

POLICE AUTHORITY IN HANDLING CORRUPTION CRIMES UNDER LAW NO. 2 OF 2002 CONCERNING STATE POLICE OF THE REPUBLIC OF INDONESIA

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Abstract: *The criminal act of corruption is a latent danger for Indonesia because the negative impacts and the causes are very dangerous for the economy and social order. This research aims to determine the regulation of the authority of law enforcement agencies in handling criminal acts of corruption in the legal system in Indonesia and how the authority of the police in handling criminal acts of corruption in Indonesia. As normative legal research, the research examines laws and regulations related to criminal acts of corruption. Research results: Regulation of criminal acts of corruption in Indonesia is regulated in the Corruption Eradication Law Number 20 of 2001, and Law Number 8 of 1981 concerning the Criminal Procedure Code. The Criminal Procedure Code only recognizes 2 institutions or agencies that have the authority to handle criminal acts, namely the Police and the Prosecutor's Office. In Law Number 20 of 2001, the investigative authority is contained in the institutions that have the authority to handle criminal acts of corruption, namely the Police, Prosecutor's Office and the Corruption Eradication Commission. Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, aims to strengthen the position and role of the police as an integral part of overall reform efforts. The development and progress of society as well as the emergence of the supremacy of law, globalization, transparency and accountability have given rise to a new perspective on the duties, functions, authority and responsibilities of the police which has led to the growth of various demands and expectations from the public regarding the implementation of police duties oriented towards the interests of the community.*

Keywords: Authority, Police, Corruption.

1. INTRODUCTION

Corruption is an extraordinary crime. Corruption has become a disease that is slowly emerging as a scourge that can bring destruction to the country's economy. Whether we admit it or not, the corrupt practices that occur in this nation have caused many losses. Not only in the economic field but also in the political, social, cultural, and security fields (Deni Styawati, 2008). Criminal acts of corruption in Indonesia are increasingly widespread and have occurred systematically and considering the impact they will have, criminal acts of corruption which were previously considered ordinary crimes are no longer classified as ordinary crimes, but rather extraordinary crimes.

Eradicating corruption is the most important agenda in improving governance in Indonesia. Good governance or clean government and law enforcement, especially in the field of corruption, is the most basic democratic agenda to prevent a triple crisis of governance. The three crises are stagnant law enforcement, the government's inability to maintain peace among the people or regions, as well as stagnant economic growth or crisis as a result of failed economic policies and low capacity and integrity of government bureaucracy (Tri Agung Kristanto, 2009). One of the factors inhibiting prosperity in developing countries is allegedly the result of excessive corrupt practices, both involving officials in the public sector and involving the wider community. Indications of the prevalence of corrupt practices in this country can be seen from the fact that the perception of corruption in Indonesia has not improved.

2. METHODS

This research uses a type of normative legal research, in the form of a literature review using three legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. As legal research in the form of a literature review, this research mostly examines and examines existing and still valid legal regulations. Apart from that, this research requires various other legal materials that function to complement and support the primary legal materials in library research. This research uses a statute approach, namely a statutory regulation approach that focuses on primary legal materials that are relevant to the study problem. This research is a qualitative descriptive analysis to describe conditions as they are, without treating or manipulating the variables studied. Qualitative descriptive means that all the material that the author obtains will be described and described and then analyzed in a qualitative descriptive manner. This research uses legal sources from the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, and Law Number 2 of 2002 concerning the National Police of the

Republic of Indonesia. The data collection tool is in the form of document studies, and the analysis used is a qualitative method.

3. RESULTS AND DISCUSSION

Indonesia as a country of law has several kinds of laws to regulate every action of its citizens, including the Criminal Law and Criminal Procedure Law. These two laws have a very close relationship because essentially Criminal Procedure Law is included in the definition of Criminal Law itself. This statement means that no one is above the law, everyone is equal before the law. In this way, the government, state, and its officials must exercise their powers based on law, so that in national life the substantial values that animate the law must be upheld (Hanafi Arief, 2023) and become the demands of society, including upholding the values of justice, truth, honesty and trust between people, upholding civilized human values and respect/protection of Human Rights (HAM), no abuse of power/authority, and no corrupt practices (Barda Nawawi Arief, 2008).

3.1 Corruption Criminal Act

The term corruption comes from the Latin *corruptio* or *corruptus* which means damage or depravity. In English, it is known as corruption/corrupt, while in Dutch it is called *corruption* (Martiman Prodjoamidjojo, 2001). The definition of corruption in the Big Indonesian Dictionary is misappropriation or embezzlement (of state or company money and so on) for personal or other people's gain, while the definition of corrupt is rotten; bad; likes to use things (money) entrusted to him; can be bribed (through his power for personal gain)

Corruption from a government perspective (J. S. Nye, 1967) is behavior that deviates from the normal obligations of a government agency, due to personal interests (family, group, comrades, friends) to pursue status and prestige or violate regulations by committing or seeking influence on personal interests. This includes actions such as bribery (giving gifts to deprive someone of their position in their official position); nepotism (the position of one's relatives takes precedence, especially in granting positions or providing protection based on a relationship of origin rather than based on considerations of merit; misuse or illegal use of state income sources for personal interests)

Formulating corruption from a public interest perspective can be done by a pattern of corruption that will exist if a person holds power and is authorized to do certain things, such as an official who is responsible through money or other kinds of gifts that are not permitted by law; persuade or take steps that favor anyone who provides gifts and thereby seriously harm the public interest." Furthermore, due to Theodore M. Smith's opinion, "Formulating corruption from a political perspective, he said that overall corruption in Indonesia appears more often as a political problem than an economic

problem. He touches on the legitimacy (legitimacy) of the government in the eyes of the younger generation, the educated elite, and employees in general. Corruption reduces support for the government from elite groups at the provincial and district levels.”

From a sociological perspective, Syed Hussein Alatas states that corruption occurs when a civil servant accepts a gift offered by someone to influence him to pay special attention to the interests of the giver. Sometimes it also takes the form of offering money and other gifts that can tempt officials. Included in this definition is also extortion, namely requests for gifts or gifts in the performance of public duties. The term is also applied to officials who use public funds they manage for their benefit. Syed Hussein Alatas further added that what is also included as corruption is the appointment of relatives, friends, or political groups to positions in the government apparatus without considering their expertise or the consequences for the welfare of society (nepotism).

Thus, corruption includes acts of bribery, extortion, nepotism, and embezzlement. According to Syed Hussein Alatas, the four types of corruption above in practice include the following characteristics: it always involves more than one person; generally carried out in complete secrecy; involves elements of mutual obligation and benefit; carried out with various kinds of reasons to hide behind legal justifications; those involved want firm decisions and can influence decisions; contains fraud either on public bodies or the general public; constitutes a betrayal of trust; involves multiple, contradictory functions of those who perform it; and violate the norms of duties and responsibilities in the social order. The definition of corruption can be viewed from various aspects, it depends on the scientific discipline used as stated by Benveniste (Suyatno, 2005) corruption is defined into 4 types:

1) Discretionary corruption, namely corruption carried out because of the freedom to determine policies, even though they appear to be legal, are not practices accepted by members of the organization; 2) Illegal corruption, which is a type of action intended to disrupt the language or intent of certain laws, rules and regulations; 3) Mercenary corruption, is a type of criminal act of corruption intended to obtain personal gain, through abuse of authority and power; and 4) Ideological corruption, is a type of illegal or discretionary corruption intended to pursue group goals

Corruption is a crime, and the crime has several meanings or can be viewed from several angles, namely first, from the perspective of criminal law in an objective sense and second, criminal law in a subjective sense. Criminal law in the objective sense called *Ius Poenale* is several regulations containing prohibitions or obligations where violations are threatened with punishment (Siswanto Sunarso, 2015)

The definition of criminal acts of corruption since the enactment of Military Rule Number Prt/PM-06/1957 dated 9 April 1957 until the promulgation of Law Number 31 of 1999 concerning Criminal Acts of Corruption has been increasingly refined over time so that it has almost formulated various forms of the definition of corruption that have been

described on. In Law Number 31 of 1999, the definition of criminal acts of corruption is contained in Chapter II Article 2-Article 20, and Chapter III concerning other criminal acts related to Corruption Crimes Article 21-Article 24.

In the Corruption Eradication Commission (KPK) book, criminal acts of corruption are grouped into 7 types as follows (Ermansjah Djaja, 2010):

- a. Acts that are detrimental to the state; divided into 2 parts, namely: 1) Seeking profits by violating the law and causing harm to the State. 2) Abusing position to seek profit and harm the State.
- b. Bribery is an act of giving money or receiving money or gifts by government officials to do or not do something contrary to their obligations.
- c. Abuse of office, a government official who, with the power he has, embezzles financial reports, destroys evidence, or allows other people to destroy evidence to benefit himself by harming the State, this is as stated in Article 8 of the PTPK Law.
- d. Extortion is divided into 2, namely: extortion carried out by government officials against other people or the public and extortion carried out by civil servants against other civil servants. This corruption is regulated in Article 12 of the PTPK Law.
- e. Corruption related to fraud is fraud committed by contractors, project supervisors, and TNI/Polri colleagues who commit fraud in the procurement or delivery of goods which results in losses to other people or to the State's finances or which can endanger the safety of the State during war.
- f. Corruption related to procurement; activities aimed at providing goods or services needed by an agency or company. The person or agency appointed to procure goods or services is selected after a selection process called a tender. This tender was carried out cleanly and honestly. The agency or contractor with the best report card and the most competitive cost offer will be the agency that will be appointed and supervised, the selecting party may not participate as a participant. This is regulated in Article 12 letter I of the PTPK Law.
- g. Corruption related to gratification (gifts); gifts received by civil servants or state administrators and not reported to the Corruption Eradication Commission within 30 days of receipt of the gratification. Gratuities can be in the form of money for discounted goods, interest-free loans, tickets, and other facilities.

The criminal act of corruption or what is also called an act of enriching oneself or a group is an action that is very detrimental to other people, the nation, and the state. The criminal act of corruption is an act of any person who violates the law by committing acts of enriching themselves or another person or a corporation which can harm the State's finances or the State's economy.

In the case of criminal acts of corruption committed under certain circumstances,

the death penalty can be imposed. What is meant by "certain circumstances" are circumstances that can be used as a reason for criminal charges to be carried out against funds intended for overcoming dangerous situations, national natural disasters, overcoming the consequences of widespread social unrest, and overcoming economic and monetary crises. There are 3 elements of criminal acts of corruption, including oneself or another person or a corporation which can harm state finances or the state economy.

This provision states that information regarding the act of enriching oneself or another person or corporation by committing a criminal act of corruption is an act that is detrimental to the State. Dyatmiko Soemodihardjo, in his book entitled Preventing and eradicating corruption, looks at the dynamics in Indonesia and that there are still too many groups or characteristics of criminal acts of corruption in Indonesia so it is still difficult for the general public to understand which groups or characteristics a criminal act of corruption that has been committed falls into. a civil servant or state administrator, and here are some of the characteristics of criminal acts of corruption:

1. Corruption related to state finances, namely breaking the law to enrich oneself and can harm state finances; abusing authority to benefit oneself and can harm state finances.
2. Corruption related to bribery, namely bribing civil servants; giving gifts to civil servants because of their positions; civil servants accepting bribes; civil servants accepting gifts related to their position; bribing judges; bribing advocates; judges and advocates who accept bribes; judges who accept bribes; lawyers who accept bribes.
3. Corruption related to embezzlement in office, namely civil servants who embezzle money or allow embezzlement; civil servants falsifying books for administrative inspection; civil servants destroying evidence; civil servants allowed others to tamper with evidence; civil servants help others destroy books.
4. Corruption related to extortion, namely extorting civil servants; civil servants blackmail other civil servants.
5. Corruption related to fraudulent acts, namely liars cheat, project supervisors allow fraudulent acts, National army/Indonesian police partners commit cheats, National army/Indonesian police partner supervisors allow fraudulent acts, recipients of National army/Indonesian police goods allow fraudulent acts, civil servants grab state land thereby harming others.
6. Corruption related to conflicts of interest in procurement, namely civil servants participating in the procurement they manage.
7. Corruption related to gratification, namely civil servants receiving gratification and not reporting it to the Corruption Eradication Commission.

Corruption acts wherever and whenever will always have distinctive characteristics

and these characteristics can vary, some of which are as follows:

- a. Involves more than one person;
- b. Corruption does not only occur among civil servants or members of the state bureaucracy, corruption also occurs in private business organizations;
- c. Corruption can take the form of accepting bribes, coffee money, greetings, polish money, smoothing money, whether in the form of cash or objects or women;
- d. Generally everything is secret unless it has become a culture;
- e. Involves elements of mutual obligation and benefit that are not always monetary;
- f. Every act of corruption involves fraud, usually on public bodies or the general public;
- g. Every act of corruption violates the norms of duty and responsibility in the social order;
- h. In the private sector, corruption can take the form of accepting monetary payments and so on, revealing the secrets of the company where someone works, to taking commissions that should be the company's rights.

3.2 Law Enforcement

Regarding the duties of the police, prosecutors, and judges in the integrated criminal justice system, there are visible differences in the duties and authorities of the three institutions as part of the Indonesian criminal justice subsystem, such that at the time the Criminal Procedure Code came into force, the duties of the police were completely separate from the duties of prosecutors and judges. The police are investigators, the prosecutor is the prosecutor and the judge is the case decider. The existence of this separation should be according to (Mardjono Reksodiputro. 1993). "It must not interfere with efforts to have a single investigation, prosecution, and court policy which will guide joint work in the criminal justice process." Mardjono Reksodiputro also stated that if integration in the system is not implemented, it is estimated that there will be three losses as follows (Efi Laila Kholis, 2003): 1. difficulty in assessing the success or failure of each agency, about their shared tasks; 2. difficulty in solving the main problems of each agency (as a subsystem of the criminal justice system); and 3. because the responsibilities of each agency are often not divided, each agency does not pay much attention to the overall effectiveness of the criminal justice system.

To overcome the above, many institutions have been assigned to monitor the implementation of corruption and take action against the perpetrators, especially the Indonesian National Police. However, this development was not accompanied by

improvements in techniques and styles of fraud, so it seemed as if the practice of corruption had no end (Djoko Prakoso, 1990).

In the Corruption Crime justice process, what is important or needs more attention is the investigation process, because the implementation of investigations is very vulnerable to various problems, both relating to violations of the suspect's rights and the possibility of conflicts of authority between law enforcers, namely between one institution and another. other institutions in terms of carrying out their duties and authority.

The spirit of reform has given rise to political will and the government's determination to eradicate corruption, collusion, and nepotism as well as other forms of deviation, such as abuse of power and authority by state administrators. Specifically for corruption crimes, law enforcement efforts against this crime are carried out by three institutions, namely the police, the prosecutor's office, and the Corruption Eradication Commission.

For the police, the role of enforcing criminal acts of corruption is mandated in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. Law Number 2 of 2002 makes the National Police an instrument of the State for law enforcement, guardians of security and public order as well as guardians, protectors, and servants of the community. This is certainly a challenging task for the National Police because, on the one hand, managerial expertise is required in aspects of management that are closely related to coordination implementation issues, while on the other hand, mastery of investigations is required, the space for which is always limited by applicable legal provisions.

Investigations carried out by the Police greatly influence the implementation of the Criminal Law and Criminal Procedure Law itself. This is because the investigation process is the first step in the law enforcement process carried out by law enforcers in Indonesia. The investigators and investigators aim to search for and collect materials, the evidentiary materials can be objects or people or objects, then the investigator or investigator, at the request of the investigator, has the authority with the permission of the local District Court to confiscate (article 38 of the Criminal Procedure Code), house searches (article 33 of the Criminal Procedure Code), examination of documents (article 47 of the Criminal Procedure Code), while investigators have the authority to arrest and detain (articles 16 to 20 of the Criminal Procedure Code) (Evi Hartanti, 2008).

Indonesian Police before the formation of the Corruption Eradication Committee, was given the authority by the legislators to carry out inquiries and investigations into all criminal acts, both general crimes and special crimes such as corruption. The authority of the National Police in investigating and investigating criminal acts of corruption is based on the rules in Article 1 point (1) to point (5) of Law Number 8 of 1981 The Criminal Procedure Code, stipulated that the National Police is the sole investigator, meaning that no other apparatus except the National Police is burdened. the obligation to carry out a

preliminary examination (voor onderzoek).

The Criminal Procedure Code in Article 1 point 4 states that an investigator is: "An official of the State Police of the Republic of Indonesia who is authorized by this law to conduct investigations." So those who can become investigators are State Police Officials of the Republic of Indonesia, other than Officials of the State Police of the Republic of Indonesia, they cannot be investigators.

The investigator's task is to carry out an investigation which is a series of investigatory actions to search for and discover an incident that is suspected of being a criminal act to determine whether or not an investigation can be carried out according to the method regulated in the Criminal Procedure Code (article 1 point 5 of the Criminal Procedure Code). It is explained in the next article, namely in article 6 of the Criminal Procedure Code, that investigators are: a. Police officials of the Republic of Indonesia, b. Certain Civil Servant Officials are given special authority by law. ✓

3.3 Police Authority

The word police, which comes from Politea (Greek), was originally used to refer to people who were citizens of the city of Athens, which later developed into a city and was used to refer to all city businesses. Because at that time cities were independent states, which were also called Polis, then Politea or Polis was defined as all state efforts and activities, including religious activities.

In Article 1 point 1 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, "Police are all matters relating to police functions and institutions by statutory regulations". Scholars in the field of police state that in the word police there are 3 meanings, namely: police as a function; police as a state organization; and the police as officials or duties

According to Article 2 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia: "The function of the police is one of the functions of state government in the field of maintaining security and public order, law enforcement, protection, protection and service to the community."

In carrying out their functions as law enforcement officers, the police are obliged to understand the legal principles that are used as material for consideration in carrying out their duties (Bisri Ilham, 1998). SAS obligations, is the police's obligation to handle discretionary community problems because they are not yet regulated in law; the principle of participation, to safeguard the community environment, the police coordinate Swakarsa security to achieve legal compliance among the community; preventive principle, always prioritizing preventive action rather than repression (repressive) towards the community; and the principle of subsidiarity, carrying out the tasks of other agencies so as not to cause bigger problems before they are handled by the agency in charge.

Article 4 of Law Number 2 of 2002 also regulates the objectives, namely: "The State Police of the Republic of Indonesia aims to realize domestic security which includes

maintaining security and public order, order and upholding the law, providing protection, guidance, and service to the community, and the establishment of social peace by upholding human rights.”

In terms of duties and authority, it is regulated in Law Number 2 of 2002. It is stated that the main public duties of the National Police of the Republic of Indonesia are: maintaining security and guarding; enforcing the law; and providing protection, protection, and services to the community (article 13). It is stated that in carrying out its main duties, the National Police of the Republic of Indonesia is tasked with: carrying out regulation, guarding, escorting and patrolling community and government activities as needed; Carrying out all activities to ensure security, order and smoothness of road traffic; developing the community to increase community participation, community legal awareness and community compliance with laws and regulations; as well as in developing national law; maintaining and ensuring public security; carry out coordination, supervision and technical training for special police, civil servant investigators and other forms of independent security; carry out inquiries and investigations into all criminal acts in accordance with the criminal procedural law and other statutory regulations; organizing police, police medicine, forensic and police psychology laboratories for the purposes of police duties; protect the safety of body and soul, property, society and the environment from disturbances and/or disasters, including providing aid and assistance by upholding human rights; serve the interests of community members temporarily before being handled by the authorities and/or authorities; provide services to the community in accordance with their interests within the scope of police duties; and carry out other duties in accordance with statutory regulations.

The police have the authority to: Receive reports and/or complaints; Help resolve community disputes that may disrupt public order; Prevent and overcome the growth of community diseases; Monitor trends that can cause division or threaten the unity and integrity of the nation; Issue police regulations within the scope of police administrative authority; Carry out special inspections as part of police actions in the context of prevention; Take the first action on the scene; Taking fingerprints and other identification and photographing a person; Search for information and evidence; Organizing the National Crime Information Center; Issue permits and/or certificates required for community service; Providing security assistance in the hearing and implementation of court decisions, activities of other agencies, and community activities; Receive and store found items temporarily.

In accordance with other laws and regulations, the police have the authority to: Give permits and supervise public crowd activities and other community activities; Organizing motor vehicle registration and identification; Providing a motor vehicle driving license; Receive notifications about political activities; Providing permits and monitoring firearms, explosives and sharp weapons; Providing operational permits and supervising

business entities in the security services sector; Providing guidance, educating and training special police officers and independent security officers in the technical field of policing; Cooperating with the police of other countries in investigating and eradicating international crimes; Carrying out functional police supervision of foreigners residing in Indonesian territory with the coordination of related agencies; Representing the government of the Republic of Indonesia in international police organizations; Carry out other authorities that fall within the scope of police duties.

In order to carry out its duties, the Republic of Indonesia National Police has the authority to: Carry out arrests, detention, searches and confiscations; Prohibit anyone from leaving or entering the crime scene for investigation purposes; Bringing and presenting people to investigators in the context of an investigation; Ordering suspected people to stop and asking and checking personal identification; Carrying out inspection and confiscation of letters; Summoning people to be heard and examined as suspects or witnesses; Bringing in the necessary experts in connection with the case examination; Holding an end to the investigation; Submit case files to the public prosecutor; Submit a request directly to the authorized immigration official at the immigration checkpoint in an urgent or sudden situation to prevent or deter a person suspected of committing a criminal act; Providing guidance and investigative assistance to civil servant investigators and receiving the results of investigations by civil servant investigators to be submitted to the public prosecutor; and Carry out other legally responsible actions.

Other actions are investigations and investigative actions that are carried out if they meet the following requirements: Do not conflict with a legal rule; In line with the legal obligations that require the action to be carried out; Must be appropriate, reasonable, and included in the scope of the position; Reasonable consideration, based on the circumstances in question; and Respect human rights.

4. CONCLUSIONS

- a. Regulation of criminal acts of corruption in Indonesia at the time Law Number 31 of 1999 concerning the Eradication of Corruption Crimes normatively refers to the main regulations contained in Law Number 8 of 1981 concerning the Criminal Procedure Code, along with other regulations that are related to these provisions. The Criminal Procedure Code only recognizes 2 institutions or agencies that have the authority to handle criminal acts, namely the Police and the Prosecutor's Office.
- b. In Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, the authority for judicial investigation follows the procedures contained in Law Number 31 of 1999, or in other words, there are two institutions Those with authority to investigate corruption cases are the Police and Prosecutor's Office. However, the mandate of

Law Number 31 of 1999 indicates that three institutions have the authority to handle criminal acts of corruption, namely the Police, the Prosecutor's Office, and the Corruption Eradication Commission.

- c. In Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, in its paradigm the Police aim to strengthen the position and role of the police as an integral part of overall reform efforts. The development and progress of society as well as the emergence of the supremacy of law, globalization, transparency and accountability have given rise to a new perspective on the duties, functions, authority and responsibilities of the police which has led to the growth of various demands and expectations from the public regarding the implementation of police duties oriented towards the interests of the community.

5. SUGGESTION

- a. It is hoped that there will be no more overlap in the investigation and investigation of criminal acts of corruption, and it is hoped that the authority of the police in investigating criminal acts of corruption will be further enhanced as a role in eradicating criminal acts of corruption.
- b. To avoid overlapping investigations into criminal acts of corruption, it is necessary to improve coordination and more intensive communication between the three law enforcers, namely the police, prosecutor's office, and the Corruption Eradication Commission.

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