ Rezza Aji Pratama, "Modus Jual Beli Jabatan: Pemerasan, Suap, Dan Gratifikasi," *Katadata.Co.Id* (Jakarta, September 6, 2021).

¹² B M Baru, "Promosi Jabatan Dan Transaksional Kepentingan Politik, Dan Hubungannya Dengan Profesionalisme Kerja Birokrasi," *Jurnal Sosial* (2017).

Promotional bribes are basically not private. This kind of bribery practice is becoming more and more common. The operations conducted by the KPK are partly in this kind of case. If we look closely, cases like this do not only take place in the government bureaucracy but also in other fields, including in the field of law enforcement. This kind of reality shows that corrupt behavior—including bribery of positions—is entrenched. It is not easy to parse it, because it is systematic.¹³

In this regard, this article reviews two things, namely the condition of the practice of sale and purchase positions in Indonesia in the midst of the kleptocratic culture and the efforts that can be made to minimize the practice of sale and purchase positions in the administration of the bureaucracy in Indonesia.

METHOD

The present study implements normative research methods. Operationalization of this method is conducted by means of reviewing and analyzing primary data sources in the form of library documents (literature, books, journals, written documents) and secondary legal materials (laws, legal theories, doctrines, opinions of legal experts).¹⁴ The selected data are relevant and related to the main problems discussed in this paper. Analysis of the data used is descriptive qualitative analysis. The materials that have been collected are analyzed and presented in descriptive form to obtain an overview of the data that is in line with the research focus.¹⁵

¹³ Masyhudi, "Membangun Sistem Integritas Untuk Pemberantasan Korupsi Dalam Sistem Peradilan Pidana Indonesia," *Jurnal Hukum Ius Quia Iustum* 26, no. 1 April 24, 2019.

¹⁴ Johnny Ibrahim, "Teori an Metode Penelitian Hukum Normatif," (Malang: *Bayu Media*, 2006).

¹⁵ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, dan R&D* (Bandung: Alfabeta, 2016).

THEORETICAL PARADIGM

The term of kleptocracy is taken from the Greek, a combination of *kleptes* (thief) and *kratos* (power). Kleptocracy (*the government of thieves*) is the terminology used to describe the model of power authority that “steals” people’s funds through various policies for the benefit of certain group and personal. This kind of power will always be attached to the behavior of manipulation, despotism, and criminalization. Kleptocracy is a form of kleptocratic power which steals people’s funds and exploits state assets through the power they have to benefit their families and friends by risking the the community benefit.¹⁶

The term bribery is taken from the French, *briberie*, which means “begging” or “vagrancy”. In Latin terminology it is called *briba*, which means ‘a piece of bread given to beggar’. In its development, bribe has changed its meaning to ‘alms’, ‘blackmail’ or ‘extortion’ which is related to its meaning with ‘gifts received or given in order to influence corruptly’ (rewards or commissions submitted for the purpose of abusive and fraudulent control). Bribery is a form of corruption. Corruption in various global literatures is defined as moral hazard, despicable behavior, or reproach (depravity, perversion, or taint); vandalism of personality, values, or moral principles (an impairment of integrity, virtue, or moral principles). Corruption is considered as extraordinary crime because its nature is criminological (causing other crimes) and viktimogy (the destructive potention covers various dimensions). In the mondial perspective, the crime of bribery, promotion of position can have a serious threat to the stability in all dimensions, both national values and ethics, including law enforcement.¹⁷

Poerwadarminta explains that bribery is giving some money or receiving bribes.¹⁸ Promotional bribery is the act of placing an individual

¹⁶ Wahid, “Kolaborasi Kleptokrasi Birokrasi dan Korporasi.”

¹⁷ A’an Efendi, “Interpretasi Modern Makna Menyalahgunakan Wewenang dalam Tindak Pidana Korupsi,” *Jurnal Yudisial* 12, no. 3 (2020).

¹⁸ W.J.S. Poerwadarminta, *Kamus Umum Bahasa Indonesia*, (Jakarta: Balai Pustaka, Jakarta 2003), 1147.

in a position without being guided by the professionalism, reliability and track record of his work.¹⁹ The main issue of bribery in this promotion lies in verse 53 of Law 5/2014 concerning civil servant which authorizes political officials to become ASN supervisor to determine, appoint, transfer, and dismiss ASN. The Corruption Eradication Commission (KPK) has indicated that there are three modes of bribery for this promotion, including the pre-election bond agreement; storefront model (position of ornament and rate); and the model of agreement between the ruler and the candidate of bureaucrat. Elected bureaucrats are obliged to pay tribute for them.²⁰

In this paper, there are four theories used by the author to analyze the existence of bribery (sale and purchase) positions. First, the Fraud Triangle Theory. Fraud triangle theory is a concept that examines the triggers for fraud. The originator is Cressey. He describes three aspects that are always present in fraud case: (1) Pressure. Fraud occurs due to impetus / urge or desire in one's life including habits (lifestyle), pressure for household needs, and everything that humans want. (2) Opportunity. The environment sometimes gives room for fraud to occur due to crumbly internal control and lack of supervision and misappropriation of power. Of all the elements in the fraud triangle theory, the element of opportunity is the aspect that can greatly reduce the potential for fraud to occur using the implementation of rules and supervision as an effort to track potential fraud. (3) Rationalization. Fraudulent action can appear because of justifications for behavior, character or moral cultural affinity to commit fraudulent acts by different groups or individuals who are in a situation of restraint that makes themselves sensitive to fraudulent behavior. Sensibility is a

¹⁹ W.J.S. Poerwadarminta, Kamus Umum Bahasa Indonesia, (Jakarta: Balai Pustaka, Jakarta 2003), 1147.

²⁰ Gaudensius Suhardi. 26 April 2021. Jual-Beli Jabatan, Editorial media Indonesia https://mediaindonesia.com/podiums/detail_podiums/2130-jual-beli-jabatan

fundamental element of fraud, because humans tend to justify their behavior.²¹

Second one, the GONE theory. Jack Bologne is an American academic who introduced this theory. The results of his research on the relationship between corruption and forensic accounting are published in his book (1993) entitled *The Accountant Handbook of Fraud and Commercial Crime*. This book was adapted by BPKP under the title '*Strategi Pemberantasan Korupsi Nasional*' (National Corruption Eradication Strategy).²² The emergence of the GONE theory is a form of confirmation of the previous theory, namely the fraud triangle. In essence, this theory explains the pretext of a corrupt person to commit fraud.²³

A person's urge to act in collusion and corruption is based on aspects that trigger fraud, namely GONE: greeds, opportunities, needs and exposures. Greeds and needs are related to personal character. On the other hand, opportunities and exposures are related to the target of manipulative behavior (victim).²⁴

The acts of bribery can appear when all aspects of G-O-N-E are met.²⁵ Human nature is never enough to be a driving force for deviant actions like what have done by corruptors. Because they do not have a sense of gratitude for the assets obtained, they are triggered to commit acts of deviation. One of the efforts to eliminate bribery is through

²¹ Rhety Ayu Dewayani, Anis Chariri. *Money Laundering dan Keterlibatan Wanita* (Artis): *Tantangan Baru Bagi Auditor Investigatif*. Journal of Accounting (4) 2015. 3 <http://ejournal-s1.undip.ac.id/index.php/accounting> ISSN (Online): 2337-380

²² BPKP. *Strategi Pemberantasan Korupsi Nasional*. (Jakarta: Puslitbang BPKP 1999).

²³ Himawan Yusufa, Jaka Isgiyartab. Analisis Praktik Penghindaran Pajak Di Bidang Impor Pada Kepailitan Perusahaan Ekspor Impor. *Jurnal BPPK* Volume 12 Nomor 1 Tahun 2019. 22

²⁴ Ola Rongan Wilhelmus, "Korupsi: Teori, Faktor Penyebab, Dampak, Dan Penanganannya," *JPAK: Jurnal Pendidikan Agama Katolik* 17, no. 9 (2018).

²⁵ Ina Purmini. 2011. GONE teori, obat untuk korupsi. Kompasiana.com <https://www.kompasiana.com/inapurmini/550aeb5ba33311b9102e3bcd/gone-teori-obat-untuk-korupsi>

exposure or disclosure. This aspect is very important in efforts to eradicate fraud through law enforcement which has a deterrent effect.

Third, the Iceberg Model Theory.²⁶ This theory was proposed by Roger Hart and Richard Spark. These two experts analogize the practice of corruption as an iceberg phenomenon that appears in sea water. If the top of the iceberg falls, a new peak will arise because the deepest ice floe is super large.²⁷ The deepest lump of ice is a corruption hazard (vulnerability to corruption) that can become a gap for individuals to commit corruption. Included in the scope of corruption vulnerabilities are four factors, namely: (1) Area or zone. This factor becomes a vulnerable point that can encourage corruption, such as the treasury (the revenue agency) for example the Tax Office, Regional Revenue Service; agencies using state money from planning, implementation to budget accountability; Zones where there is an imbalance in the income of employees/staff with the total circulation of money circulating in the agency.

(2) Individuals. People can become the vulnerable points that encourage corruption. Vulnerability in individuals can grow from temperament or due to environmental influences and hybrids (a combination of both). (3) Products, namely materials or entities that are vulnerable to corruption, such as state assets or confiscated goods. (4) Projects or programs are also vulnerable to corruption starting from licensing, procurement of goods/services to other activity programs.²⁸

The lowest strata also have several triggers for corruption, including: (1) Procedures that do not work properly, with many interventions and other influences. (2) The ethical credibility of bureaucrats and the culture of the people who have a compass cut

²⁶ Peran Inspektorat Kota Padang Dalam Pengawasan Dan Pencegahan Tindak Pidana Korupsi Hal. 12 <http://scholar.unand.ac.id/34635/2/BAB%20I.pdf>.

²⁷ Bibit Rianto, *Mengupas Anatomi Korupsi*, (Badung: Mizan Media Utama, 2010).²⁶

²⁸ *Ibid*

culture. (3) Inadequate reward system. (4) Weak supervision. (5) Crumbly legal institutions.²⁹

The History of The State Government Employee

Civil servant (ASN) is also known as the *amtenar*.³⁰ The history of ASN is very long. Its earliest trace was on September 25th, 1945. At that time there was an important statement by Mr. Kasman Singodimedjo as the Chair of the KNIP so that Indonesian workers from all positions and levels are appointed as the servants of state. The task of the Central Indonesian National Commission (KNIP) is to support the work of President Soekarno. These early ASNs were assigned to devote all their potential and abilities for the advancement of the newly established country.

As a follow-up to the development of the state apparatus, the Government established the Office of Employee Affairs (KUP) under the control of the Prime Minister through Government Regulation Number 32 of 1950. In the era of the AN Sastroamidjojo I Cabinet (1 August 1953 to 12 August 1955), the Government made improvements to the apparatus management system through efficiency programs and employee decomposition in an objective manner and strive to improve the welfare of the apparatus.

Entering the leadership of President Soeharto, in 1966 the Government Apparatus and Administration Control Team (PAAP) was created which worked to assist the President in formulating an organization and pattern of recruitment and development of the apparatus. The results of the PAAP Team's work were then implemented through Cabinet Presidium Decree No. 75/U/KEP/11/1966 concerning the organization and Structure of the Department, which regulates the organizational hierarchy from the Secretariat General unit, the Directorate General to the Inspectorate

²⁹ *Ibid.*, 27

³⁰ Herdi Alif Al Hikam. Sejarah Panjang PNS di Indonesia. [detikFinance. https://finance.detik.com/berita-ekonomi-bisnis/d-5090312/sejarah-panjang-pns-di-indonesia?single](https://finance.detik.com/berita-ekonomi-bisnis/d-5090312/sejarah-panjang-pns-di-indonesia?single) = 2020.

General. In its development, this regulation was updated through Presidential Decrees Number 44 and 45 of 1966.

The reform era was marked by some improvements in Korpri. This organization became neutral and focused on becoming a professional organization for the servants of the state. This choice is strengthened by the support of Law Number 5 of 2014 concerning Civil servant. This law has been in effect since January 15, 2014 after it was signed by President Susilo Bambang Yudhoyono.

Kleptocracy Culture

The positions in various lines of the bureaucracy are prone to transactional bribery. The results of the KASN research state that the practice of promotion of bribery at the district/city government level is very high, reaching 95%, the provincial government reaches 89.5%, state institutions reaches 49%, and at the ministry level reaches 39.5%.³¹ Bribery within the framework of this promotion is related to many interrelated aspects. Bribery for promotion of office has implications for the destruction of the system structure and also the legal culture. Position transaction results have implications for transactional performance.³²

In addition, bribes for promotions are also contrary to Law no. 5 of 2014 concerning Civil servant Article 51 which states that ASN management is conducted based on the Merit System. Merit System is the policy and management of ASN based on qualifications, competence, and performance in a fair and reasonable manner without distinction of political background, race, color, religion, origin, gender, marital status, age, or disability condition. Furthermore, Article 3 letter

³¹ Tommy Maring, 2021. Korelasi Dinasti Politik dan Jual Beli Jabatan 6 September 2021, <https://yoursay.suara.com/kolom/2021/09/06/101821/korelasi-dinasti-politik-dan-jual-beli-jabatan>

³² Tommy Maring. Korelasi Dinasti Politik dan Jual Beli Jabatan 6 September 2021, <https://yoursay.suara.com/kolom/2021/09/06/101821/korelasi-dinasti-politik-dan-jual-beli-jabatan> , 2021.

g states that ASN as a profession is based on the principle of professionalism.³³

Even though the system has been designed well, deviation practices still occur. The practice of sale and purchase position is referred to as a kleptobureaucracy, namely a bureaucracy that is led and controlled by kleptobureaucrats or bureaucratic thieves. This phenomenon has occurred in several government bureaucracies in Indonesia, both at the central and regional levels.³⁴

Weak integrity due to the drive of greed and the opportunity to do something makes kleptocracy happen. The term kleptocracy is used to describe the model of power authority that “steals” people’s funds through various policies to benefit the herd and individuals. This kind of power will always be attached to the behavior of manipulation, despotism, and criminalization.

Sale and Purchase of Positions in Indonesian Criminal Law

According to Criminal Law, the term bribery is formulated by “bribery of gifts or promises”³⁵, whether it is done actively or passively. The definition of “gift” is anything that has value³⁶. In the Law on the Crime of Bribery (UUTPS) Law No. 11 of 1980, it is stated that active and passive acts are conducted by bribe givers and bribe recipients. The main difference between the definition of bribery in UUTPK and UUTPS can be seen from the requirements proposed. In UUTPS, there are no requirements regarding the term public official which has a relationship between power and position. The requirement for the existence of the term public interest does not include in UUTPK.

In Law. No. 11 of 1980 concerning the Crime of Bribery is implemented in facilities related to the public interest, so that the crime

³³ Law No. 5 of 2015 concerning State Civil Apparatus

³⁴ Anantikrama Tungga Atmadja dan Nengah Bawa Atmadja, *Sosiologi Korupsi: Kajian Multiperspektif, Integralistik, dan Pencegabannya*, (Jakarta: Kencana, 2019), 74

³⁵ Indriyanto Seno Aji, *Korupsi dan Hukum Pidana*, (Jakarta: Diadit Media, 2006), 307.

³⁶ Andi Hanzah, *Pemberantasan Korupsi Melalui Hukum Pidana Nasional*, (Jakarta: PT. Raja Grafindo Persada, 2005). 96

of bribery has competence in all fields. Article 2 of Law No. 11 of 1980 is often referred to as bribery in the active form, because the article clearly states giving or promising that the recipient of the bribe does or does not act in accordance with the duties that are contrary to his authority and obligations. Meanwhile, Article 3 of Law No. 11 of 1980 also mentions bribery in the form of Passive because the perpetrator accepts something or promises to do something or not to do something that is contrary to his authority or obligation.³⁷

The Criminal Code contains articles regarding the offense of active bribery (Article 209 and Article 210) also for passive bribery (Article 418, Article 419 and Article 420) which were later withdrawn in Article 1 Paragraph (1) sub c of Law Number 3 1971 which is now Article 5, Article 6, Article 11 and Article 12 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Likewise with active bribery in the explanation of Article 1 Paragraph (1) of Law Number 3 of 1971 (now Article 13 of Law Number 31 of 1999) and the offense of passive bribery in Article 12B and Article 12C of Law Number 20 of 2001. Since the enactment of Law Number 31 of 1999. Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, perpetrators who give bribes (active bribery offenses) and those who accept bribes (passive bribery offenses) are subjects of corruption crimes and the placement of status as these subjects does not have absolute exceptionality.

The meaning of bribery has been expanded, the introduction of regulatory norms for eradicating corruption has placed *Actief Omkoping* (active bribery) as the subject of criminal acts of corruption, because so far the bribery offense in the Criminal Code only regulates *Passief Omkoping* (passive bribery). Bribery offenses are not always tied to the perception that money or gifts have been given, but the mere existence of promises is still the object of bribery. The existence of an attempt (poging) of bribes is considered a completed offense, which means that

³⁷ *Ibid.*, 96

the preconditions for the implementation of the alleged bribery are already considered a criminal act of corruption. The recipient is obliged to prove that the gift is not a bribe, therefore the defendant will prove that the gift is not related to his position and does not conflict with his obligations or duties, while the element of receiving a gift or a promise must still be presumed by the Public Prosecutor.

Bribery consists of two types, namely: first, active bribery. An active bribe is a party who gives or promises something, either in the form of money or goods. This bribery aims to mobilize a state administration official or civil servant so that in his position s/he does or does not do something that is contrary to her/his obligations. Even though the official in question refuses to give or promise, the act of the legal subject has fulfilled the formulation of the offense and can be charged with an active bribery offense, considering that the act has been completed (voltoid). Second, passive bribery, namely those who receive gifts or promises, either in the form of money or goods. Both types of bribery are forms of corruption.³⁸

Efforts to Prevent the Practice of Selling and Purchasing Positions

The performance of the bureaucracy depends on the officials who manage and run the bureaucracy. The less optimal performance of the bureaucracy is influenced—among other things—by the sale and purchase factor of positions. The commodification process that occurs in positions in the ranks of the bureaucracy has implications for the inefficiency of bureaucratic performance. The weakness that occurs in the bureaucracy is the practice of corruption which is not easy to eradicate.

The practice of sale and purchase positions will still continue. It seems that it is not easy to break this link of kleptocracy. Serious efforts must be made to eradicate it. One of them is through the creation of a system that does not provide an opportunity for kleptocracy to occur.

³⁸ <http://repository.unpas.ac.id/43871/2/BAB%20II.pdf>

As long as the system remains intact, the opportunity for kleptocracy is still open to occur.

CONCLUSION

Structuring a professional apparatus management system as the implementation of Law no. 5 of 2014 concerning civil servant, was injured by the fruitful practice of bribery for promotion of positions within the framework of kleptocracy by political dynasties of regional heads. This article finds that the emergence of the crime of bribery for promotion in the apparatus is not only due to external factors. The strong influence of culture and the internal pattern of the bureaucracy has also created the growth of the practice of corruption itself. The high political cost of the Pilkada is allegedly one of the factors that exist.

Bureaucracy which is the spirit of an institution should provide effective and efficient service output because of the rigid institutional arrangement. However, in reality, on the contrary, there is inaction and is counterproductive in terms of performance due to the breakdown of the system as an excess of corrupt behavior and bribery transactions for promotions that place incompetent individuals. Therefore, it is necessary to have control over employee recruitment and overall supervision of the apparatus.

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