



Law Enforcement Model of Village Fund Corruption Through Adat Criminal Law Approach and Local Wisdom in West Sumatera

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ABSTRACT

Corruption in Indonesia has its own characteristics. Corruption crimes committed at the village level have caused losses to state finances. Law enforcement model of corruption in village funds are required to be effective and firm, in order to be able to resolve and to reduce the number of corruption in the future. This paper discusses the pattern of corruption in West Sumatera, especially in the cities of Solok and Pariaman, and discusses the prevention model used against corruption. The methodology used to answer these problems is normative juridical research. The results of the study found that the pattern of corruption tended to vary in each region, such as double budget, mark-up, unilateral withdrawal of nagari funds by nagari administrators. However, there is a pattern that is always found in every case, namely not making a deposit of tax collection results, the tax money is intentionally not deposited and used for personal interests which causes state financial losses. Furthermore, rule of laws are taken repressively using Indonesian criminal law, as well as preventively by establishing a nagari regulation that uses a customary criminal law approach. West Sumatera has its local wisdom that is still alive and well maintained, even the community respects customary criminal law more than positive law, therefore preventive efforts by using the customary criminal law approach are expected to be able to create nagari that are free from corruption. In an effort to prevent corruption of village funds and Village Fund Allocation (ADD) by village officials, the government of Nagari Situjuh Batua, Situjuh Limo Nagari District, Lima Puluh Kota Regency, West Sumatera, made legal rules based on customary law. The regulation is stated in the Situjuh Batua Nagari Regulation Number 8 of 2019 concerning Prevention of Corruption, Collusion and Nepotism Based on the Salingka Nagari Customary Law.

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1. Introduction

The problem of the Indonesian nation that continues to occur and has never stopped is the problem of corruption. Corruption is like a disease that will continue to grow even though it is often treated. Various forms of corruption have been carried out, ranging from bribery, embezzlement in office, to gratuities. The perpetrators of corruption are not only high officials but also the lowest officials in this country, such as village heads.

Based on the records of Indonesian Corruption Watch (ICW), corruption in village funds continues to increase from year to year. In 2015 it reached 22 cases, in 2016 it increased to 48 cases, and rose again to 98 and 96 cases in 2017 and 2018. Based on data from ICW, from 2015 to 2020, there were 676 defendants

in corruption cases from village officials. State losses in cases of corruption in village funds reached Rp. 111 billion.¹

Along with the increasing cases of corruption in village funds, there are various patterns of corruption in village funds.² Indonesian Corruption Watch (ICW) recorded more than 15 patterns of corruption in village funds. This pattern is based on hundreds of cases of corruption in village funds that have been investigated by law enforcement officials. Among the patterns of corruption in village funds is the existence of fictitious projects, which are carried out by entering a budget for work but the project never existed. In addition, there is a double budget pattern which is carried out by entering the budget for projects that have actually been completed. Furthermore, there is also a pattern of people who are in debt using village funds, but they are never returned.³

Taking into account the high rate of corruption in village funds, and various patterns of corruption in village funds, Indonesian Corruption Watch points out various factors that cause corruption in the village sector, including the lack of community involvement in the planning and monitoring process of village budgets, suboptimal village institutions such as the National Board of Trustees. Village Consultative Assembly (BPD), the limited potential of village heads and village officials, and the high political costs of village head elections.⁴ These factors have resulted in village fund corruption continuing to occur and increasing from year to year in Indonesia.⁵

In an effort to prevent corruption of village funds and Village Fund Allocation (ADD) by village officials, the government of Nagari Situjuh Batua, Situjuh Limo Nagari District, Lima Puluh Kota Regency, West Sumatra, made legal rules based on customary law. The regulation is stated in the Situjuh Batua Nagari Regulation Number 8 of 2019 concerning Prevention of Corruption, Collusion and Nepotism Based on the Salingka Nagari Customary Law. The formation of this Nagari Regulation, in addition to supporting the eradication of corruption by the KPK, the National Police, and the prosecutor's office, was also made to respond to President Jokowi's enthusiasm in building Indonesia from the village. The Nagari Situjuh Batua regulation is the only village level regulation that regulates the prevention of criminal acts of corruption in village funds through customary law in Indonesia.⁶

Customary or adat criminal law is the original unwritten Indonesian law through statutory regulations containing elements of religion, followed and obeyed by the community continuously, from one generation to the next. Violation of the rules and regulations is seen as being able to cause turmoil in society. Therefore, the violator is given customary sanctions through their customary administrators.⁷

Various studies regarding the prevention of corruption have been carried out, Robert Klitgaard, et al, in his book "Prosecution of Corruption Eradication in Local Governments," states that corruption must be eradicated because it has become the main problem which has caused tremendous anger on the part of

¹ Guritno, Tatang. (2021). *ICW: Perangkat Desa Dominasi Terdakwa Kasus Korupsi, Dana Desa Perlu Diawasi Ketat*, <https://nasional.kompas.com/read/2021/03/22/18093371/icw-perangkat-desa-dominasi-terdakwa-kasus-korupsi-dana-desa-perlu-diawasi?page=all>, accessed July 2, 2021.

² Yunus, Nur Rohim, and Latipah Nasution. (2022). Optimalisasi Kinerja Komisi Pemberantasan Korupsi dalam Penanggulangan Korupsi Dana Desa. *Justitia: Jurnal Ilmu Hukum dan Humaniora* Vol. 9. No. 3: 1278-1292.

³ Nasional Tempo. (2019). *ICW Beberkan Pola Korupsi Dana Desa*. <https://nasional.tempo.co/read/1270091/icw-beberkan-pola-korupsi-dana-desa/full&view=ok>, accessed July 1, 2021.

⁴ Indonesian Corruption Watch. (2018). *2018 Village Fund Outlook, Potential Misuse of Village Budgets in the Political Year*. Jakarta, accessed July 2, 2021.

⁵ Lamusu, R., & Ismail, D. E. (2021). Model Penegakan Hukum Terhadap Tindak Pidana Korupsi Dana Desa. *Philosophia Law Review*, 1(1).

⁶ Haluan Daily. (2020). *Prevent Corruption of Village Funds, Situjuh Batua Made Rules Based on Customary Law*. <https://langgam.id/prevent-korupsi-dana-desa-situjuh-batua-form-aturan-Hukum-adat/>, accessed July 2, 2021

⁷ Aria Zurnetti. (2020). *The Position of Customary Criminal Law in Criminal Law Enforcement and Its Relevance With National Criminal Law Reform*, Depok: PT. RajaGrafindo Persada, p. 1.

the citizens and society. It generates new resolve among politicians to eradicate it.⁸ The government's anti-corruption efforts have varied, such as establishing new legal instruments and institutions.

Corruption hinders development and business in Indonesia. Corruption creates a high cost economy, meaning that the selling price of goods and services in Indonesia is high. The business world is affected. The investment needed to increase business activities becomes very expensive, because every economic process must pass through a door called corruption.⁹

The responsibility for fighting corruption lies not only in the hands of law enforcement, so to secure village funds in the Situjuh Batua village, indigenous peoples are proactive by forming a nagari regulation that has its own sanctions to prevent the misappropriation of village funds and budgets.

The facts show that so far the prevention of corruption is only through a national legal approach without paying attention to the legal values that live in society. One of the indigenous peoples who still adhere to the noble values of customary law is the Minangkabau community. Minangkabau customary criminal law recognizes the Nan Duo Puluah Law, which is divided into the Nan Salapan Law and the Nan Duo Baleh Law. Given the high rate of corruption in village funds, it is necessary to anticipate to minimize corruption in village funds through customary law approaches and local wisdom of the community. As has been done by the Nagari Situjuh Batua government, Fifty Cities District which formed the Nagari Regulations to prevent corruption of village funds.

Based on the background stated above, this paper analyzes and examines several questions:

- a. How is Pattern of Corruption in Village Funds in West Sumatra?
- b. How is efforts to overcome corruption in West Sumatra Province?

2. Method

The research method used are both normative legal research and empirical legal research. Normative legal research will be carried out by analyzing secondary data such as regulations, court decision, and latest article regarding the topics. Additionally, empirical legal research is also used to examine the background of the birth of the nagari regulation on overcoming corruption in village funds in West Sumatra and how it is implemented in the society.

3. Analysis and Results

3.1 Patterns of Corruption in Village Funds in West Sumatra

Corruption has begun to spread to village funds. Corruption crimes that occur in villages have different patterns. Starting from double budgets, fictitious projects, borrowing village funds for personal interests, to disbursing funds by collaborating with other village officials.

ICW noted that there has been a spike in cases of corruption in village funds over the last three years. According to data submitted by ICW in 2016-2017, there were 110 village heads who became suspects. Meanwhile, in 2018 there were around 102 people who were suspected of corruption. The position of being a village head is included in the top 5 perpetrators of corruption in Indonesia.¹⁰

In West Sumatra Province, the crime of corruption in village funds is quite high. Corruption crimes use different approaches and patterns. In this paper, we will analyze the pattern of criminal acts of corruption committed in Solok and Pariaman areas of West Sumatra.

⁸ Robert Klitgaard et al. (2005). *Prosecution for the Eradication of Corruption in Local Government*. Jakarta: Yayasan Obor Indonesia, p. 9.

⁹ Corruption Eradication Commission (KPK). (undated). *Recognizing and Combating Corruption*, Jakarta: KPK, p. 6.

¹⁰ Tempo. (2019). Statement of the Coordinator of the Legal Division of Iaw, Tama S Langkun. During an interview with Tempo Magazine on Saturday, November 9, 2019.

Nagari is a genealogical and historical Customary Law Community Unit, has boundaries in certain areas, has its own assets, has the authority to choose its leader by deliberation and regulates and manages the interests of the local community based on the philosophy and customary code, Adat Basandi Syara' -Syara' Basandi Kitabullah and/or based on local origins and customs within the province of West Sumatra.¹¹ Nagari is at the same level as the village, so in this paper the village will be referred to hereinafter as the nagari.

3.2 Corruption Crimes in Solok City

Solok is one of the districts in West Sumatra Province. This paper will highlight and analyze four court decisions on corruption case.

3.2.1 Decision Number 1612 K/Pid.Sus/2019

It is a Cassation Decision filed by the Defendant and the Public Prosecutor of the Solok District Attorney. With the defendant named Budi Santoso. He is the former treasurer of the Tanjung Alai Walinagari Office, X Koto Singkarak District, Solok Regency. He is convicted to corrupt for the 2015 and 2016 fiscal years. Budi had cost the state Rp. 162.1 million. The basis for the execution of the convict was the decision of the Supreme Court of the Republic of Indonesia Number: 1612 K/Pid.Sus/2019. Budi Santoso was found guilty and sentenced to prison for four years, and a fine of Rp. 200 million subsidiary to six months in prison.

The corruption committed by the defendant with the following patterns: reduce payments for goods and services expenditures carried out by the section head where the work done is 100% complete. requested by the section head for the work that has been completed. The next pattern is not to deposit SILPA and the proceeds from tax collection by the defendant. The deposit should be made immediately after the collected money is received, so that the money gets clarity on the status that has been deposited.

The judge's decision on this appeal is correcting the Corruption Court Decision at the Padang High Court Number 22/TIPIKOR/2018/PT.PDG., dated November 14, 2018 which revised the Corruption Court Decision at the Padang District Court Number 13/Pid.Sus TPK/2018/PN.Pdg ., dated September 13, 2018 regarding the length of the penalty in lieu of a fine being; Sentencing the Defendant Budi Santoso, therefore with imprisonment for 4 (four) years and a fine of Rp. 200,000,000.00 (two hundred million rupiah), provided that if the fine is not paid, it is replaced with imprisonment for 6 (six) months.

Based on this decision, it can be concluded that the judge remained with his initial decision, and rejected the appeal filed by the defendant and the public prosecutor's services at the Solok District Attorney. However, there is a correction related to the length of the sentence in lieu of a fine to impose a sentence on the defendant BUDI SANTOSO, with a prison sentence of 4 years and a fine of Rp. 200,000,000.00.

3.2.2 Decision Number 12/Pid.Sus-TPK/2020/PN. Pdg

This is the First Level decision that tried Jumadil as the Nagari Wali Nagari Wali Nagari Sungai Janiah in 2013-2018, the defendant Jumadil as the person who carried out together with witness Tukiman as the Nagari Treasurer in committing acts against the law to enrich himself and others, namely Witness Tukiman who resulted in the occurrence of state financial losses in the financial management of the Sungai Janiah village in 2017 and 2018 amounting to Rp553,127,111. The budget managed by the defendant and witness Tukiman at that time was RP.2,003,903,842,-

The criminal act of corruption committed by the defendant and Witness Tukiman is an act of cooperation in harming state finances. To try the defendant and witness Tukiman, a separate case file was prosecuted. Based on the analysis of the decision Number 12/Pid.Sus- TPK/2020/PN. Pdg, the

¹¹ Regional Regulation of West Sumatra Province Number 7 of 2018 concerning Nagari

pattern of corruption used are: blaming the nagari treasurer entirely for using the nagari finances for personal interests, where actually both the Wali Nagari (the defendant) and the Nagari Treasurer (witness/defendant II) are involved; Cooperate with the nagari treasurer to secretly disburse the nagari's finances for personal gain; Not depositing the results of tax levies from each action that has carried out certain activities. The budget cuts that should have been used entirely for the construction of the KAN office, so that the KAN office was not finished because the money had been corrupted; Disburse own funds without the approval of other nagari apparatus for personal interests.

In this case, the judge's decision are declaring that Defendant Jumadil has been legally and convincingly proven guilty of committing the “Criminal Acts of Corruption together” as the Primary Indictment; Sentencing Defendant Jumadil with imprisonment for 4 (four) years and a fine of Rp. 200,000,000.00 (two hundred million Rupiah) provided that if the fine is not paid, it is replaced with imprisonment for 2 (two) months.

3.2.3 Decision No. 18/Pid.Sus/TPK/2019/PN-Pdg

It was a decision at the First Level that tried Zulfatriadi as Wali Nagari at Nagari Talang Bungo, Solok 2018. The defendant caused state financial losses of Rp. 403.073.115,-. The defendant cooperated with Darmiatis the Treasurer of Nagari Talang Bungo, Solok (whose charges were tried separately). If the state financial losses between the defendant and the nagari treasurer are combined, there will be a state loss of Rp. 800. 115,728 million, this sizable state loss caused public concern for the integrity of the nagari officials.

The corruption were carried out with the following pattern: the defendant together with witness Darmiatis inflated (Mark- Up) the Excavator usage fee for the construction work by Rp. 119,744,500,- (one hundred nineteen million seven hundred forty four thousand five hundred rupiah). Whereas Nagari Talang Babungo FY 2018 there are 9 (nine) development activities with a budget of Rp. 1,116,857.00; Conflict of interest in the procurement of goods and services, related to this the defendant and the nagari treasurer appointed a CV of the provider of goods needed for development in absolute terms without making a price comparison first; Double budget, by entering an excessive budget with the required budget, so that the wages of workers who are declared to have been paid are not equal to those reported, there are even workers whose budgets have been paid but in fact have not received a penny; The defendant and the nagari treasurer unilaterally deducted the payment of the Jorong Head's fixed/honorary income in October, November, and December, causing a state loss of Rp. 16. 500,000; The defendant made a loan to SILPA funds that were not returned in the amount of Rp. Rp.123,383,000; Does not control the performance of the treasurer so that the tax that has been collected is not deposited; Not depositing the tax levy that has been paid on the expenditure of goods and services that must be deducted or the tax paid which consists of a state tax of Rp. 51,881. 966. And the Regional Tax of Rp. 10,887,932, with a total of: Rp. 62, 769,898.

The judge's decisions on this case are: declare that Defendant Zulfatriadi has been legally and convincingly proven guilty of committing a criminal act of Corruption which was carried out jointly; Sentencing the Defendant Zulfatriadi with imprisonment for 4 (four) years and 6 (six) months and a fine of Rp. 200,000,000 (two hundred million rupiahs) provided that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months; Sentencing the Defendant to pay compensation in the amount of Rp. 403,073,115, - (four hundred three million seventy three thousand one hundred and fifteen rupiahs) within one month after this decision has permanent legal force, if he does not pay his property will be confiscated and auctioned by the Prosecutor to cover the replacement money provided that if the convict does not have sufficient assets, he is sentenced to imprisonment for 2 (two) years;

3.2.4 Decision No. 19/Pid.Sus/TPK/2019/PN-Pdg

It is a decision at the first level that tried Darmiatis, S.Pd called Mimi. He is the Treasurer of Nagari Talang Bungo. Those who have committed acts against the law for personal interests and caused state

losses amounting to Rp. 397,042,613. The act was carried out jointly with the Wali Nagari Talang Bungo Zulfatriadi. The defendant cooperated to mark-up the cost of using the excavator.

The pattern of corruption committed by Mimi as treasurer of Nagari Talang Bungo is as follows: not depositing the tax levy that has been paid on the expenditure of goods and services that must be deducted or the tax paid which consists of a state tax of Rp. 51,881. 966. And the Regional Tax of Rp. 10,887,932, with a total of Rp. 62, 769,898; The defendant together with witness Zulfatriadi were accused by the Public Prosecutor of inflating (Mark-Up) the Excavator usage fee for construction work by Rp. 119,744,500,-

The judge's decision on this case are: the defendant is convincingly guilty of committing the criminal act of Corruption which is carried out jointly as stated in the Primary indictment; Sentencing the Defendant Darmiatis S. Pd alias Mimi with imprisonment for 4 (four) years, and a fine of Rp. 200,000,000 (two hundred million Rupiah) provided that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months; Sentencing the Defendant Darmiatis S. Pd alias Mimi to pay compensation in the amount of Rp. 397,042,613 (Three hundred ninety-seven million forty-two thousand six hundred and thirteen rupiahs) at the latest within one month after this decision has permanent legal force, if he does not pay then the property is confiscated and auctioned by the Prosecutor to cover the replacement money with the stipulation that if the convict does not have sufficient assets, he is sentenced to imprisonment for 2 (two) years;

Based on the explanation above, it can be concluded that there is always a relationship between power from the occurrence of a criminal act of corruption. Three of the four corruption cases that occurred in Solok were conspiracies or cooperation to commit corruption crimes between the Wali Nagari and the Treasurer of the Wali Nagari. The two actors are people who are directly elected by the community, but they betrayed the public's trust by committing criminal acts of corruption.

Furthermore, the pattern by not depositing tax levies is the pattern that occurs in the four cases above. The non-payment of tax levies is carried out by agreement of the nagari guardian and treasurer, and due to the absence of supervision by the nagari guardian on the performance of the treasurer, so that the non-payment of taxes occurs due to a unilateral decision by the treasurer.

Of the four cases above, only one decision in which the defendant committed many of the patterns that are usually used in criminal acts of corruption is found in Decision Number 18/Pid.Sus/TPK/2019/PN-Pdg, a criminal act of corruption committed by Zulfatriadi as a Nagari Mayor of Nagari Talang Bungo Solok.

3.3 Corruption Crimes in Pariaman City

Pariaman is one of the cities in West Sumatra Province. There are several cases of corruption that will be studied for patterns and allegations of corruption that occurred in Pariaman City.

3.3.1 Decision No. 36/Pid.Sus-TPK/2020/PN.Pdg

The Corruption Crime Court at the Class IA Padang District Court which examines and adjudicates cases of Corruption Crimes with the usual examination procedure at the First Level Court against Syamsuar alias Ambo, who served as Wali Nagari Sungai Sariak 2014-2020. Doing unlawful acts for personal interests and harming state finances. The total loss to the state is the state amounting to Rp. 146.460.673.55

In the city of Pariaman, the crime of corruption in nagari funds is inseparable from the existing strategic positions. A pattern that is carried out by deliberately managing all funds for nagari development activities so that the finances can be used by the accused for his own interests. Furthermore, a fictitious project in which the defendant stated and made a letter as if it would and had been carried out even though it was not fully carried out and some even did not take place.

Based on this the judge decided as follows: declaring that the Defendant Syamsuar alias Ambo has been legally and convincingly proven guilty of committing a "Corruption Crime" as stated in the Subsidiary Indictment; Sentencing the Defendant Syamsuar alias Ambo with imprisonment for 1 (one) year and 6 (six) months and a fine of Rp. 50,000,000.- (Fifty Million Rupiah) provided that if the fine is not paid, it will be replaced with imprisonment for 4 (four) months; Sentencing the Defendant Syamsuar alias Ambo to pay compensation in the amount of Rp. 146,460,673.55 (one hundred and forty six million four hundred sixty thousand six hundred seventy three point fifty five rupiah), not later than 1 (one) month after the verdict obtain permanent legal force, if the convict does not pay, his property is confiscated and auctioned by the Prosecutor to cover the replacement money, provided that if the convict does not have sufficient assets, he is sentenced to imprisonment for 6 (six) months.

3.3.2 Decision Number : 10/Pid.Sus-TPK/2020/PN.Pdg

This is a first-level decision that tried Bujang Suryadi alias Bujang who is an entrepreneur (Chairman of the Nagari Koto Kaciak Micro Credit Assistance Fund Working Group for Fiscal Year 2009) and Amril alias Am is a Civil Servant (Nagari Secretary). The two defendants were proven to have violated the provisions of Article 3 Jo. Article 18 of the Corruption Crime Act Jo. Article 55 paragraph (1) of the Criminal Code

The two defendants committed criminal acts of corruption for personal interests with the following patterns of corruption: Committing a criminal act of corruption due to the direction of the Wali Nagari; Lending money to other people who have no interest with the micro credit funds that have been provided; Distributing micro credit funds to Wali Nagari and to Amril; Disbursement of micro credit funds but distributes them to the public that are not in accordance with the appropriate index.

Based on the crime, the judge decided as follows: declaring the Defendant Bujang Suryadi alias Bujang and the Defendant Amril alias Am has been legally and convincingly proven guilty of committing the "Criminal Acts of Corruption together" as stated in the Subsidiary Indictment; Imposing a Criminal to the Defendant Bujang Suryadi alias Bujang and the Defendant Amril alias Am with imprisonment for 2 (Two) years and a fine of Rp. 50,000,000.- (Fifty Million Rupiah) provided that if the fine is not paid, it will be replaced with imprisonment for 1 (One) Month; Sentencing the Defendant Bujang Suryadi alias Bujang to pay the Replacement Money of Rp. 13,000,000.- (Thirteen Million Rupiah) and the Defendant Amril alias Am as much as Rp. 10,000,000.- (Ten Million Rupiah) provided that if the Defendant does not pay the replacement money no later than 1 (one) month after the court's decision has permanent legal force, then his property can be confiscated by the Prosecutor and auctioned off to cover the replacement money, in the event that the defendant does not have sufficient assets to pay the money, then it is replaced with imprisonment for 1 (one) month.

Based on the two decisions and cases above, there are differences between the patterns of criminal acts of corruption committed, because the acts of corruption were carried out by actors who have different positions, so they have distinctive patterns as well.

3.3.3 Data on Corruption Crimes that have been Dismissed and are Under Investigation in Kota Pariaman

There are five criminal acts of corruption in villages in Pariaman. One of them has an *incraht* decision, and the other four are in the process of being investigated, so it can be said that it is still conjecture. Related to the biggest state financial loss, it was in the case of a corruption case involving capital participation in the Lumbang Mas Village Bumdes, Manggung Village in 2018, which was Rp. 212,000,000,000 Million.

3.4 Model for Combating Corruption Crimes from Village Funds in West Sumatra

Cases of corruption occur in almost all levels of government, from the central level to the village level. Even though it is included in a small group, the village government has the opportunity to commit criminal acts of corruption in village funds and activities that lead to criminal acts of corruption. On October 5, 2017, according to President Jokowi, from about 74,000 villages that received village funds, there were approximately 900 villages whose village heads were arrested for misappropriating village funds.¹² This figure is quite large.

In West Sumatra Province, cases of corruption are present in a relatively high number. It was proven that on Monday, May 17, 2004 Dozens of West Sumatra DPRD members were found guilty of committing a criminal act of corruption in the 2002 West Sumatra Regional Budget with a total value of Rp. 5.9 billion. As a result, 40 West Sumatra DPRD members were sentenced to 2 years in prison and a fine of Rp. 100 million, subsidiary to 2 months in prison.¹³ Then there are many districts in West Sumatra with very high corruption cases. Cases of corruption in 2012 were recorded in the infrastructure sector as many as 39 cases, social or community assistance cases as many as 23 cases, then followed by the financial sector as many as 22 cases.¹⁴ Then in 2019, nine civil servants were fired for committing criminal acts of corruption in a number of village apparatus organizations.¹⁵

Based on the two facts above, the province of West Sumatra rose up with the spirit to eradicate corruption to the maximum by using approaches that are quite unique in their non-penal efforts, these steps are taken to be able to suppress the increasing number of corruption.

3.4.1 Through the Role of the Judicial Process (Repressive)

Legal remedies through the judicial process will be taken if a criminal act, especially corruption is occur. The legal policy against corruption in the province of West Sumatra still refers to the positive law applicable in Indonesia and the customary law of Nagari. The handling of criminal acts of corruption is still guided by Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as has been amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 2001.

Article 1 of the Anti-Corruption Law explains that: "Everyone who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state's finances or the state's economy, is sentenced to life imprisonment or a minimum imprisonment of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah). A person who commits an unlawful act by providing a loss to state finances will be subject to criminal sanctions.

The Anti-Corruption Law does not provide limits on who can be sentenced by the law, all parties who are proven to have committed acts against the law and proven to be detrimental to state finances will immediately be processed under the Anti-Corruption Law, whether a minister, mayor, governor, regents, even the president will still be processed.

In West Sumatra, where corruption cases are quite high, it always prioritizes deliberation efforts first to resolve all problems that are present, especially when these problems are at the village/nagari level. For example, in the case of corruption in Jorong Bungo Tanjung Nagari Sungai Janiah, Gunung Talang District, Solok Regency. The criminal act of corruption was carried out by a nagari guardian together

¹² Tempo (2019), <https://cekfact.tempo.co/fakta/115>. Accessed On Saturday, 02 October 2021 At 16:44.

¹³ Liputan 6. (2019). 17 Mei 2004, *Korupsi Berjemaah 40 Anggota DPRD Sumbar Berujung Vonis 2 Tahun Bui*. <https://www.liputan6.com/news/read/3967623/17-may-2004-korupsi-berjemaah-anggota-dprd-sumbar-berujung-vonis-2-tahun-bui> Accessed On Saturday, October 02, 2021 At 17:15.

¹⁴ Republika. (2012). *Ini Kabupaten terbanyak Kasus Korupsi di Sumatera Barat*. <https://republika.co.id/berita/Meu75c/Ini-Kabupaten-Most-Kasus-Korupsi-Di-Sumatera-Barat> Accessed On Saturday, 02 October 2021 At 16:50.

¹⁵ Kompas. (2019). *Korupsi, 9 ASN di Sumbar Dipecat*, <https://regional.kompas.com/read/2019/06/11/16011891/korupsi-9-asn-di-sumbar-dipecat> Accessed on Saturday, 02 October 2021 at 17:20.

with the nagari treasurer by taking the village finances secretly and used for personal interests. This case is requested to be resolved first by means of deliberation without directly reporting it to a third party.

The third party above is the police. If the initial effort to resolve the problem without a third party does not go smoothly, then the next process is to use the judicial process. In the judicial process, all provisions contained in the Anti-Corruption Law will be used.

3.4.2 Through the Customary Criminal Law (Preventive)

Prevention is an effort made by the community and government institutions so that a crime can be suppressed. In West Sumatra, especially with the model of overcoming corruption using preventive methods, it uses customary criminal law. Customary criminal law that lives and always develops in West Sumatra. West Sumatra made its intellectual actors include elements of customary criminal law in the making of Nagari Laws which are expected to be able to prevent corruption.

The Nagari Regulation is the lowest regulation in the government order in Indonesia. However, even though it is the lowest regulation, the Nagari Regulation is the initial regulation that is faced by the nagari community which contains elements of mutual nagari. Simply put, the Nagari Regulation has a legal character that is in accordance with the legal needs of the community. *Salingka Nagari* is norms or rules that applies and exists in a certain nagari, of which in West Sumatra Province there are 803 Nagari.¹⁶ So there are 803 kinds of differences in terms of customary law of mutual neighbours. Even so, it doesn't eliminate the law, *nan duo puluh*,¹⁷ as the basis of all these customary regulations in West Sumatera.

Corruption is a criminal act that is considered shameful (*hino*)¹⁸ by the people of West Sumatra. So that various efforts were made to eradicate it and prevent it. To eradicate corruption in Nagari level, do not directly use national law in its settlement. Because an act that disturbs public order and cosmic is considered to be able to be returned to its original state if it is resolved by deliberation and consensus.

When a criminal act of corruption is found in a nagari government institution, the community and other nagari apparatus will ask the party concerned to make a financial return that has been used outside the interests of the institution. And asked to resign from the position he held. If the return process is not successful, then it will immediately be processed according to the national law or the judicial process.

The most striking prevention effort that attracts the attention of many people in West Sumatra is the effort to prevent criminal acts of corruption, collusion and nepotism using the mutual customary law approach of Nagari which was formed by Nagari *Situjuh Batua* through its nagari regulations.

The Nagari regulation is expected to be able to prevent the occurrence of criminal acts of corruption in the *Situjuh Batua* Village. As well as being able to instill values of anti-corruption, collusion and nepotism in all Nagari adat institutions and the community.

Nagari *Situjuh Batua* considers criminal acts of corruption, collusion, and nepotism to be *hino* acts that should not be carried out on Nagari *Situjuh Batua*, because they are considered contrary to the *Nan Duo Puluah* Law and the *Salingka Nagari* Customs. Corruption, collusion and nepotism are seen as acts that the Nagari *Situjuh Batua* government must fight. With the establishment of Nagari Regulation Number 8 of 2019 concerning Prevention of Corruption, Collusion, and Nepotism Based on Customary Law, the *Salingka Nagari* is expected to be able to prevent corruption in the future, as well as an effort to

¹⁶ Central Bureau of Statistics of West Sumatra Province (2022), *Number of Villages/Kelurahan/Nagari by Regency/City in West Sumatra, 2002-2019*. Accessible On Number of Villages/Kelurahan/Nagari by Regency/City in West Sumatra, 2019-2021. Accessible On <https://sumbar.bps.go.id/indicator/101/284/1/jumlah-desa-nagari-dan-kelurahan-menurut-kabupaten-kota.html>. Accessed On Friday 15 April 2022

¹⁷ The *Nan Duo Puluah* Law is the Criminal Law Law for the Customary Law Community of West Sumatra. The *Nan Duo Tens* Act is divided into two, the *Nan Salapan* Act and the *Nan Duo Baleh* Act.

¹⁸ *Hino* is a forbidden and disgraceful action by the people of West Sumatra. *Hino's* actions, if carried out, will be subject to very strict customary sanctions.

realize a clean and transparent government to the public, especially in Nagari Situjuah Batua. This Nagari Regulation was enacted on December 20, 2019 by the Wali Nagari Situjuah Batua, Don Veski (DT. Tan Marajo).¹⁹

Customary criminal law is a law that is respected by customary law communities, if customary law communities violate the provisions of customary criminal law they will feel ashamed and unable to meet anyone, this is due to the strength and respect of customary criminal law itself. Therefore, the idea arose to include customary criminal law in the nagari regulations so that people will rethink many times before violate it.

Hino acts are actions that are unable to be disciplined in the usual way, so the formation of nagari regulations using a customary criminal law approach is one of the solutions. This makes Nagari Situjuah Batua not yet found any criminal acts of corruption, collusion and nepotism in their Nagari.

Preventive efforts using the customary criminal law approach will be completed by several customary institutions, namely:

- a. BP2AS;
- b. Customary chief (*Pucuk Adat*);
- c. Ulama;
- d. Ninik Mamak;
- e. Chief of the Tribe (*kapalo suku*);
- f. Dubalang.

Every criminal act will first be processed according to adat and brought to sit together in the settlement. This is intended so as not to worsen the situation by involving law enforcement officers. So the six traditional leaders above will play a role in mediating the crime.

This preventive effort is an effort that has a significant role in suppressing the spike in corruption, collusion and nepotism. Because with prevention, everyone will know the consequences of an action if it is done.

Based on this, West Sumatra is one of the provinces that has a high enough enthusiasm to eradicate corruption, although it cannot fully control it, but this prevention effort will be effective if it is always monitored and respected.

4. Conclusion

The pattern of corruption in each village/nagari is not always the same. The combination of all patterns of corruption in the cities of Solok and Pariaman, namely, not paying taxes, fictitious projects, double budgeting, mark ups (inflating funds), borrowing village/nagari funds, withdrawing village/nagari funds personally for personal interests, committing withholding payments, the pattern is done purely for personal gain. These patterns are carried out by authorized officials (wali nagari and nagari treasurers) together.

There are two efforts to overcome corruption in West Sumatra Province (Solok City and Pariaman City). The first is a repressive effort, which is an effort that uses positive law as its basis. The second is to use

¹⁹ Felia Hermayenti (2021), *Prevention of Corruption Crimes Through a Customary Criminal Law Approach in Nagari Regulation Number 8 of 2019 In Nagari Situjuah Batua, Situjuah Limo District, Fifty Cities Regency, West Sumatra Province*, Thesis: Andalas University.

non-penal means, namely using the customary criminal law approach of the Mutual Nagari. By establishing a nagari regulation by including customary sanctions in it.

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