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Kuala Lumpur, Malaysia

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218.	CIBSSR-00346	Advertising Strategy Of Contents Message Of Soap Lux Decision Purchase In East Java
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Roles of Female Figures as State Caretakers at Legislative Institutions to Prevent Corruption Criminal Act in Yogyakarta Special District

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ABSTRACT

This research was conducted in Yogyakarta Special District (YSD) to know and analyze legal system dealing with corruption criminal act. Besides, it aimed at knowing and analysing roles of 30% women representatives at Legislative Institutes of YSD to prevent corruption criminal act. This was a socio legal research. This research used both normative and empirical legal research methods. The analysis was carried out by using qualitative method. The research results indicated that the substance of corruption legal system in Indonesia is already good but there were some weaknesses found in legal structure and legal culture dealing with corruption in YSD. Sociologically, women representatives at Legislative Institutions of YSD can prevent corruption criminal act by applying three key words written by Gus Dur showing empowerment of women, such as: “women who take initiatives”, “women are symbols of God Almighty” and “women are theological images” internally in carrying out their jobs and duties every day in their institutions. By behaving in such ways women representatives at Legislative Institutions of YSD can give good examples as clean personalities not only to their colleagues of the same institutions, but also for all other caretakers, civil servants and all members society in YSD in general to grow anti-corruption legal culture. Therefore it was suggested to make a guide book for good conducts based on those three key words in carrying out jobs and duties not only for caretakers at Legislative Institutes, but also at Executive and Judicative ones in YSD.

Keywords: Roles of 30% Women Representatives; “Women who Take Initiatives”; Women are symbols of God Almighty”; Women are Theological Images”; Anti-Corruption Legal Culture.

**ROLES OF FEMALE FIGURES AS STATE CARETAKERS
AT LEGISLATIVE INSTITUTIONS TO PREVENT CORRUPTION CRIMINAL ACT
IN YOGYAKARTA SPECIAL DISTRICT¹**

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ABSTRACT:

This research was conducted in Yogyakarta Special District (YSD) to know and analyze legal system dealing with corruption criminal act. Besides, it aimed at knowing and analysing roles of 30% women representatives at Legislative Institutions of YSD to prevent corruption criminal act. This was a socio legal research. This research used both normative and empirical legal research methods. The analysis was carried out by using qualitative method. The research results indicated that the substance of corruption legal system in Indonesia is already good but there were some weaknesses found in legal structure and legal culture dealing with corruption in YSD. Sociologically, women representatives at Legislative Institutions of YSD can prevent corruption criminal act by applying three key words written by Gus Dur showing empowerment of women, such as: “women who take initiatives”, “women are symbols of God Almighty” and “women are theological images” internally in carrying out their jobs and duties every day in their institutions. By behaving in such ways women representatives at Legislative Institutions of YSD can give good examples as clean personalities not only to their colleagues of the same institutions, but also for all other caretakers, civil servants and all society members in YSD in general to grow anti corruption legal culture. Therefore it was suggested to make a guide book for good conducts based on those three key words in carrying out jobs and duties not only for caretakers at Legislative Institutions, but also at Excecutive and Yudicative ones in YSD.

Keywords: *Roles of 30% Women Representatives; “Women who Take Initiatives”; Women are symbols of God Almighty”; Women are Theological Images”; Anti Corruption Legal Culture.*

1.Introduction

According to Ali Said, the problem of Indonesian women’s roles is not a new thing. Almost in all places of Indonesia since a long time ago, women roles have been carried out through various struggles from the simple up to the complicated ones, from the unforced up to the forced

¹ This article was written based on the research result funded by Atma Jaya Yogyakarta University, Indonesia.

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ones. The growth of Indonesian people illustrated us some woman fighter figures such as R.A. Kartini, Dewi Sartika and Cut Nyak Dien. R. A. Kartini really fought against feudalism which did not give chances for her society members to develop their ways of thinking and to arrange their life order. Dewi Sartika is a woman fighter figure who initiated education for her people. Whereas Cut Nyak Dien is a woman patriot who was not afraid to face the gun and who proved that to combat violence of the colonialists by using forces was not only the rights and obligations of men but also women. Fighting against colonialism was not the monopoly of men but women could do that as well⁴.

In this modern era Indonesian women are also involved as state caretakers at legislative, executive and judicative institutions. According to Adami Chazawi⁵, both Law No. 31, 1999 on Eradicating Corruption Criminal Act and Law No. 20, 2001 on The Change of Law No. 31, 1999 on Eradicating Corruption Criminal Act do not give definition about state caretakers, but only mention those who are involved in the category of state caretakers. Dealing with state caretakers, the Explanation of Article 5 paragraph (2) of Law No. 20, 2001 states that state caretakers meant in this article are those who are mentioned limitatively in Article 2 of Law No. 28, 1999 on Clean State Caretakers of Corruption, Colussion and Nepotism. The meaning of State Caretakers is also due to the other articles of this law.

Generally, the meaning of state caretakers is found in Article 1 point 1 of Law No. 28, 1999 which states that state caretakers are those who carry out legislative, executive and judicative functions or those whose main functions and duties are associated with the care of the state in accordance with the provisions of the prevailing laws. State caretakers as determined in Article 1 point 1 of Law No. 28, 1999 are not only found in the scope of central government but also in the scope of regional government. Regional Government according to Article 1 point 2 of Law No. 32, 2004 on Regional Government are the care of governmental affairs by regional government or regional legislative institutions in accordance with autonomous principles and auxiliary duties based on the large autonomous principle and auxiliary duties in the system and principle of The Unitary State of The Republic of Indonesia based on The 1945 Constitution.

⁴ Ali Said, 1981. "Pidato Pengarahan Menteri Kehakiman RI" dalam Seminar *Aspek-Aspek Hukum Peranan Wanita* yang diselenggarakan pada tanggal 24-26 Agustus 1981 di Bukit Tinggi, Penerbit Binacipta, , Jakarta, pages 23-24.

⁵ Adami Chazawi, 2006. *Hukum Pembuktian Pidana Korupsi: UU No. 31 Tahun 1999 Diubah Dengan UU No. 20 Tahun 2001*, Penerbit PT Alumni, Bandung, pages 184-185.

One of the obligations of state caretakers provided in Article 5 point 3 of Law No. 28, 1999 is not to commit corruption criminal act, collusion and nepotism. But in the reality corruption criminal act, collusion and nepotism are still widely practised by the state caretakers at the executive, legislative and judicative institutions both in the scope of central and regional governments. Apart from those widespread corruption criminal acts done by state caretakers in those three fields of power, there was a new development dealing with the administrative completeness of candidates of State Parliament members, Province Parliament members and Regency/City Parliament members which set 30% of woman representativeness as a condition provided in Articles 57 and 58 of Law No. 10, 2008 on General Election.

The General Explanation of Law No.10, 2008 states that in accordance with Article 22E paragraph (6) of The 1945 Constitution, general election for members of State Parliament, Regional Parliament, Regency and City Parliament is carried out by guaranteeing representativeness principle. The essence of representativeness at least 30% at legislative institutions is hoped not only to fulfill the principle of representativeness determined in Article 22E paragraph (6) of The 1945 Constitution, but it should also become an indication that the position of women is more balanced and rather similar with men both in rights and obligations and status and roles as mentioned by Ali Said above. In other words woman representativeness is also a form of woman empowerment which according to Sumijati Sahala⁶ is a condition in which women do actions from themselves because of challenges which they have to face.

Based on the above description, this article would like to answer two problems as follows:

- a.How is the legal system dealing with corruption criminal act in Indonesia?
- b.What are roles of 30% women representatives at Legislative Institutions of YSD to prevent corruption criminal act?

2. Research Methods

This was a normative legal research based on the secondary data involving both primary legal material and secondary legal material. The approach used was juridical normative approach. Whereas analysis was carried out by using qualitative approach which according to F.

⁶ Sumijati Sahala, 2002. *Mainstream Gender dan Upaya Pemberdayaan Perempuan di Bidang Hukum*, BPHN Depkumham, Jakarta, p. 9.

Sugeng Istanto⁷, is the analysis of Jurisprudence about the content of positive law provisions. The truth found out from the analysis of this legal research is mostly the qualitative one, that is the truth which is in accordance with the norm that determines certain prerequisite which should be fulfilled. The norm was based on some laws such as Law No. 28, 1999 on Clean State Caretakers from Corruption, Colussion and Nepotism, Law No. 31, 1999 on Eradicating Corruption Criminal Act as revised by Law No. 20, 2001 on The Change of Law No. 31, 1999 on Eradicating Corruption Criminal Act, Law No. 32, 2004 on Regional Government, Law No. 2, 2008 on Political Parties and Law No. 10, 2008 on General Election.

3. Discussion and Analysis

3.1. The Legal System Dealing with Corruption Criminal Act in Indonesia

According to Lawrence M. Friedman⁸, legal system included three main subsystems, such as: legal substance, legal structure and legal culture. Legal substance includes regulation, norm and a set of rules; legal structure includes legal institutions; and legal culture includes values which are embraced. Friedman then stated that from those three subsystems, legal culture is the most important thing because it includes attitudes, belief, hopes and opinions and views on law. Especially about legal culture, Satjipto Rahardjo⁹ states that legal culture includes values, tradition and other spiritual strength which determined how law is carried out in the society. A nation can implement a certain legal system, but in the reality it will be used or not depends on its legal culture.

From the legal substance point of view, discussion on legal history on corruption in Indonesia indicated that so many regulations dealing with corruption in Indonesia had been enacted since Indonesia struggled to eradicate corruption criminal act for the sake of realizing the welfare of the society. Many legal regulations had been enacted to combat corruption from the oldest, The Military Authority Regulation No. PRT/PM/06/1957 on Eradicating Corruption, up to the newest one, Law No. 20, 2001 on The Change of Law No. 31, 1999 on The Eradicating Corruption Criminal Act.

⁷ F. Sugeng Istanto, 2007. *Penelitian Hukum*, CV Ganda, Yogyakarta, pages 59-60.

⁸ Lawrence M. friedmen, 1977. *Law and Society: An Introduction*, Prentice Hall Inc. Englewood Cliffs, New Yersey, pages 6-7.

⁹ Satjipto Rahardjo, 2004. *Ilmu Hukum, Pencarian, Pembebasan dan Pencerahan*, Muhammadiyah University Press, Surakarta, pages 77-78.

From the legal structure point of view, the police, prosecutor and court institutions have authorities to carry out investigation, prosecution and trial for offenders of corruption criminal acts, but those three institutions failed and had no power to handle corruptors because the practice of law mafia. Malmanagement of law enforcement was studied by Hamid Awaludin¹⁰ who found out that corruption spread out because of bureaucratic obstacles. Law enforcing agents who constitutionally should investigate and handle offenders of corruption criminal acts very often faced big and strong walls of bureaucracy. Even the regime of Soeharto and the military institutions were not only superior but also untouchable institutions. Investigations toward Soeharto and military members at his time always failed at all lines.

The law enforcement has a close relationship with legal culture, even legal enforcement has become the picture of legal culture in our country. Dealing with legal culture it seems that there was no difference between Soeharto's era and Reformation era in corruption. Corruption Eradication Commission of The Republic of Indonesia (CECRI)¹¹ reported that:

“Corruption is considered a very serious challenge in Indonesia. The country in the past acquired reputation of being one of the most corruption-prone countries in the world. This impression results from perception studies involving the (foreign) business sector and the local population. Analysts have described the system established during Soeharto's “New Order” regime as a form of “crony capitalism”, relying on patronage and nepotism, and creating quasi-feodal structures in the civil service. When President Soeharto stepped down under popular pressure in 1988, the following governments created anti-corruption units and action plans; the new institutions were, however, typically left with limited resources, insufficient competencies and a lack of competent staff. There was no real commitment to break with the past. In consequence, the quasi-feodal structures remained largely in place even when President Soeharto was no longer in power”.

From the above description it can clearly be seen that penal law, especially corruption law has limited power to eradicate corruption. Therefore in eradicating corruption criminal act, the penal approach should be integrated with the non penal one which is focused on preventive efforts based on the expression “to prevent is more effective than to eradicate.” According to

Leden Marpaung the essence of prevention is to make obstacles in order the corruption

¹⁰ Hamid Awaludin, 2001, “Korupsi Semakin Ganas”, Kompas 16 Agustus, p. 6.

¹¹ Corruption Eradication Commission of The Republic of Indonesia (CECRI), 2006, *Gap Analysis Study Report: Identification of Gaps between Laws/Regulations of The Republic of Indonesia and The United Nations Convention Against Corruption*, CECRI, Jakarta, pages 3-4.

criminal act will not happen by carrying out maximum efforts to diminish reasons why corruption criminal acts happen in the society, among others are mental and character building, human attitudes, legal system, management and welfare of state or government officers¹².

3.2. Roles of 30% Women Representatives at Legislative Institutes of YSD to Prevent Corruption Criminal Act

Abdurrahman Wahid as quoted by Komnas Perempuan¹³ stated that the discussion about women should be associated with religion and development, so that development which brought great changes would not be separated from cultural roots and religious values which have become the nation identification. He described three themes as follows:

“First, theological position of women. Generally the discussion about women was divided into two big groups: 1) religious group which gave women the role as “symbol of God Almighty”. This could be seen from the belief of the ancient Egypt, Hindu, Buddha, and even part of Christianity. We noticed Kali Goddess in Hindu religion, Kuan Him Goddess in Buddha Mahayana religion, Minerva Goddess in Babylonian religion, Venus Goddess in Syirian religion, and Holly Mother Mary in Catholic religion. 2) religious group which did not give position or use human beings as symbol of God Almighty. This group consisted of Moslem and Judaism, especially the Christian religion, although getting strict protest and purification, Holly Mother Mary has still been the symbol of God.

Second, the position of women in life. Women theologically have remained symbols of God’s image, and because women had been chosen as sources of God’s strength and origin, automatically in religions except Moslem and Judaism, the status of women is high. Therefore it is understandable if women have initiatives. So many matrilineal societies regarded women or mothers as managers of households. This tradition has prevailed in ancient religions, including people who live in Minangkabau, Indonesia, since the pra-Islamic era.

Third, religious picture of women. Religions have described women as sources of happiness and welfare. These are clearly seen in the pictures of Sri Goddess, Athena Goddess, Minerva Goddess, and Fortuna Goddess. Except Durga Goddess which has been controversial. However, Durga Goddess in India has been the symbol of men who brings goodness. In this case, goddesses or women have been described as givers of fertility, good luck, sanity, sciences and all positive things. These are all “theological pictures” which are translated in various concrete hopes”.

From those three themes written by Gus Dur, there are three key words which are attached to women, as follows: “symbol of God Almighty”, “women who initiate”, and

¹² Leden Marpaung, 2004. *Tindak Pidana Korupsi: Pemberantasan dan Pencegahan*, Edisi Revisi, Cetakan Ke-2, Dajmbatan, Jakarta p. 82.

¹³ Abdurrahman Wahid, 2010, “Perempuan, Agama dan Pembangunan”, dalam *Perempuan dalam Relasi Agama dan Negara* Komnas Perempuan, Jakarta, pages 74-75.

theological picture”. Those three key words attached to women are positive things, thus if they are associated with the context of this research, there would be hopes that female figures as caretakers at Legislative institutions could play positive roles to prevent corruption in Indonesia especially in YSD. At least those female figures will “take initiatives” to prevent corruption criminal act, and by so doing they really showed “Symbol of God Almighty” and theological pictures which are not separated from women.

Those three key words on women written by Gus Dur will become positive values or preventive actions, further can become forms of women’s empowerment that can be realized in their daily activities. Women’s empowerment is really needed in preventing corruption through 30% women representatives at Legislative Institutions, especially in YSD. By the enactment of Law No. 2, 2008 on Political Parties and Law No. 10, 2008 on General Election, according Y. Sari Murti W¹⁴, the picture of women’s actions is clearer because the policy of affirmative action adopted in those two laws. Other efforts should be carried out because laws are not enough to realize empowerment of civil society. Laws will be useless without other supporting element, especially good morality in eradicating corruption criminal act.

4. Conclusions and Recommendations

It can be concluded that the substance of corruption legal system in Indonesia is already good but some weaknesses were found in legal structure and legal culture dealing with corruption in YSD. Women representatives at Legislative Institutions of YSD can prevent corruption criminal act by applying three key words written by Gus Dur showing empowerment of women internally in carrying out their jobs and duties every day in their institutions. By behaving in such ways women representatives at Legislative Institutions of YSD can give good examples as clean personalities not only to their colleagues of the same institutions, but also for all other caretakers, civil servants and all society members of YSD in general to grow anti corruption legal culture. Therefore it was suggested to make a guide book based on those three key words for all caretakers at Legislative, Executive and Yudicative institutions in YSD.

¹⁴ Sari Murti W. 2008. “Kepemimpinan Perempuan dan Konsolidasi Masyarakat Sipil”. Dalam *Menembus Batas Politik Perempuan Indonesia: Mendobrak Tabir Budaya, Sosial, dan Agama*, Budi Asyhari-Afwan dan Subkhi Ridho (eds), Lembaga Studi Islam dan Politik (LSIP), Yogyakarta, pages 72-73.

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