

## Efforts to Eradicate Corruption through the Concept of Structural Legal Aid

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Submitted: 2023-12-19; Reviewed: 2024-02-26; Revised: 2024-03-25; Accepted: 2024-04-24

DOI: [10.18196/jphk.v5i2.29016](https://doi.org/10.18196/jphk.v5i2.29016)

### Abstract

Corruption is a serious problem in the life of society and the progress of a nation. The impact is detrimental to the community, starting with not being able to enjoy development facilities, hampering economic growth, and so on. Therefore, seeing that this corruption problem has become a deadly virus, a precise concept is needed to solve it. That is through the concept of structural legal aid. The concept calls for community participation to eradicate corruption. In other words, people who are direct victims of corruption can advocate for corruption issues and cases. This concept aims to pick up, grab, and restore the rights of people who have been corrupted. So then, based on this corruption problem, an idea is offered to solve it. This research uses juridical-empirical research with a statute approach, a case approach, and a conceptual approach. Furthermore, to strengthen the ideas in this study, we interviewed people from the LBH-YLBHI Institute, SAHdaR Sumut, and other sources. In addition, this research will be supported by secondary data based on legal literature, documents, and others related to the theme of this research. The result of this research is that structural legal aid is able to eradicate corruption, which makes the community the main actor in eradicating criminal acts of corruption through education, prevention, and prosecution.

**Keywords:** Corruption Eradication; Solution; Structural Legal Aid

### 1. Introduction

The year 2023 is a dark year for Indonesia in terms of corruption, as seen in several ministers in the era of President Jokowi Dodo, who was caught in corruption cases. Starting with Juliari Batu Bara, Imam Nahrawi, Edhy Prabowo, and so on [1]. In addition, on November 22, 2023, Indonesia was shocked by the news that KPK leader Firli Bahuri had been named a suspect in an alleged extortion case against Syahrul Yasin Limpo (Minister of Agriculture) [2]. In addition, on January 31, 2023, Transparency International Indonesia launched its research called the Corruption Perception Index (CPI). The results essentially explain that Indonesia will face serious challenges in eradicating corruption. This issue should be a concern because, in 2022, Indonesia's CPI scored 34/100 and ranked 110 out of 180 countries. This score is down 4 points from 2021, or the furthest decline since 1995 [3].

These results show that Indonesia has only been able to increase its CPI score by 2 points from a score of 32 over the past decade since 2012. Other data can be seen from the Case Tracking Information System (SIPP), especially in the scope of the Corruption Court at the Medan District Court. It turns out that in 2023, the number of corruption cases tried increased dramatically, namely 148 registered cases. Whereas in 2021 and

2022, there were only around 100 case registers [4]. Therefore, based on the initial data that has been presented, it is appropriate to state that corruption is an extraordinary crime. In addition, the crime of corruption is also always closely related to intellectual actors who have strong power and influence. Thus, the perpetrators of corruption can use various means to carry out their rotten actions for personal, family, and group interests [5].

More precisely, the crime of corruption has been structurally rooted and systematically arranged. Therefore, this issue should not only be regarded as a problem that has become commonplace, and the process of handling the case should not only be ordinary. Corruption must be eradicated. So, this structural problem must be resolved with well-structured and organized structural methods. In legal substance, the issue of corruption offenses has been regulated in various existing regulations, starting at the level of specific and general legal rules. Specifically, the law on the eradication of corruption, the KPK Law, the law on the administration of a clean state free from corrupt practices, collusion, nepotism, and many more. Then, in terms of legal structure, corruption issues have been handled through institutions such as the KPK, Attorney General's Office, Police, Inspectorate, BPK, BPKP, and others. Then, culturally, people knew that corruption was an evil act. However, this crime continues to mushroom, thriving with no end in sight.

Indonesia has done its utmost to eradicate corruption. However, it has not given maximum results. Therefore, looking at this condition, a new mechanism is needed to solve the problem of corruption. That is, involving the community in totality to eradicate corruption (education, prevention, and prosecution). As stated in Article 41 of the Corruption Eradication Law (TIPIKOR), The article states that community involvement is needed in combating corruption. So, to realize this article, the right concept is needed in order to provide maximum results. Specifically through structural legal aid, which involves full community participation. Indeed, the handling of corruption offenses requires the involvement of all parties, both law enforcers and the community. Of course, law enforcers are obliged to eradicate corruption. However, corruption will disappear if the community also participates in eradicating corruption, as summarised in structural legal aid.

In short, in the 1970s, structural legal aid was born because its founders were concerned about the legal system and governance, which at that time tended to be corrupt and authoritarian. Of course, the establishment of this concept is inseparable from the stories of the New Order era and the involvement of the LBH-YLBHI institution as a forum for advocating cases of the poor, marginalized, and law-illiterate [6]. Then, the connection between corruption and structural legal aid is seen in the conditions in the 1970s, or the new order era, where there was public unrest against the new order regime, which tended to behave corruptly, rejected democracy, did not respect human rights, and used the law as a tool of the authorities. Then, because the system was considered corrupt, structural legal aid encouraged the state to be more democratic and the law to run on its path (the rule of law). Then, structural legal aid seeks to solve legal and corruption problems from the roots and is certainly inseparable from structural

theory, which specifically provides explanations related to structured and systematized social problems.

## 2. Research Methods

The method used in this research was a juridical-empirical type [7]. Clearly, this research is based on data from the field, interviews, and observations. Then, the object of research that has been observed will be associated with norms, theories, and regulations related to the theme of this research. Furthermore, this research also used a statute approach, a case approach, and a conceptual approach as the backing or foundation of the research in order to be solid. RCH is a juridical-empirical type [8]. The types and sources of data obtained come from sources, namely the Indonesian Legal Aid Foundation (YLBHI), lecturers, anti-corruption activists, and Sentra Advocacy for Basic Rights (SAHdaR) institutions as primary data and data information derived from laws and regulations, law books, law journals, legal dissertations, and others relevant to the research topic as secondary data. Based on the existing methods, researchers use data analysis techniques with qualitative data analysis patterns and describe them in detail and in-depth to get maximum research results.

## 3. Results and Discussion

### 3.1 The Birth of the Structural Legal Aid Concept

In 1976, Novib, a Dutch donor organization that marks LBH, invited Adnan Buyung Nasution to visit the Netherlands. At that time, he was asked to give a speech explaining LBH and its programs to the Dutch public. Also present was Prof Dr Paul Moedikdo Muliono, a criminologist, sociologist, and founder of the Institute of Criminology at the University of Indonesia, who lived and became a Dutch citizen. He was there to listen to Adnan Buyung Nasution's ideas through his speech. As it turned out, the two of them were old friends, and Adnan Buyung Nasution mentioned that Prof Moedikdo was an academic expert who fully understood the structural inequalities in the Indonesian criminal justice system [9]. Moedikdo explained that the process of resolving legal cases must be seen from various aspects, ranging from social, economic, cultural, and so on, or what is called structural case handling.

*"Buyung, I noticed earlier your story about the limping social, economic, and cultural conditions in Indonesia and how the legal struggle should be directed there to lift the dignity of the oppressed. That's what structural legal aid is all about. You were already doing it when the theories of structuralism were just being thought of. I don't know how to do it myself, but you are doing it."* [10].

Therefore, Adnan Buyung Nasution, a former prosecutor who chose the advocate profession, established LBH-YLBHI as a forum to devote himself to the legal field and initiated the concept of BHS in handling legal cases.

*"Structural legal aid was born as a consequence of our understanding of the law. The legal realities that we now face are the product of social processes that occur on top of certain patterns of relationships between the existing infrastructure structures of society. Then, the law is actually a superstructure that is constantly changing and which is the result of interactions between the infrastructure structures of society. Therefore, as long as the*

*pattern of relationships among the infrastructures shows symptoms of unequal 70, then such a thing will further complicate the realization of a just law.” [11].*

Adnan Buyung Nasution conveyed his ideas through a piece of paper in which he outlined the purpose of BHS as a method of handling legal cases. It is specifically intended for the poor, marginalized, and law-illiterate, whose rights in the political and legal spheres are not maximally fulfilled [11].

### **3.2 Working Method of the Structural Legal Aid Concept**

When talking about structural legal aid (BHS) theoretically and juridical-sociological concepts, the researcher explicitly relies on the views of Paul Moedikdo. Then, in practice, of course, it is based on Adnan Buyung Nasution. Initially, Paul Moedikdo saw that the legal practice carried out by Adnan Buyung Nasution, who was a member of LBH Jakarta, which at that time was formed by the Indonesian Advocates Association (Peradin), was not an ordinary case handling model, not providing ordinary legal aid, but using structural legal aid because what Adnan Buyung Nasution et al. did in dealing with legal issues was done in various ways, namely through legal channels or other halal channels. Systematically directed to create a more just relationship or social order, equal political law certainly provides benefits and legal certainty.

The purpose of applying the BHS concept is to convince or raise the critical awareness of citizens to move to change the unfair legal structure consistently in a more just direction. Not only that, when opening the critical awareness of citizens, a new power or community power will emerge to confront the power that tends to have an unfair or oppressive structure [12]. The LBH-YLBHI law office uses this concept of legal aid. This concept is used because BHS thinkers understand law differently, namely as a product of politics, social culture, and economics (infrastructure). Actually, the law is a structure that is constantly changing. Then, when using structural legal aid in practice, it is no longer passive but active. It is said to be active here that the role of lawyers, assistants, and clients must work together to solve their problems. However, in this concept, the main actor is the client/assisted community, which is empowered to carry out various activities, for example, conducting social action, educating clients about the law, and conducting other movements [13].

BHS is used with an approach that is no longer legal-formalistic but socio-legal. The direction of using the concept of BHS is to empower the community to change the legal and social order more fairly. BHS is used to achieve the essence of collective legal objectives, namely justice for all, legal benefits for all, and legal certainty for all. So, the true concept of BHS is far beyond conventional legal aid and constitutional legal aid [14]. The BHS concept has a key entry point, which is based on cases and their handling. Obviously, there is the term Jemput Bola pattern, which is monitoring and research. Then, Waiting is consultation and network requests. In essence, the BHS concept is used in cases involving the wider community in a structural conflict dimension (community vs power relations).

The implementation of BHS is not easy. Firstly, the aim is to create and encourage changes that are unjust in order to become just. Secondly, it encourages critical considerations of change, which means education and community empowerment. Finally, it encourages social movements as a tangible manifestation of social change. So

these three things, in the concept of BHS, require a lot of resources and time. Moreover, solving cases using the BHS concept will definitely take a long time.

### **3.3 The Role of Structural Legal Aid in the Eradication of Corruption**

From the beginning, the concept of structural legal aid (from now on referred to as BHS) was created to deal with legal cases or legal issues. Then, at the practical level, it is strongly recommended not to be too rigid. Because BHS has a dynamic nature, The vision and mission of the BHS are guided by the main values of the struggle, which see a condition of the legal system that stands upright when it is in an unequal, unfair situation and sees the condition of the community's socio-legal problems as a common problem [15]. One of the common enemies of BHS users is corrupt behavior in the judicial sector, education, health, government administration, banking, infrastructure development, and so on. Not infrequently, BHS is intended to save state money for the sake of a brighter community's survival in the future. The general public, which has different social stratifications, certainly does not like it when their rights are not fulfilled due to corruption. Moreover, when people seek their rights through the judiciary, they must be willing to deal with 'judicial mafia' elements that easily corrupt this noble institution. It is not uncommon for people to have to deal with people who have large capital and power and easily get access to justice only with money.

Sebastian Pompe, ICW, and Daniel Kaufmann gamblingly explain how terrible corruption is in the world of courts. Therefore, various research and literature explain and prove that the problems of injustice, inequality, and human rights violations are closely related, one of which is corruption. In fact, various official reports also state that the difficulty in upholding law and human rights and the implementation of the rule of law is corruption. Translating structural legal aid in practice is not limited to providing legal aid services or conducting court hearings. Rather, its agenda programs create a new power, a new way, and a new order that is better and more just. In eradicating corruption, BHS certainly plays a role in strengthening the issue of eradicating corruption. If we use non-structural legal aid, we will not be able to do that.

The position of structural legal aid in combating corruption can be used in various categories of crime prevention and repression. Preventively, this concept can be used to strengthen public knowledge about anti-corruption as a basis for thinking about standardization so that corruption does not occur both in agencies and others with a system of rewarding reporters of suspected corruption, giving appreciation to actors with integrity, and so on. Then, for repression, this concept can be used to encourage the public to monitor their neighbors, report, and advocate for policymakers related to corruption issues. The position of structural legal aid in combating corruption can be used in various categories of crime prevention and repression. Preventively, this concept can be used to strengthen public knowledge about anti-corruption as a basis for thinking about standardization so that corruption does not occur both in agencies and others with a system of rewarding reporters of suspected corruption, giving appreciation to actors with integrity, and so on. Then, for repression, this concept can be used to encourage the public to monitor their neighbors, report, and advocate for policymakers related to corruption issues.

Before the birth of the KPK, it was planned to strengthen and protect the KPK institution, especially seeing from the historical story of the early establishment of the KPK that until now, there have been efforts to weaken this anti-Rasuah institution. This can be seen in several cases reported by the media, one of which was the criminalization of Novel Baswedan, the unprocedural dismissal of 57 KPK employees, and the revision of the KPK Law as a form of weakening the KPK through regulation. So, seeing the problem of this issue, BHS is used to repress it so that it can be resolved. It is necessary to involve elements of society such as academics, civil society, non-governmental organizations, public figures, religious leaders, and students from various paths to keep the KPK from being destroyed. Even after 57 KPK employees were terminated, LBH-YLBHI continued to advocate for them by forming IM57+ as a non-governmental organization to conduct independent investigations into corruption cases. So, the use of BHS is actually dynamic, not only in the context of the case but also in advocating for outstanding issues, especially the problem of corruption. Moreover, the concept of BHS was used to consolidate civil society, students, and others to carry out a social movement called #Reformasi Dikorupsi, an action to reject the revision of the KPK Bill, which turned out to be killing the KPK. It is known that the KPK is weakening very much, starting with the dismissal of KPK employees and a lawsuit to the State Administrative Court.

It should be noted that the birth of the corruption law and the KPK came from BHS thinkers. Moreover, in each of these articles, BHS souls are inserted. Moreover, seeing that corruption continues to be widespread, a social movement of the community is needed, and it is a shared responsibility to eradicate corruption. Then, BHS functions to encourage citizens to be critical, so in the process of eradicating corruption, it is called education. Through BHS, the community will be empowered as much as possible, both in terms of knowledge and practice in eradicating corruption; because the community, in particular, has an interest in the problem of corruption, the impact of corruption is that many people's rights are not fulfilled. Thus, community education and empowerment are needed. For example, in order for the education system in schools to adopt every level, there must be anti-corruption education starting from pre-school, elementary school, junior high school, high school, and university [16]. In addition, anti-corruption societies and communities must be revived, for example, anti-corruption ambassadors, anti-corruption communities, anti-corruption parties, and perhaps anti-corruption community organizations, so that the organization's financial transparency, appreciation, etc. can be facilitated so that appreciation will compete. Still, the key is that only these three are prepared.

### **3.4 Application Method of Advocating Corruption Cases and Issues through Legal Aid Structural Legal Aid**

In advocating corruption cases and issues, we must look at several points so that the application of BHS can be structured and systematized [17], including:

1. Improve skills and knowledge of anti-corruption strategies.
2. Provide information, knowledge, and risks to clients, victims, and communities so that, in the struggle for justice, expediency, and legal certainty, it is possible to deal with corrupt practices.

3. Plan to develop advocacy measures by incorporating anti-corruption and oversight tools, for example, conducting investigations, monitoring, reporting, and involving internal oversight institutions (Police Propam, Deputy Attorney General for Supervision, Supreme Court Supervisory Board) as well as external oversight institutions (National Police Commission, Prosecutor's Commission, Judicial Commission) and oversight by the public and media.
4. Periodically reporting to the public on the condition of the issue or the assisted community that has been the area of advocacy as part of public control
5. Actively initiate and participate in anti-corruption movements and campaigns.
6. Implementing a transparent, accountable culture and system in institutional management

### **3.5 New Breakthroughs in Corruption Eradication**

The description of the forms of use of BHS in combating corruption has been presented completely and very clearly. So, the researchers convey that this concept can be used as the main reference for eradicating corruption. This concept should not only be used by the SAHdaR Institute, LBH-YLBHI, but this concept is an idea that its thinkers have dedicated to all. Sometimes, the difficulty of obtaining legal objectives, namely justice, benefit, and legal certainty, is not discussed in the context of legal regulations but rather in the vehicle used to achieve them. At the theoretical level, this is said, but at the practical level, it is not easy to achieve it.

Therefore, the BHS concept is very comprehensive, especially when handling legal cases related to corruption. Issues of injustice, issues of law enforcement, and human rights, especially considering that corruption cases continue to increase every year. Especially in North Sumatra, at the end of 2023 alone, corruption cases tried in the Medan District Court have increased, namely 147 cases that have been registered [4]. In 2022, only 106 cases were registered. Based on the case data, it is suspected that there are acts of injustice against the community and violations of human rights. So, one of the prioritized patterns to solve this problem can certainly use the structural legal aid concept approach.

However, an important note when using BHS is that, based on its typology, it is more inclined to legal aid in terms of assisting victims rather than perpetrators. Therefore, the use of BHS must prioritize the interests of victims (the general public) who corruption offenses have harmed. Furthermore, the government must ensure a just legal order for victims in terms of providing their rights or recovering the consequences of acts of corruption. For example, if there is an act of corruption in social assistance, the community is a victim. As a result of this act, the community does not get the right to social assistance, nor can the community directly recover from someone's corruption. The community does not get the benefit of the law's purpose at all. It should be encouraged so that remedies for corruption offenses can be applied.

Furthermore, when LBH-YLBHI conducted a joint lawsuit as in Article 99 of the Criminal Procedure Code regarding compensation in criminal cases, This mechanism was carried out in the Akil Mochtar case. At that time, he committed the corruption offense of bribery in the Constitutional Court. Then, it was also done in the case of Juliani Batubara, former Minister of Social Affairs, in 2020. The lawsuit requests and ensures

justice and recovery for victims. Simply put, case advocacy activities that must be carried out to eradicate corruption generally use non-litigation measures, which involve community participation to eradicate corruption [18]. These steps are an effort to succeed in the government's program in eradicating corruption. However, it does not stop there; the public should be brave enough to take action through litigation by reporting suspected acts of corruption to law enforcers, conducting investigations, and taking preventive measures against corruption.

In addition to advocating for cases, it is necessary to organize communities in terms of conducting social movements with various activities [19]. Back in 2019, there was a viral community movement called 'Reformasi Dikorupsi.' This agenda emerged when there was a revision of the KPK Law, which was considered an attempt to undermine the KPK as an independent institution in eradicating corruption. This activity was mobilized by taking action to save the KPK [20]. Philosophically, the KPK is a trusted institution that must be cared for and maintained, especially to eradicate corruption. When then-President Jokowi Dodo accepted the draft amendment to the KPK Bill, other civil society organizations across Indonesia rejected it [21].

Then, the KPK institution is required to be maximally defended and must have independence as the philosophical basis for its formation. However, it turns out that, looking at the contents of the KPK Bill at that time, it was considered that the KPK would be damaged. So, the KPK, as an institution that focuses on eradicating corruption through reporting, public investigations, and other activities, is required by the public to pay attention to the KPK. So, at that time, all civil society organizations expressed a joint stance with the public to reject the revision of the KPK Bill.

#### **4. Conclusions**

It is inevitable if the handling of corruption crimes is only based on ordinary methods. At least in terms of eradicating criminal acts of corruption, in addition to being resolved through litigation, it can be resolved through community participation. That is, the public should get involved in handling criminal acts of corruption. Many ways can be taken. The community can conduct independent investigative research on suspected corruption cases, then actively conduct anti-corruption training, education, and counseling, or conduct individual reporting to law enforcement officials.

Then, the involvement of the community in combating corruption without being based on a good concept will certainly not provide maximum results. Therefore, structural legal aid is offered to solve corruption problems. The initial footing of this concept is for people who experience legal inequality and human rights that have been corrupted. As corruption is an extraordinary crime, the settlement process must also be extraordinary. That is, through a structural legal aid mechanism that involves many parties, the settlement uses a variety of analyses, taking legal remedies that are different from others.

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