



Sociolegal aspects on traps of corruption for state apparatus

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Abstract

The word corruption includes various meanings, including the act of rotting, damaging, bribing, even shaking and twisting. Corruption is the act of public officials, both politicians and civil servants, as well as other parties who are involved in these actions, unfairly and illegally, in misusing the public trust that is empowered to them to gain benefits for themselves and their groups. Based on this understanding, corruption contains an element of fraud, such as distorting facts and data with various rhetorical techniques or situation definitions dramatized by the perpetrators. Although basically no human action is good or bad, but by thinking makes it so. As the scientific philosophy that a theory is a way to understand a situation that interferes with something so as to enable people to effectively bring their repertoire of habits, and more importantly, is to change habits or even throw them away altogether, and replace them with new ones as the situation demands. Such explanations provide inspiration for a theoretical start that without a proper theory, work to prevent fraud may be quite disruptive.

Keywords: sociolegal, corruption, apparatus

Introduction

It was discussed by civil society organizations in one province, for example, through local judicial monitoring by the Aceh Transparency Society which showed that state apparatuses were often trapped in corruption cases, among others, in recent years. The results of local transparency's analysis of court decisions as many as 157 of the 293 defendants of state apparatus were involved in corruption cases at the trial at the Banda Aceh Corruption Court from 2013-2017. In 2017 there were 39 apparatuses who had obtained a permanent decision from the court, and that illustrates that the large number of apparatuses involved in corruption, for 4 years an average of 39 people, and shows that there are serious problems in governance in Aceh. The government's commitment to bureaucratic reform and prevention of corruption, which has been alleged by the government, does not seem to meet these expectations if one looks at the trend in the range of decisions in 2013-2017. To what extent does the formal-judicial corruption case describe the sociological imagination of the Acehnese people and their cultural intricacies as part of the Indonesian nation, which is shaping its political and economic identity, both privately and publicly.

The naturality of fraud and corruption

Some analysts hold to the view that the art of deception is by no means unique to humankind. The people of Aceh who are rich with experience of the social revolution get various inspirations and challenges in the field of fraud and corruption. The existence of the Acehnese people today, perhaps, is the result of the dialectical process of conflict and consensus for peace. In fact, the ability to cheat is the most basic survival tool for most of the animal kingdom. When humans are in a situation of conflict and war with each other, the animal-lust to kill each other in order to maintain their existence is in many ways following the instincts of the animal kingdom. The horned frogs inflated themselves in the air as an image to exaggerate their size. Countless animals -- and some plants too -- are adept at

camouflaging themselves, either to make it look easier to eat or to catch prey more easily. While these primitive forms of deception are not the result of a lengthy mental process, but adaptations that have evolved over the years, they illustrate the value of deception in getting what one wants.

Capuchin monkeys can also learn misleading practices in human training environments, such as deliberately making wrong choices to deceive competitors (Premack and Woodruff, 1978) ^[6]. But real deception requires animals with more developed brains. True deception requires the ability to 'Theory of Mind', meaning the ability to relate mental states; beliefs, intentions, desires, pretense, knowledge and so on, for oneself and others and to understand that other people have different beliefs, desires and intentions from one's own, and human society in Aceh is no exception.

Recent research has shown that chimpanzees are capable of real deception. In a test in which a Chimpanzee is asked to use a trick technique to snatch food from a human competitor, Chimpanzees pretend not to care, and based on understanding what humans can see and hear, or don't see or hear, is deliberately and they commit fraud (Melis, Call and Tomasello, 2006) ^[5]. Man's closest cousin, the Chimpanzee, is capable of real deception, but we are still talking about a fairly simple deception, based on the desire for immediate gratification. Scientist observers, who have the advantage of being able to see the big picture, are able to see things through Chimpanzee deception without any effort. Human deception is on an entirely different level of sophistication. We are all, relative to the lesser species, masters of deception. Experience as small children, they confess 'we are trying to manipulate our parents', and when we are manipulated, we learn their tricks. We learned to bluff and keep our poker face on when needed. In competition, we allow our opponents to underestimate our abilities. "All wars are deception" as Sun Tzu said in the ancient Chinese book on the art of war.

The persistent presence of corruption, however, requires explanation. We all know about the tools used to fight

corruption: good parenting of children, including anti-corruption education and teaching in higher education settings; appreciation for honesty; penalties for theft and lying; teaching of professional ethics during training; workplace supervision system; law enforcement; stigmatization of thieves and fraudsters, and recently in our country there is a dishonorable discharge of civil servants who are convicted of their positions. But greed persists. We also know that few things are just as efficient at binding people together as sharing secrets and deceitful codes or having a common enemy in the context of a conspiracy. Those shared secrets may result in certain loans every now and then, ranging from official or company cars for personal use, personal safety nets during work hours, or stealing paper and pencils for the children, knowing that others are doing the same. What is acceptable at the playmate level of course varies depending on the culture of the organization and the (regional) group, but that's all of course as far as the most common enemies are The Rules, The Law or The Superior. Therefore, on a small scale, corruption and petty theft in the workplace can actually create positive feelings and bonds of trust and confidence among office staff. It can even increase emotional affiliation with one's workplace and increase the effort and attention put into it. Could it be an attempt to pay back the debt? For whatever reason, corruption, to a certain degree, may be considered fair in everyday practice, in certain regimes or government orders in our country it provides certain social benefits, and can even increase productivity. Then why is the state, in this case the KPK against it in every possible way, risking a good atmosphere? Is implementing a 'zero tolerance' policy on fraud and corruption really worth the cost? Isn't some degree of fraud and corruption part of the nature or even inherent in our nation's culture?

How corrupt biology

To cut a sociobiologist short: survival of the fittest is something else than survival of the most virtuous and law-abiding. In the words of the Swedish entrepreneur, Marcus Storch (2006) ^[7], it is put this way: "it is profit seeking that makes business leaders think in a long-term perspective, to care about his reputation, it is to pay his bills, and to keep the various agreements he has made. have it."

However, if scam after scam is profitable, and you can get away with it, why not vote? The market mechanism and the human ego-gene don't really care much about moral or legal arguments. On the other hand, genetic influence turns out to be very pragmatically based, and that foundation supports any strategy that could lead to financial success or a reproductive outcome (Dawkins, 1976; Wilson, 1975). Those belonging to gene-selfish and pragmatism make some people as opportunistic and selfish humans who might be released. They have developed the ability of many people to lie, break promises made directly or indirectly and steal, and succeed. Based on this simple logic, for example, culturally at the local level there is a 'tipu-Aceh', and based on that some writers draw the conclusion that the mechanism behind The Law of the Jungle, or The Market, has given birth to 'Human Fraudsters -- The Fraudsters'. This is as stated by Tomas Brytting in "The Anatomy of Fraud and Corruption" that in the beginning is fraud, and fraud is with humans. And fraud is human (In the beginning was Fraud, and Fraud was with Man. And Fraud was Man).

In practice, however, genetically induced behavior is less predictable than the rather vulgar interpretation of

'Darwinian market society' might be put forward. Sociobiologists have long struggled with the empirical fact that cooperation and trust in others, which may be harmful or even lethal to individuals, is very common. To engage in underhand competition is, in fact, not a dominant human trait. One explanation is that certain types of seemingly altruistic cooperation, such as showing trust in others or helping others without direct individual reward, benefit the group; at least in the long run. For example, this group is more successful hunters than each individual by himself. You scratch my back and I scratch yours. It is a reciprocal allowance (Axelrod, 1984) ^[2]. And because it also implies reproductive benefits -- if you take care of my children and I take care of you, they will all survive -- human nature contains opportunistic drives, cheating and the ability to cooperate with others. In fact, we are quite adept at developing trusted and trusting cooperative strategies. The cunning and selfish swindlers we carry within us are counterbalanced by reciprocal team players even though each of us in the game seeks justification by reasoning for certain good, as in educational contexts, through other codes such as gimmicks, and so on.

There is a risk that a fraudulent individual, a thief or a free rider, could take advantage of the results of this collaboration, and this happens in all societies, not only in Acehnese society when socio-political conflicts are called "cuw'ak". It would not be in the interest of the larger group. So in all socio-political organizations, human societies, primitive or rational-modern we also find the ability of the state and its apparatus to suspect and detect fraud, liars, and a tendency to variously punish and isolate those who engage in corrupt ploys that harm the state over the names of the people.

Thus, fraudulent behavior, according to this sociobiologically based theory, is nothing abnormal or awkward, but a strategic choice that we all carry with us as part of our behavioral repertoire in the personal and institutional sphere. Usually we only expose them under very controlled conditions, such as when making jokes, during certain matches, in sports or on stage, situations where we can expose sufficient deceptive skills. In everyday life, however, our cheating prowess is balanced by social cooperative strategies designed for the common good. If we are guilty of evil deception, we hide it well. Moral and legal social norms, both profane (state) and sacred (religious) can be seen as tools developed and supported by a certain group of people who are politically and economically superior to the state, such as the KPK to gain control over individual citizens. These controls will never be perfect (which would create an unbearable and possibly crippling situation). But when individuals perform some form of genetically influenced cost-benefit calculation of fraudulent and honest cooperation, social norms will have a significant influence on the outcome of the work. The ongoing tug of war between the biologically self-centered human-centred drive and the socially disciplined attitude of Acehnese implies that we can never design and manage a government or corporate bureaucracy that is completely devoid of fraud and corruption. The ideology of the state and the nation is more visible for deception and exploitation of institutional resources that benefit biological and social organisms. The whole is the inevitable consequence of allowing the free will of individuals in a working group to be.

It also means that cheating should not be understood as a form of incompetence on behalf of the fraudster, as an incomplete socialization of norms, or as a worsening of norms. Deception is almost a combination of normal social competencies plus various deceptive competencies, such as the ability to perform convincing actions, namely the ability to lie and pretend (Arvidson, 2007) ^[1]. Then sociologically, this competence was refined by Thomas as a situation definition: when men define situations as real they are real in their consequences. He distinguishes two kinds of situation definitions, namely the definition of a situation that is made spontaneously by an individual, and the definition of a situation made by the community – family, friendship (clique and club), community. In fact, morality in the form of rules or laws appears to regulate personal interests so that they do not conflict with the interests of the community; so that Aceh's deceit and corruption will occur. It is possible that all civil and military apparatuses have the urge to fulfill their individual and social biological desires, but a certain number are trapped and unable to control their security publicly in front of a state that has the face of the Corruption Eradication Commission (KPK).

Corruption is also called *rasuah*. In Latin: *corruptio* comes from the verb *corrumpere* which means rotten, damaged, shaken, twisted, bribed. Corruption is the act of public officials, both politicians and civil servants, as well as other parties involved in these actions who unreasonably and illegally abuse the public trust that has been authorized to them for one-sided gain. Based on this understanding, corruption contains elements of fraud, such as distorting facts and data with various rhetorical techniques or dramatizing situation definitions by the perpetrators.

Basically, ideally nothing is good or bad, but think about what makes it so (Hamlet). Abraham Kaplan (1964) ^[4], American philosopher of science, stated that “a theory is a way of understanding disturbing situations that enables us to effectively carry over our habit repertoire, and even more importantly, to change a habit or throw it out altogether, replacing it with a new one due to the demands of the situation”. The following words give us inspiration for a theoretical start. That without a proper theory, working to prevent fraud may be quite disturbing. The fact that fraud associated with managerial leadership not only exists, but is also a common phenomenon has raised a number of fundamental questions: (a) even though every society and culture condemns fraud, individuals with corrupt or deceitful personalities still achieve high positions in society, culture and society concerned. Why did that happen? (b) why would an individual of very high status and wealth in society suddenly risk everything by engaging in fraud and corruption? (c) why is it so difficult for people around fraud and corruption to realize what is happening to them? (d) are managerial fraud and corruption an expression of an underlying personality disorder or are they the work of an immoral criminal mind? Is there a difference? (e) are managerial fraud and corruption an individual phenomenon from the start, or are they an unavoidable (or even necessary!) dimension of any competitive business organization? (f) why do we call fraudulent business practices 'unethical' and not simply unreasonable, illegal or inefficient? (g) why the formalization of sharia has not been able to eliminate fraud and corruption?

Conclusion

The Organization of Developing Economic Countries (OECD, 2002) has suggested a definition of 'corruption' as “the active or passive abuse of the power of a Public official (appointed or elected) for personal financial or other gain”. This can be understood as an attempt to include everything from the payment of bribes to civil servants and the theft of public wealth, to the various dubious economic and political practices in which business people, politicians and bureaucrats enrich themselves. Basically, corruption appears in many guises. Bribery, extortion, fraud, trafficking, embezzlement, but also nepotism and cronyism (giving privileges to old friends) are all different manifestations of it.

However, some of these practices may not always be intended to benefit the individual directly. For example, a person bribes someone on behalf of his employer in order for the company to receive favorable treatment. If we take the OECD definition literally that would not be seen as an act of corruption. But, on the other hand, who would do such a thing without seeking some sort of personal gain as a side effect?

Literally (from Latin) corruption is related to the misinterpretation or distortion of the text. This brings the meaning of the term closer to the modern usage of the term 'fraud' as described in the Oxford English Dictionary (2008) ^[3]: “criminal fraud; the use of false representations to obtain an unjust advantage or to injure the rights or interests of another.

In addition to. Another definition is that the moral dimension is clear for the term corruption. Explicit and implicit references are often made to the needs of moral values such as: truth, justice, rights and interests of others. These are all core values that are in various discussions of both corruption and fraud. The most important point is to show that fraud and corruption are not only unwanted, illegal or abusive. All of these are violations of moral values that have earned the practice of fraud and corruption the nickname: “immoral” or “unethical”. The International Standards on Auditing issued by the International Standards Body on Auditing and Assurance (IAASB, 2008) defines fraud in a way that specifically names management and those charged with governance as possible perpetrators, placing fraud in an organizational context as: intentional by one or more individuals among managers or public servants, parties responsible for governance, employees, or third parties, involving the use of fraud to obtain unfair or illegal advantages”.

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