

## **Sub-Theme: Agile Bureaucracy and Dynamic Governance**

### **Critical Analysis on The Effectiveness of Bandung Corruption Court**

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#### **Abstract**

This study seeks to understand the extent to which the Bandung Corruption Court (Bandung Tipikor Court) has accomplished the authority's enforcement. This research's scope includes two crucial aspects: (a) the capacity of resources to sustain the existence of Bandung Tipikor Court, and (b) Supervision and control over Bandung Tipikor Court by various judicial institutions. The method used in this analysis is a systematic literature review. The collected data are secondary data from a compilation of various literary works related to this paper and the results of observations on Bandung's Tipikor Court. The data obtained were then analyzed qualitatively by assessing the findings' accuracy and strength from various studies and comparing the results from those studies. This study's findings show that the Bandung Tipikor Court has not achieved the optimum standard for the enforcement of its authority since the funding for services and oversight and control is not adequate to enable the application of the authority held by the Bandung Tipikor Court.

#### **Keywords:**

corruption courts; effectiveness; monitoring; resource capacity

#### **Introduction**

Corruption has always been a highly debated topic because it has had a very complex impact. Indonesia is one of the countries struggling to escape the corruption problem. A set of rules has been formulated and implemented to address the problematic corruption in Indonesia. The results have begun to be seen though it can not be said to be highly significant. Thus, there is a need for consistent and continuous improvement of the implementation process of anti-corruption policies.

By definition, corruption is the act of any person unlawfully committing an activity of enriching themselves or others or a corporation that might harm the state financial or economy (Undang-Undang Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Tindak Pidana Korupsi). The definition asserts that corruption can be

practiced in both the public and private sectors, including the interaction between actors in the public sector and actors in the private sector.

The World Bank describes corruption as the abuse of public office to achieve a personal advantage. It occurs when an official accepts bribes and blackmails. Office bribery may also be accomplished when private sector companies are providing bribes to circumvent public policy commitments, receiving outstanding facilities to be accessed via the procurement process, and some other benefits. The public office may also be corrupted without corruption, i.e., through bribery and nepotism, theft of state properties, or transfer of state income (World Bank, 1997, p. 8). It indicates corruption is pervasive and complex despite its emphasis on officials performing abuses of their positions.

The good news is that the number of corruption cases in Indonesia has diminished in terms of quantity. Indonesia ranked 85th out of 180 with 40, a 2-point rise from the previous year with 38. Indonesia is in fourth place, relative to other ASEAN member states (Transparency International, 2019). It indicates the positive progress of the battle against corruption in Indonesia. However, it does not mean that we can ignore the problem of corruption. We must admit that there is some homework related to the corruption issue to be faced.

As stated earlier, Indonesia is making a range of efforts to tackle the corruption issue through a relatively complex regulatory system. One such initiative is to create a judiciary that focuses on fighting corruption crimes. Article 5 of Law No. 46/2009 on Corruption Court (Tipikor Court) states that Tipikor Court is the only court that can investigate, prosecute and solve cases of corruption (Undang-Undang Nomor 46 Tahun 2009 Tentang Pengadilan Tindak Pidana Korupsi). Furthermore, Article 6 of Law No. 46 of 2009 stipulates that the cases investigated, prosecuted, and determined by the Tipikor Court include: (a) corruption, (b) money laundering, and (c) Criminal activities that classified as corruption crimes. Articles 5 and 6 of Law No. 46 of 2009 affirm that the Tipikor Court has a strategic authority to investigate, prosecute and solve corruption cases (Undang-Undang Nomor 46 Tahun 2009 Tentang Pengadilan Tindak Pidana Korupsi).

In keeping with public standards, the current phenomenon demonstrates that the Tipikor Court has not entirely demonstrated the efficacy of exercising their authority. If we examined it from resource support, particularly infrastructure, it is known that Tipikor Court

is only established at the provincial level. Nevertheless, Law No. 46 of 2009 mandates that the Municipals/Regencies level of the Tipikor Court must be created (Undang-Undang Nomor 46 Tahun 2009 Tentang Pengadilan Tindak Pidana Korupsi). The existence of the Tipikor Court at the provincial capital level is also still somber since, generally speaking, the court office is still in one location with the District Court building that had previously occupied the facility. Besides, the Tipikor Court located in the province's capital city could cause costly expenditure and time-consuming, particularly in islands such as the Riau Islands and the Maluku Islands, from the side of its financial resources and the time it takes to hold a court case. This finding is in line with the findings of research carried out by the Prosecutor's Office's Research and Development Department in 2012 against 399 respondents composed of prosecutors, judges, and lawyers in 7 representatives of the Prosecutor's Office (Kejati) at the province level and 43 districts of the Prosecutor's Office (Kejari) at municipal/regency level. Based on the study results, the following fact is known:

- a. 335 or 83.96 percent of respondents claimed that the Tipikor Court was ineffective in the provincial capital
- b. Three hundred eighteen respondents, or 79.70%, indicated establishing a Tipikor court in each municipal/regencies should be made immediately (Hukum Online, 2013).

The incidence of Tipikor Judge being enmeshed in bribery cases is another troubling matter. The details about this can be found in the table below:

**Table 1.**  
**Bribery Case for Tipikor Judge**

No.	Judge	Case
1.	Tipikor Judge in Semarang and Ad Hoc Tipikor Judge in Palu	The two judges became suspects in the bribery case of Grobogan Parliament, Central Java, when they handle the corruption case of car maintenance. They were named as suspects by the Tipikor Court of Semarang.
2.	Ad Hoc Judge of Semarang Tipikor Court	The Judge was sentenced to eight years in prison for having allegedly taken bribes from a relative of Chairman of the Local Parliament at Grobogan. Bribes were supposedly given to manipulate the final decision at Tipikor Court in Semarang.

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3.	Ad Hoc Tipikor Judge of Pontianak, West Kalimantan Province	Semarang case also involved Ad Hoc Tipikor Judge of Pontianak, who was subsequently sentenced to six years in jail. The Judge is believed to have been convicted of bribing Ad Hoc Judge of Semarang Tipikor Court to manipulate the verdict of a case concerning the Grobogan Local Parliament's Chairman.
4.	Tipikor Judge from Bandung West Java	The Corruption Eradication Commission (KPK) arrested the Tipikor Judge from Bandung West Java for accepting 150 million rupiahs in bribes relating to the handling of suspected corruption cases of social, financial assistance in the Bandung City government

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Source: *www.antikorupsi.org* (2013)

According to the indications above, academic research is required to examine the Corruption Court's effectiveness as a form of commitment to strengthen and enhance the efficiency of implementing anti-corruption policies in Indonesia. Therefore, this paper aims to review the Tipkor Court's effectiveness in Bandung carry out its authority and provide recommendations for future effectiveness improvements.

Effectiveness is also called "doing the right thing" (Starling, 2008, p. 19). It refers to the consistency of the actions carried out within an organizational institution to attain its intended objectives. Effectiveness is also a term widely utilized to assess the accomplishment of an objective by revisiting the relationship between the result of the process and its original intent. Specifically, an organizational process or program may be considered adequate if the effects align with its objectives (Sherman, 2009).

In this article, the calculations are intended to examine the degree of the Bandung Tipikor court's effectiveness so that the organization's effectiveness is conceptually calculated. According to Federman in Ashraf and Abd Kadir (Ashraf & Abd Kadir, 2012, p. 80), Organizational effectiveness is a term that refers to the organization's capacity to access and consume resources to attain its goals. Meanwhile, according to Balduck and Buelens (2008, pp. 5-8), the effectiveness of the organization concerns with four approaches, namely:

- a. Objective approach. This approach emphasizes success in the fulfillment component of the goal, assuming the goal's degree of accomplishment is higher than the predefined organizational purposes.
- b. Resource system approach. The resource system approach examines the degree to which the sum of resources allocated to organizational production has resulted in a more efficient output.

- c. Process approach: The process approach emphasizes the organization's effectiveness as a complete task conducted within the organization can be carried out efficiently, adequately, and accurately in line with the preparation that was previously planned.
- d. Strategic constituent approach. This approach is more of an evaluation of the user's satisfaction with the organization's goods and services.

## **Methods**

A literature review is the research method used in this paper. This approach relies on researchers' efforts to gather and synthesize the related research findings that have been done before (Snyder, 2019). The literature review process includes three methods: a systematic approach, a semi-systematic approach, and an integrative approach (Snyder, 2019). This research was conducted using a semi-systematic analysis of the literature. Snyder clarified that the semi-systematic literature review reviews the research area and monitor progress over time (Snyder, 2019). Through this design, it is hoped that this paper can provide a good overview of the effectiveness of Bandung Tipikor Court.

The data collected are secondary data from many literary works related to this paper and the findings of observations on the Tipikor Court of Bandung. The data obtained were then qualitatively analyzed by evaluating the findings' consistency and intensity from different studies and comparing the results from those studies (Snyder, 2019).

## **Results and Discussions**

Centered on the organization's definition of effectiveness, the key focus of the Bandung Tipikor Court's investigation lies in the achievement story of the authority operationalization held by the Bandung Tipikor Court, which is examined from two important aspects (a) Resource Support Capacity; and (b) Supervision and Control.

### **The capacity of Support Resources**

The degree to which organizational goals are accomplished is determined by the willingness to manage the available resources. It is integrated into a management system that aims to organize the right utilization of resources in achieving its objectives (Vasu, Stewart, & Garson, 1998, p. 286). Starling (2008, p. 19) argues that the success of a thanan entity depends

public officials' capacity of the public's public capacity to control their capital. That is, enforcing the Bandung Tipikor Court authority may be considered successful if the process of establishing its resources will help the achievement of the goals. In general, capital can be divided into two main categories, Human Resources ( HR) and Non-Human Resources.

## **Human Resources**

Management of public sector human resources is also balanced by the term of handling staffing (Horton, 2009, p. 121). Denhardt and Denhardt (2012, p. 285) claimed that public sector workers' hiring and care are closely linked to the legislation regulating those workers' positions. Therefore, to assess the degree of efficacy of enforcing The Bandung Tipikor Court's authority from the human resource support perspective, it is important to recognize current employees' configuration and their respective positions within the organization.

Regulation Number 01 the year 2010 of the Supreme Court concerning the Organizational Structure of Clerks and the Composition of the Panel of Judges and Transparency to the Court of Corruption identified several employees at the Court of Tipikor. It regulated them within the organizational framework of the Court of Justice.

In general, the arrangement specifies that the workers who play a central role in the Bandung Tipikor Court include the Bandung Court's Chairman and Vice-Chairman, Career Judges, and Ad Hoc Judges, as well as the Young Clerk of Criminal Corruption. The discussion in this paper will focus more on the role and status of the Career Judge and Ad Hoc Judge and the Young Clerk of Criminal Corruption.

Article 1 of Law No. 46 of 2009 affirms that judges of the Tipikor Court consist of Judges of the Profession and the Ad Hoc. Moreover, article 2 of Law No. 46 of 2009 ratify that Judge Profession is a district court judge, high court judge, and the Supreme Court-appointed as a criminal judge for misconduct. The definition of Judge Ad Hoc is explained in the next article, namely article 3, a person appointed based on the requirements specified in Law No. 46 of 2009 as Tipikor Judge.

Currently, the Tipikor Court of Bandung has six ad hoc judges and seven career judges. Thus, the total number of judges in Bandung Tipikor Court is thirteen persons. Considering the number of cases handled from January 2013 to November 21, 2013, reached 127 cases, the number of Tipikor Judges in Bandung Corruption Court as many as 13 individuals are

considered too small. That is to say, if the Tipikor Court is expected to be able to handle all such cases within one year, then a minimum of one Judge handles 32 to 33 cases in a year with a one-trial scheme presenting five judges. In reality, one single case can be tried over twenty times. Thus, on average, one Judge will attend 660 hearings a year, or about 55 hearings a month. If an average daily assuming the working day is five-day in a week, then a Tipikor Judge will be charged with investigating as many as two or three cases a day. Indeed, the number of hearings is excessive since the amount of job concentration for judges is very high, which may degrade the quality of the verdicts they make. Meanwhile, we know that the court's reputation as a law enforcement body should be prioritized by ensuring the validity of the Judge's decision should remain impartial and fair.

Besides judges, the Tipikor Court in Bandung also has a Young Clerk of Corruption Crimes. Article 9 Regulation Number 01 of 2010 of the Supreme Court of the Republic of Indonesia provides detail of the primary duties and roles of the Young Clerk of Corruption Crimes, namely:

- a. Received filing Tipikor 's case from the Public Prosecutor's (KPK and Kejari in West Java);
- b. Conduct case registration and maintain case register at Tipikor;
- c. Managing the information system of tipikor case administration;
- d. Prepare a monthly activity report;
- e. Prepare electronically and print files;
- f. Conduct appeals administration, cassation, and review of Tipikor's case; and
- g. Carrying out other matters relating to Tipikor's administration.

Based on the findings of an interview with the Young Clerk of Corruption Crimes at Bandung Tipikor Court, it is understood that he does not have a definite letter of appointment as the Young Clerk of Corruption Crimes, and the same thing happens in other Indonesia's Tipikor Courts. This situation will have a less beneficial effect on the Bandung Tipikor Court as an operational institution since it does not have a legitimate certificate from Supreme Court, which stated him as a state agency performing a judicial function. Only the Head of Bandung Court issues the appointment of The Young Clerk of Corruption Crimes so that the negotiating role in the office is still considered very weak. It has made it impossible for the Young Clerk of Corruption Crimes to guide the Head of Bandung Court to promote the work

process on the unit he headed. Moreover, the Young Clerk of Corruption Crimes prefers to conduct only strenuous job activities because creativity is not considered to bring benefits, and there is no certainty about his role and function.

The absence of legal recognition from the Supreme Court for the office of Young Clerk of Corruption Crimes also had an uncertain career effect. Whereas in the upper echelons of IV is Young Clerk, who should always have the chance to launch a career at a higher level.

In terms of remuneration, the allowance for Young Clerk of Corruption Crimes is three hundred thousand rupiahs per month, and a hearing of seventy-five thousand rupiahs is granted from one time to the court of case. It is not balanced by the amount of duty and function load that has to be carried out, particularly compared to the number of cases entered in the Tipikor Court of Bandung and the number of hearings that have to be held.

The ambiguous status of an appointment for Young Clerk of Corruption Crimes significantly affects work motivation because Maslow (1987, p. 10) claims that the need for trust and self-realization are two things that affect one's work motivation.

In terms of trust, the Young Clerk of Corruption Crimes has no clarity of rank related to the position he holds, whereas the Young Clerk of Corruption Crimes has no specific career level within the organization from the self-actualization angle. It will decrease the motivation to work to impact the duty and function implementation. In reality, the Young Clerk of Corruption Crimes' duty and function are very strategic in supporting key activities and daily activities at the Bandung Tipikor Court.

These ironic conditions indicate a weakness in policy-making, especially concerning the organizing process. Ideally, if a position is established in the organization's framework, then acknowledgment of the office status should have been prepared. Thus the fine structure demands that its sub-coordinates conduct the work only in compliance with the standards defined. If Indonesia's Government is severe and puts the target of reducing and removing corruption as the main agenda of political reform in Indonesia, the troubling circumstances that hit the Young Clerk of Corruption Crimes across Indonesia should not continue.

The Young Clerk of Corruption Crimes has five employees composed of two civil servants and three honorary employees. If we checked from the composition, then the employee who has clarification of personnel status is as many as two employees named civil servants, while the other three are honorary only. If reviewed from the burden of



employment, in terms of the quantity of staff, as many as five persons are not yet worth the work volume to be carried out. Meanwhile, the Young Clerk of Corruption Crimes earns a salary of three hundred thousand rupiahs per month in terms of honorary employees' renumbering. This figure is well below the regional minimum wage applicable to Bandung city. Simultaneously, the skill and competence requirements held by Honorary Officers are not being checked because the recruiting process is not being carried out in a usual manner.

### **Non-Human Resources**

The means and infrastructure are the critical non-human resource elements in promoting the Bandung Tipikor Court authority's introduction. Until now, Bandung's Tipikor Court did not have its site. Most Tipikor Courts in Indonesia witnessed the same situation. The Bandung Tipikor Courthouse and the Bandung District Court remain unified in one area.

The District Court in Bandung has six courtrooms. Two rooms away are the courtroom, which is also used to investigate, convict, and hinder corruption cases. It feels uncomfortable because 2,540 trials can be performed in one year with the number of 127 cases to be dealt with in 2013, and on average, one case will be tried as many as 20 times. It means that 211 to 212 trials are conducted in one month, and if working time in a week is five working days, then 10 to 11 trials are conducted in one day. Although the courtroom offered by the Bandung District Court is as many as two courtrooms, it means that the trial can be held 5-6 times in one courtroom every day, so that the typical trial process is completed at 9 or 10 PM every day.

Besides the problems of limited courtrooms, another means is that the Tipikor Clerk's room also retains a variety of problems. The room currently accessible to the tipikor clerk is composed of two floors. The first floor is filled with the Young Clerk of Corruption Crimes workspace, and the second floor is filled with workspace for the workers and archive room. If evaluated in terms of adequacy, then the situation is still insufficient, so it can not optimally facilitate work execution in the Tipikor Court setting. Based on the findings, it is understood that three honorary workers do not have a work desk, so they only sit in the first-floor room hallway because two civil servant personnel have already used the 2nd floor for their working space, and the other parts have been filled with archival.

The Tipikor Court of Bandung also holds three computers, a laptop, and three printers. The facilities are unbalanced with a workforce of five and a large amount of work. If we refer to the 2012 Supreme Court letter number 4 relating to the recording of proceedings, there must also be a camera for carrying out the specified activities. The existing facilities are still limited to perform the job. This situation is essential to be regarded by the government as if we want the Tipikor Court to exercise its jurisdiction effectively, and then the supporting facility should also be adequate. To promote the job process, it should also be for computers to connect to the Internet network.

Overall, the limitations of the Tipikor Court of Bandung support facilities and infrastructure can not be separated from the allocation of the state budget that is still restricted to satisfy the public expectation that the Bandung Tipikor Court can effectively exercise its authority it still seems complicated to carry out optimally.

### **Supervision and Control**

Supervision and control are essential to ensure that the technical and secretariat's administrative activities align with the correct procedures. Supervision is undertaken to collect information about the causes and effects of an operation within the organization (Dunn, 2018, p. 335). We try to examine, by observation, whether the nature of the company's activities is the crucial factor that brings out the effects of those activities.

What the researcher meant by control is to comply with the organization's guidelines for all workers (Vasu, Stewart, & Garson, 1998, p. 34). Administrative rules are prepared to ensure that organizational operations can be coordinated efficiently and systemically and that all members of the organization are given certainty.

### **Internal Supervision of Bandung District Court**

The Bandung District Court carries out internal oversight. The supervised elements shall include substantive and secretariat administrative duties. The supervision process shall be carried out by holding monthly meetings attended by institutional officials, technical officials, and all staff members of the Bandung District Court. Internal monitoring focuses on assessing the function of the secretarial and clerk sections and the assessment of the handling of cases carried out by the replacement of Clerk Judge and the bailiff in the previous month.

The findings are discussed in the monthly meeting. Therefore, all technical and institutional officials can be optimally tracked for the performance of their duties and established details on the constraints in the performance of those tasks.

### **Oversight by the Supreme Court**

Law No. 48 of 2009 on the judiciary's authority Article 39 paragraph 1 provides that the Supreme Court shall control the judicial powers of all judicial bodies under the Supreme Court. In other words, the Supreme Court has a legal authority to oversee Tipikor Judge in Bandung. There is a Supervisory Board in the organizational framework of the Supreme Court. The Bandung Tipikor Court is under the Inspectorate of Region II, which includes Banten, DKI Jakarta (including the Supreme Court organizational units), West Java, Central Java, Yogyakarta, East Java, and Bali.

The supervision carried out by the Supreme Court against the Tipikor Court of Bandung has not been entirely carried out. It is due more to the degree of monitoring that is not carried out thoroughly daily. The decision of the Supreme Court of the Republic of Indonesia Number KMA/080/SK/VIII/2006 on the Guidelines for the Regulation of Internal Oversight of the Judicial Institutions also outlines the authority of the Supreme Court to oversee the execution of administrative and financial responsibilities, including those of the Court of Tipikor. To date, no significant infringement has been reported in applying the supervision of administrative and financial duties.

### **Oversight by the Judicial Commission**

Contemporary Public Administration studies show more interest in the recent discussion of public servant ethics (Denhardt, Denhardt, & Blanc, 2012, p. 127). This review's primary focus is to ensure that public servants run their professions independently and professionally and side with the public interest. Establishing an independent agency in the arrangement of a state agency that then acts as a supervisor is one of the recommendations of the enforcement of public service ethics.

In Indonesia, attempts are made to maintain public servants' integrity by setting up various independent commissions to oversee public servants in carrying out their duties. One of the independent commissions founded in Indonesia is the Judicial Commission (KY),

responsible for overseeing judges' conduct, including Tipikor Judge, for preserving independence and fairness in evaluating and dismissing the case. It is outlined in Article 40 of Law No. 48 of 2009 on the authority of the judiciary.

In general, therefore, the regulation of the Judge's conduct was carried out elaborately by both the Supreme Court and the Judicial Commission. The complex surveillance system can ensure that judges, in particular Tipikor Judge, always make reasonable and rational decisions on the issues at hand. The supervision shall be carried out in compliance with the Code of Conduct of Judges.

There are at least three prerequisites for the surveillance effect: (1) the distance between the supervisor and the supervised target is at an extreme range; (2) the duration of regular and continuous surveillance; and (3) the number of supervisors is proportionate to the number of supervised parties. Based on the distance between the supervisor and the supervised object, it appears that the Tipikor Judge's supervision has not been carried out optimally. It is due to the lack of judicial commission members at the regional level so that the second part of the degree of supervision is affected. The lack of members of the judicial commission in the region has led to a low degree of oversight by Tipikor Judge. Consequently, the Judicial Commission's working pattern tends to be reactionary, i.e., to respond after problems occur in the conduct of Tipikor Judge, which differs from public reports or news in the mass media. Ideally, if the Judicial Commission is genuinely placed as a supervisor, the problem's observations begin with intense, constant, and continuous monitoring, resulting in reliable, accurate, relevant, and accountable information.

Based on the number of supervisors factor, which is proportionate to the number of supervised members, the supervision mechanism of Tipikor Judge has not been successful. The absence of judicial commissions in the local area contributed to fewer supervisors than the number of Tipikor Judges had to supervise in Indonesia.

In addition to the three aspects listed above, it is also necessary to ensure that, if Tipikor Judge is found to be in breach of the Code of Conduct, the administrative punishment provided is strictly executed to promote discipline and adherence to the Code of Conduct. The practice of penalties for judges who breach the Code of Conduct is not subject to strict penalties, so that the establishment of discipline and adherence to the Code of Conduct has not been optimally established among judges in Indonesia. In the medium term, this will affect

the decrease of public confidence of judges and judicial institutions and will, in the long term, reduce public faith in the judiciary.

## Conclusion

Based on the outcomes of the debate, it can be concluded that the Bandung Corruption Court (Tipikor) has not achieved the optimum stage for the application of its jurisdiction. The development of resources and knowledge and control by the Court of Tipikor Bandung is not adequate to enable the enforcement of the authority held by the Bandung Tipikor Court.

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