

The Role of Ad Hoc Judges in Resolving Corruption Crime Issues

Christa Lumamuly¹ Loisa Marga Metekohy² Remon Bakker³

Pancasila and Civic Education Study Program, Faculty of Teacher Training and Education,
Universitas Pattimura, Ambon City, Maluku Province, Indonesia^{1,2,3}

Email: crista040298@gmail.com¹

Abstract

This research is a qualitative descriptive research that aims to find out how the role of ad hoc corruption judges is in resolving corruption cases. the problem of criminal acts of corruption in class 1 A Ambon district court. This research was carried out at the District Court/Industrial Relations/Tipikor/Fisheries Ambon Class 1 A. Primary data collection was carried out through interviews with a number of informants who were considered to be directly involved. The data collection techniques used were observation, interviews and documentation. The results of these interviews can show that ad hoc judges have carried out their duties and responsibilities properly in resolving the problem of criminal acts of corruption. At first they were dissatisfied with the performance of the career judges who handled corruption cases, but the presence of ad hoc judges helped them resolve cases properly.

Keywords: Role, Ad Hoc Judge, Corruption



This work is licensed under a [Creative Commons Attribution-NonCommercial 4.0 International License](https://creativecommons.org/licenses/by-nc/4.0/).

INTRODUCTION

The State of Indonesia is a unitary state based on the rule of law that applies in Article 1 paragraph 3 of the 1945 Constitution. It is further stated in Article 19 of Law Number 48 of 2009 concerning Judicial Power (Judicial Power Law) which states that "Judges and Constitutional Judges are officials a state that exercises judicial power regulated by law". Then in its development the status of this judge was also reaffirmed as stated in Article 122 letter e of Law Number 5 of 2014 concerning the State Civil Apparatus (UU ASN) which states that State Officials namely "Chairman, vice chairman, junior chairman and supreme judge at the Supreme Court Agung as well as the chairperson, deputy chairperson, and judges in all judicial bodies except ad hoc judges.

It should be noted that in this latest development, the ASN Law excludes ad hoc judges from the notion of "judges" who are categorized as state officials. This of course could become a potential problem in the future considering that the definition of "judge" in the Judicial Powers Law also covers ad hoc judges. As for the Constitutional Court Decision Number 32/PUU-XII/2014 which was read out on April 20 2015, the Constitutional Court (MK) upheld the concept that ad hoc judges are not included in the definition of judges who are categorized as state officials. The Constitutional Court is of the opinion that the appointment of ad hoc judges is carried out through a series of selection processes that are not the same as the process of recruiting and appointing judges as state officials in general.

In addition, the initial goal of forming ad hoc judges was to strengthen the role and function of the judicial power in enforcing law and justice in line with the complexity of existing cases. Ad hoc judges are non-career judges who have the expertise and ability to try a specific case. Basically the independence of the judiciary has two aspects, namely institutional independence or in other terms it is also called external or collective independence and individual or internal or functional independence. Individual independence is an independence that emphasizes the judge as the central point. This means that a judge in deciding a case must be based on the facts and legal basis he knows, and be free from

influence, pressure or threats, either directly or indirectly, from anywhere and for any reason. judges in examining and deciding the cases they face. The independence of judges is not only always related to their attitude and behavior at work, but must also be reflected in various arrangements related to matters that can improve their performance. For example, the selection process, length of service, coaching (training), promotion and transfer system, payroll system, and dismissal of judges.

From this explanation, until now only the salary of judges is not independent in practice because the judge salary system is still determined by the executive branch (Ministry of Finance). Even though the independence of the judiciary is so important in the concept of a rule of law state, it does not mean that the independence of the judiciary can be as free as possible. without any limit or absolute because in this world the power that is not limited is only the power of God Almighty. The Corruption Court was formed as an effort to eradicate corruption which is considered to be increasingly widespread and systematic. Judges have become an important subject in efforts to eradicate corruption through the establishment of corruption courts. However, the establishment of Corruption Courts in a number of regions has raised concerns regarding the number of judges available, especially ad hoc judges due to the rise in acquittals in a number of courts.

Law exists in all dimensions of our life. Like air, it is invisible, but there is no aspect of life that is not touched by the law. The presence of law can be felt not only when a person comes into contact with specific legal issues such as being involved in a legal case, for example. Law cannot only be felt when interacting with law enforcers (law). man) such as police judges, prosecutors or lawyers. There are so many laws that are scattered in certain fields that apply regularly and complexly which are better known as the legal system. The term ad hoc judge is used to refer to a person who is appointed as a judge for a certain period of time, is temporary in nature, and has expertise and experience in a certain field to examine, try and decide a case.

In addition, the purpose of forming ad hoc judges in court will support the role of career judges appointed by the Supreme Court. The ad hoc judges who are elected will carry out their duties to uphold justice according to their expertise in certain cases. For example, there is a corruption case in the forestry sector. In order to examine and decide on this case, apart from the need for career judges, ad hoc judges who are experts in the forestry sector are also needed. Furthermore, the role of ad hoc judges at class 1 A Ambon district court is to handle a corruption problem in accordance with their duties and responsibilities, but there are several mistakes in the field which are often covered up that ad hoc judges have not carried out their duties in accordance with applicable regulations.

RESEARCH METHODS

This study uses a qualitative approach. Bogdan and Taylor (1982) state that qualitative research is a research procedure that produces descriptive data in the form of written or spoken words from people and observable behavior; the approach is directed at the background and individuals holistically (Zuchi Abdussamad, 2011: 30). Data collection techniques that researchers use include: Observation is a data collection technique that is carried out by conducting research carefully, and systematically recording observation activities in this study carried out directly by researchers during the research process (Arikunto in Gunawan, 2014: 42), then Interview, namely the conversation with a specific purpose the conversation is carried out by two parties, namely the interviewer (interviewer) who asks questions and the interviewee (interview) gives answers to these questions. Thus, in interviews the author made direct contact with informants in order to obtain primary data and information (Burhan Bungin 2011: 155).

The data analysis technique that the researcher uses is the data analysis technique of the Miles and Huberman models. It has three stages, namely data reduction, data presentation, and conclusion. Data analysis according to Miles and Huberman can be described as follows (Miles & H in Basrowi and Kelvin, 2008: 209). Data reduction (data reduction) is a process of selecting, focusing attention, abstracting and transforming raw data taken from the field. The essence of data reduction is the process of merging and homogenizing all forms of data into an oral form to be analyzed. While Data Display (data display) After the data is collected, the researcher groups similar things into categories or groups so that it is easier for researchers to draw conclusions. And the conclusion is the final step in making a research report.

RESEARCH RESULTS AND DISCUSSION

What is the Position of Ad Hoc Corruption Judges in Class 1 A Ambon District Court

Ad hoc judges are temporary judges who have expertise and experience in certain fields to examine, try and decide a case. So, to find out about the position of ad hoc corruption judges in the district court, we first understand the explanation regarding what is a hoc judge and the benefits for the court and us as a society. There is so much understanding about ad hoc judges, why should there be ad hoc judges, while what we see is that there are already career judges who handle corruption issues. Having ad hoc judges can help career judges resolve corruption problems because there are some people who are not satisfied with the work of career judges to deal with corruption issues.

According to Ms. Agustina Lamabelawa, ad hoc judges are appointed based on a presidential decree, then the determination is based on a decision letter from the Supreme Court of the Republic of Indonesia. To be appointed, they must go through a national selection of ad hoc judge candidates. There will be several stages in selection, starting from administrative selection, If you pass, you will go to the written selection, if you pass again, you will go to the selection process for an interview, then determine whether you have passed or not passed, then a presidential decree. Our position is the same as other career judges whose topoxy is the same in this case examining and deciding cases but specifically for corruption. Apart from also having an opinion from Mr. Antonius Sammine, he said that it is true, only corruption cases are handled by ad hoc judges and why should there be ad hoc judges who do not come from career judges because so far it has been seen that career judges handle criminal acts Corruption crimes do not fulfill the sense of justice in the community so that the existence of a law related to corruption courts results in the presence of ad hoc judges in the composition of the panel of judges examining the case, so the Supreme Court is based on the order of the law.

From the information provided by the two ad hoc judges, it can be concluded that the presence of hoc judges in adjudicating and examining corruption cases is only found in special courts for corruption. In the consideration of the Law on the Corruption Eradication Commission point b it is stated "that government institutions that handle corruption cases have not functioned effectively and efficiently in eradicating corruption". Examination at both the appeal and cassation levels was carried out by a panel of judges consisting of 2 charitable judges and 3 ad hoc judges. So the reason for the inclusion of ad hoc judges in the corruption court is due to the low credibility of the institution trying previous corruption cases.

What are the Duties and Responsibilities of Ad Hoc Judges in Resolving Corruption Crime Problems at Class 1 A Ambon District Court

Ad hoc judges appear in the court system in Indonesia due to the need for "special expertise" in examining and deciding cases. These ad hoc judges are expected to be able to assist career judges in upholding justice. The factor of expertise in this panel of judges was

first mentioned in the Law on PTUN which was followed by the Commercial Court. Successively the presence of these ad hoc judges was followed by the Human Rights, Corruption and Fisheries Courts.

The Fisheries Court was held because of the need for a specific law enforcement method. Therefore, it is determined that ad hoc judges must come from universities in the field of fisheries, organizations in the field of fisheries, and have expertise in the field of fisheries law. The Tipikor Court does not explicitly mention expertise but emphasizes the concept of efficiency and effectiveness in examining corruption cases. Meanwhile, in the Human Rights Court it was stated that ad hoc judges needed "concern" for human rights. Ad hoc judges are needed in PTUN courts because there is an assumption that career judges, from a scientific point of view, are all generalists, so specialists are needed. If this is the reason for the formation of ad hoc judges in special criminal courts, this is precisely where the complications arise. Because in criminal procedural law it has been determined that if you need expertise in examining criminal cases, you can summon an expert whose statement is evidence. Every expert summoned by the court is obliged to come.

The concept of special expertise in adjudicating a case in a special corruption court as an ad hoc judge concept is actually not true. Because in the Corruption Court it was stated that ad hoc judges were needed to "increase the efficiency and effectiveness of law enforcement against criminal acts of corruption". The following is the result of the researcher's interview with Mr. Jacobus Mahulette, who is one of the young court clerks specifically for corruption. He stated that the ad hoc judges at the district court here had carried out their duties and responsibilities very well because they had carried out their responsibilities in examining and deciding corruption cases properly. Having an ad hoc judge at the district court here really helps us in dealing with non-criminal corruption cases, besides that it can also strengthen the role and function of the judiciary in upholding justice and justice which is in line with the complexity of the existing cases.

From the information presented above, it can be analyzed that ad hoc judges are judges who are in a special court for urgent needs originating from the community or as a form of community participation in a trial. Ad hoc judges are a form of community representation that can follow and supervise activities in court directly. Ad hoc judges in corruption courts have the same contribution as career judges, justice owned by ad hoc judges depends on the individual judge of each and basically the obstacles faced by judges in realizing legal certainty, justice and expediency consist of appointment of judges, education of judges, mastery of science, morale of judges, and welfare of judges.

Discussion

The existence of ad hoc judges in adjudicating and examining corruption cases is only found in special courts for criminal acts of corruption. According to Luhut M. P. Pangaribuan, the history of ad hoc judges is basically due to the factor of the need for expertise and effectiveness of examining cases at the Special Court. In the consideration of the Law on the Corruption Eradication Commission point b it is stated "that government institutions that handle corruption cases have not functioned effectively and efficiently in eradicating corruption". Examination at both the appeal and cassation levels was carried out by a panel of judges consisting of 2 career judges and 3 ad hoc judges. So the background for the inclusion of ad hoc judges in the Corruption Court is due to the low credibility of the institution that tried previous corruption cases (Luhut M. P. Pangaribuan, 2009: 275). Ad hoc judges are appointed for a term of 5 (five) years and can be extended for 1 (one) term of office. Ad hoc judges only receive functional allowances every month and court fees while carrying out their duties as ad hoc judges at the Corruption Court. Ad hoc judges are convened in corruption

courts that have the same position as career judges in trying corruption cases. The composition of ad hoc judges in corruption courts is based on Article 26 of Law Number 46 of 2009 concerning Corruption Courts, the State Gazette of the Republic of Indonesia Year 2009 Number 155 that the number of judges must be an odd minimum of 3 people along with career judges sit together to try criminal cases which is their authority.

Law enforcement in Indonesia, which so far has been carried out to narrow the space for corruptors to move conventionally, has proven to have encountered various obstacles that have made people distrust the future of law enforcement in Indonesia, especially in terms of eradicating corruption. This decline in trust is due to the existence of law enforcement officials who are naughty so that the emergence of judicial corruption (judicial corruption) in the judicial environment. Therefore, law enforcement methods are needed in a special body that has broad authority, is independent and free from any powers in an effective and professional effort to eradicate corruption. Position and Authority of the Tipikor Court as an Independent Institution The Corruption Court has the authority to examine, try and decide corruption cases throughout Indonesia's jurisdiction. The cases in question are corruption, money laundering and criminal acts that have been determined by law.

The difference between the Corruption Crime Court and the Court in general lies in: the material of criminal acts which fall under the authority of the court is generally regulated in the Criminal Code, while the material for criminal acts which is the authority of the Corruption Court is regulated outside the Criminal Code. And in special courts there are career judges and ad hoc judges to sit together to try criminal cases which are their authority, the difference between the two is only in the source of recruitment (Pangaribuan: 2009). According to Chazawi, corruption is a criminal act of crime, dishonesty, and can be bribed, immoral, deviation from chastity, insulting and slanderous words or speech. On the basis of whether or not corruption can harm the state and or the country's economy are: Criminal acts of corruption that can harm the state's finances or the economy; Corruption crimes that do not require it can cause losses to state finances or the country's economy (Chazawi: 2005).

According to Igm Nurdjana, corruption is not a crime of abuse of public power and trust for personal gain. And the elements of corruption are: Abusing power; Entrusted power (ie in the public or private sector), has access to business or material benefits; and Personal gain (also for family members, and friends). Because corruption can be detrimental to state finances and is an extraordinary crime, it is necessary to have a free and independent judiciary, such as the Corruption Court. Research on the evaluation of the performance of the Corruption Crime Court in Indonesia began with monitoring the Tipikor Court which was formed in every district court in provincial capitals throughout Indonesia after Law Number 46 of 2009 concerning Corruption Courts. The establishment of Tipikor Courts in each provincial capital provides space for the handling of various corruption cases in the regions.

Various expectations are given to new corruption trials considering the success of the Tipikor Court at the Central Jakarta District Court as the first Corruption Court in Indonesia. Corruption cases are cases that have high complexity in terms of proof, take longer to settle cases, and attract public attention. The increasing number of corruption cases and their large and wide-reaching impact makes the Tipikor Court's decision something that attracts public attention. It is undeniable that when the Tipikor Court finds a corruption accused guilty and gives him a harsh sentence, the public uses this as a remedy for hurt feelings caused by corruption in Indonesia. In general, the public views that the higher the conviction rate in a corruption case, the better the performance of the Court. Corruption and the better the Corruption Court in the public eye. In this study, we will discuss why this view is a problematic view.

The establishment of the Tipikor Court has clearly had an impact on increasing the need for ad hoc judges both in the district court and the high court, and the Supreme Court. There is concern that the high demand for Corruption Ad Hoc Judges will lower the qualification standards of prospective Ad Hoc Corruption Judges in the selection process in order to meet the demand for the number of Corruption Ad Hoc Judges. Of course, if the qualification standard goes down it will have an impact on decreasing the quality of the Tipikor Court's decision. On the other hand, the inadequate qualification standards of ad hoc corruption judges also contributed to the fact that ad hoc corruption judges were caught up in corruption cases.

Here the judge not only gives sanctions to corruptors but also has a role to provide a deterrent effect for lawbreakers. This very important role of judges results in the emergence of a new problem, because the credibility and morality of a judge as a law enforcement officer is at stake. To restore public trust towards the justice system in Indonesia, it is necessary to establish ad hoc judges within the corruption court environment. In accordance with Article 10 paragraph (1) of Law Number 46 of 2009 concerning the Corruption Court and Article 56 of Law Number 30 of 2002 concerning the Corruption Eradication Commission that the settlement of corruption cases in special courts consists of two components of judges namely career judges appointed by the Supreme Court based on Article 10 paragraph (2) and ad hoc judges based on Article 10 paragraph (4) of Law Number 46 of 2009 concerning the Corruption Court appointed by the President on a recommendation from the Supreme Court.

CONCLUSION

Based on the data analysis that has been done, it can be concluded that the role of an ad hoc judge is a judge in a court who has expertise and experience in a particular field to examine, try and decide on a case, who is appointed for a certain period of time and the appointment is regulated in the Law -Invite. In addition, the initial objective of establishing ad hoc judges was to strengthen the role and function of the judicial power in upholding law and justice in line with the complexity of existing cases.

BIBLIOGRAPHY

- Adam Chazawi, 2005 *Hukum Pidana Materiil dan Formil di Indonesia*. Bayumedia Malang
- Igm Nurdjana. 2010. *Sistem Hukum Pidana dan Bahaya Laten Korupsi "perspektif Tegaknya Keadilan Melawan Mafia Hukum"*. Pustaka Belajar. Yogyakarta
- Luhut M.P. Pangaribun, 2009 : 278. *Suatu Studi Teiritis Mengenai Sistem Peradilan Pidana Indonesia*, UI Papas Sinar Sinanti
- Undang-Undang Nomor 46 Tahun 2009 tentang Pengadilan Tindak Pidana Korupsi