

Restorative Justice Policy as Legal Politics for Handling Corruption Crimes in Indonesia

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Abstract

This study looks at the current conditions in Indonesia regarding the handling of criminal acts of corruption, which are still dominated by a criminalistic approach that focuses on punishing and convicting perpetrators. Restorative justice policies were introduced as an alternative approach to dealing with corruption problems and faced criticism for the effectiveness of traditional approaches, which were considered ineffective in returning state financial losses. This study aims to look at the process of handling corruption by the Police, Attorney General's Office and the Corruption Eradication Commission (KPK) in optimising the recovery of state financial losses. This study is qualitative in form by collecting data sourced from laws and regulations and interviews with competent sources in the field of handling corruption in Indonesia. The results of the study show that the pattern of law enforcement using a criminalistic approach is not effective, so policy changes can be considered using a penal mediation approach based on restorative justice that has been implemented by the Police and the Attorney General's Office.

Keywords: Restorative Justice Policy, Corruption, Recovery of State Financial losses

Introduction

From an etymological perspective, the term legal politics is an Indonesian translation of the Dutch legal term *rechtspolitiek*, which is a formation of the two words *rech* and *politiek* (Syaukani and Thohari, 2015). In Indonesian, the word *recht* means law. The word law itself comes from the Arabic *hukm*, which is the plural of *ahkam* which means decision, decree, order, power and punishment. In relation to this term, there is no common perception among legal experts. Differences of opinion arise because of the abstract definition of law and the different points of view of legal expert.

Legal handling is part of the law enforcement process. Law enforcement follows the development of patterns and motives of each criminal act as well as the institutional structure of law enforcement. Law enforcement related to criminal acts of corruption is very different

from other criminal acts in Indonesia. This is because there are three institutions that are authorised to carry out the process of handling this criminal act of corruption, namely the Police, the Prosecutor's Office and the Corruption Eradication Commission (hereinafter referred to as the KPK). This condition is a logical consequence of the predicate placed on corruption as an extraordinary crime.

The problem of handling corruption is part of the scope of legal politics in the life of the nation and state (Eyisi & Uduma, 2018). Improving the effectiveness of corruption prevention is part of the 15 Action Plans from the government in supporting political conduciveness in 2024, which is a moment of national leadership succession (Bahuri, 2022). For this reason, legal politics is expected to become an instrument in supporting the government's action plan for the effectiveness of dealing with corruption in Indonesia. Using legal and political instruments, it can be analysed the power configuration of political parties in the formation of corruption laws as well as looked at the mechanisms for preventing and eradicating criminal acts of corruption that have been carried out by the government.

In Indonesia, the eradication of corruption is largely determined by the amount of political support from the authorities. For example, President Soesilo Bambang Yudhoyono's political support in resolving the KPK's dispute with the Attorney General's Office who asked to release Bibit and Chandra Hamzah, who were members of the KPK Commissioners who were charged with the crime of receiving bribes from a case investigated by the KPK in 2008, even though the Attorney General's Office stated that it had complete evidence for the indictment. The crimes of the KPK commissioners.

This legal process has serious implications; if the investigation process is continued with prosecution by the Attorney General's Office until it is examined by a judge in court, it will affect the investigation process carried out by Bibit and Chandra Hamzah as commissioners of the KPK, especially in disclosing corruption cases with suspects Djoko Chandra and Anggoro Widjojo. Thus President Soesilo's political steps to settle peacefully outside the court strengthened the President's commitment to providing support to the KPK so that it can improve performance in carrying out its duties and authorities (Yusyanti, 2015).

In addition, political support can be realised in various forms of regulatory policies, all of which lead to space, circumstances, and situations that support corruption eradication programs to work more effectively (Hartanti, 2007). On the other hand, the existence of political support from the authorities can encourage public participation to jointly eradicate corruption. Therefore placing a political dimension related to the President's support in the corruption eradication program means seeing the tendency of the President's policies as the head of government as described by Madril (2018) that the President as the holder of government power is the main actor in determining anti-corruption law policies in the government. Through the power he has, the President has the authority to regulate governance, determine the direction of legal policy to eradicate corruption and ensure the implementation of the corruption eradication agenda in the government.

Madril (2018) further mentioned that the typology of corruption is different in each presidential term. In the era of President Soekarno (1945-1965), it was stated that corruption developed only around acts of abuse of power by some officials along with political consolidation during the transitional period. In the era of President Soeharto (1965-1998), it was mentioned again that the corruption that developed was administrative corruption and corruption in government policy-making, which tended to benefit the President's cronies.

The hope for the emergence of a more effective corruption eradication policy during the President Soesilo Bambang Yudhoyono era (2004-2014). However, as President, the

results of the direct Presidential Election have not yet produced a comprehensive anti-corruption policy (Madril, 2018). The President's political commitment is apparently not enough without real political support to lead the eradication of corruption. Consolidation of the anti-corruption agenda was disrupted because the President's political support was fading because cadres from the Democratic party who became the party supporting President Soesilo acted against anti-corruption policies by committing corruption crimes such as Anas Urbaningrum, Angelina Sondakh and Andi Mallarangeng as written by Columnist Djoko Suud "Democrat and Corruption" (Suud, 2012).

Currently, the second term of President Jokowi. Initiatives in the development of corruption eradication policies are still very weak. President Jokowi only continued the anti-corruption policy package under President Soesilo Bambang Yudhoyono. The policy packages are 1) Issuance of Presidential Instruction No. 5 of 2004 concerning the acceleration of corruption eradication; 2) Compilation of the National Strategy and Action Plan for the Eradication of Corruption 2010-2025 with the main vision of forming governance that is free from corruption, collusion and nepotism; 3) Formation of Presidential Regulation No. 5 of 2010 concerning the 2010-2014 medium-term development plan (RPJM) which focuses on improving good and clean governance (Agustina et al., 2016).

The paradox is that this Presidential Regulation gives authority to the Police and the Attorney General's Office not to take law enforcement action if there are reports from the public about abuse of power as long as it is related to a national strategic project. Even though the KPK has received many reports related to alleged corruption in regional strategic projects. As a substitute, reports of criminal acts will be forwarded to administrative officials based on government administration legal procedures (Syawawi, 2021).

Methods

This research is included in qualitative research by combining normative and sociological legal research forms. Normative legal research is a type of research that focuses on examining legal norms, laws, regulations, court decisions, and other legal sources with the aim of identifying, analysing, and interpreting the contents of applicable law. Meanwhile, empirical legal research is a type of research that collects data and information from facts that occur in legal practice in the field. This research focuses more on observing and analysing legal behaviour and practices in society, court processes, the behaviour of legal actors, and the impact of legal policies that have been enacted. Data analysis uses content analysis by going through the process of evaluating, examining, and understanding the contents of content, be it in the form of writing, images, videos, or other formats.

Results and Discussion

Implementation of Policies for Handling Corruption Crimes in Indonesia

In Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, there are three main things that are the focus, namely: first regarding the scope of criminal acts, second regarding the expansion of the term civil servant, third regarding the recovery of state financial losses and fourth regarding the criminal weighting of corruption crimes done at a certain time.

The first part states that the criminal act of corruption as an act of enriching oneself or another person or a legal entity that is committed against the law either directly or indirectly can harm the State's finances and the State's economy, or it is known or should be suspected that the act is financially detrimental. Country. This formulation requires the form of pro parte

dolus pro parte culpa error. This means that the form of error here is not only required to be intentional, but it is sufficient that there is negligence in the form of being suspected of being detrimental to the finances or the economy of the country, already being able to ensnare the perpetrators (Lestari, 2017). The second part concerns the expansion of the meaning of civil servants, namely people who receive salaries or wages from state or regional finance, from an agency/legal entity that receives assistance from state or regional finance, or other legal entities that use capital and concessions from the state or society (Rahman, 2022). The expansion of the meaning of Civil Servants remained a formulation in the Corruption Crime Act during President BJ's era. Habibie, because based on experience so far, non-civil servants, according to the understanding of administrative law, by receiving certain assignments from a state agency or an agency that receives assistance from the State (Remaja, 2017), can also commit acts of corruption or disgrace. The third part, the affirmation of returning state financial losses or the state's economy, does not eliminate the punishment of perpetrators of corruption (Fitriani, 2019). However, it should be noted that if the return of the proceeds of corruption is carried out voluntarily without any external elements before the case becomes known to the public or law enforcement, then this cannot be used as a basis for prosecution (Amrani, 2017). Then the return of the proceeds of a crime committed voluntarily is treated as against the law in a negative function (Yunus et al., 2021). The fourth part concerns the burden of punishment for perpetrators who commit crimes when the state is in an emergency, when a disaster occurs or in a state of economic crisis. in the form of the death penalty (KPK, 2006).

In general, the Corruption Crime Law regulates clearly related to formal criminal law which includes issues of arrest, detention, investigation, investigation, prosecution, trial examination, evidence, decision, implementation of the decision; International cooperation; and return on assets (Ifrani, 2017).

The Urgency of the Role of Police Investigators in Exposing Corruption Crimes

In Law, no. 2 of 2002 concerning the Indonesian National Police (hereinafter referred to as the Police Law) states that the Police are all matters relating to the functions and institutions of the police in accordance with statutory regulations. Community, law enforcement, protection, protection, and service to the community (Jurdi, 2022).

Thus the purpose of the existence of a Police institution based on Article 4 of the Police Law is to realise domestic security, which includes maintenance of security and public order, order and upholding of the law, implementation of protection, protection and service to the community, as well as fostering public tranquillity by upholding the right human rights (Ismail, 2012).

The implementation of police functions in dealing with corruption is carried out based on Law No. 8 of 1981 (hereinafter referred to as the Criminal Procedure Code). Article 1 point (1) of the Criminal Procedure Code states that an investigator is an official of the Indonesian National Police or an official of the Civil Service who is given special authority by law to conduct an investigation. Because of their obligations to have authority (Ali, 2015): 1) Receive a report or complaint from someone about a criminal act; 2) Take the first action at the scene; 3) Ordering a suspect to stop and check the suspect's identification; 4) Arrest, detain, search and confiscate; 5) Examination and confiscation of letters; 6) Taking fingerprints and photographing someone who is suspected of committing a crime; 7) Summon people to be heard and examined as suspects or witnesses; 8) Bring in an expert needed in connection with

the examination of the case; 9) Bring in an expert needed in connection with the examination of the case and 10) Hold an end to the investigation.

Technically, the task of carrying out investigations into criminal acts of corruption can be seen explicitly in Presidential Instruction No. 5 of 2004 concerning the acceleration of eradicating corruption. In Presidential Instruction No. 5 of 2004 stated that the Police should optimise their investigative efforts into criminal acts of corruption to punish the perpetrators and save state money (Sanjaya, 2018).

Efforts to investigate criminal acts of corruption are mentioned as a series of investigative actions in terms of and according to the methods stipulated in Article 7 paragraph (1) of the Criminal Procedure Code to seek and collect evidence with which evidence makes it clear about the crime that occurred and in order to find the suspect, namely who has committed the crime and provide evidence regarding the mistakes that have been made by compiling information with certain facts or events (Bambang Poernomo, 1997). Regarding the facts about the occurrence of a crime; The identity of the victim; The definite place where the crime was committed; The time of the crime; Motives, goals and intentions; as well as the identity of the perpetrators of the crime (Prodjodikoro, 2003).

The Effectiveness of Corruption Prosecution by the Attorney General's Office

The Prosecutor's Office, as an independent government institution and given authority in terms of prosecution is regulated in Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which was later amended to become Law no. 11 of 2021 concerning changes to Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (hereinafter referred to as the Prosecutor's Law).

The Prosecutor's authority as an investigator for the time being is specifically stated in Article 30 paragraph (1) letter d of the Prosecutor's Law which confirms the existence of a Prosecutor's Office which has the duty and authority to carry out investigations of certain criminal acts based on the law. Certain criminal acts can be interpreted as the authority to investigate specific crimes such as corruption.

The handling of Corruption Crime Cases by the Prosecutor begins with the implementation of Investigations, then Prosecution and Implementation of Decisions. In the handling of criminal acts of corruption by the Attorney General's Office, the prosecution process is an important point in uncovering criminal acts of corruption. The position of the Prosecutor's Office as part of the executive power has consequences for the independence of the Prosecutor's Office as a government tool in carrying out prosecution duties, including in handling certain criminal acts (Sumakul, 2018).

Independence is divided into two, namely independence in carrying out tasks and functions (independence) and institutional independence (self-sufficiency). Independence in carrying out duties and functions is the mental attitude of the prosecutor and the Attorney General which is free from influence, not controlled and dependent on other parties (Alhumami, 2020).

Broadly speaking, the examination of corruption by the prosecutor's office is divided into 3 stages, namely: 1) Preliminary examination; 2) Prosecution and 3) Final Examination. The three stages must be carried out professionally, therefore the prosecutor who acts as a public prosecutor must have expertise, both in understanding and mastering laws and regulations as well as in the development of science and technology in eradicating corruption to be successful. Mastery over science and technology is very important because, currently

the perpetrators of corruption also master the science and technology used to hide evidence of the commission of the crime of corruption (Mas, 2014).

In addition, the public prosecutor can terminate the prosecution if there is a lack of evidence or the case is not a crime. Among the cases that were given a letter of termination of prosecution due to lack of evidence was the case of the Sisminbakum (Legal Entity Administration System) project, namely the procurement of a legal entity administration system managed by the directorate general of general law administration, the Ministry of Law and Human Rights to facilitate registration for public legal entities (Companies, Foundations and Community Organizations) which at that time was held by Yusril Ihsa Mahendra. The procurement of Sisminbakum is carried out by private parties, in this case PT. Sarana Rekatama Dinamika was represented by Yohanes Woworuntu as the Director. The Director General of General Law Administration at that time was Romli Atmasasmita who was later replaced by Zulkarnain Yunus. After the Sisminbakum project is completed, the use of the website is subject to a legal entity registration fee and Non-Tax State Revenue (PNBP). On suspicion of corruption over legal entity registration fees that were not paid to the state treasury, the CEO of PT Sarana Rekatama Dinamika has been named a suspect (Antara News, 2008). The case then proceeded with the examination of witnesses by the Attorney General's Office along with several people who were in the vortex of the case being made suspects including Romli Atmasasmita and Zulkarnain Yunus for alleged state financial losses of 410 billion Rupiah (Detik News, 2010). The Sisminbakum access fee case has gone through a lengthy legal process including an examination of Yusril Ihsa Mahendra as the former Minister of Law and Human Rights at that time who maintained that the Sisminbakum access fee was not part of the state's money that had to be billed because the Sisminbakum system was administered by a private party (ICW News, 2010). In 2012 the Attorney General's Office then stopped the prosecution process because they did not find sufficient strong evidence that corruption had occurred.

The case that the investigation process was stopped because the Attorney General's Office considered that the act was not included in a criminal act of corruption was the Batam Harbor Bay special port case. Cases of alleged misuse of special port permits eliminate potential state revenues of 50 billion rupiahs every year (Indra Wijaya, 2012). The special port manager was made a suspect because of the use of a special port permit (designated specifically for company guests who are in the Batu Ampar industrial area) but it is also used to serve general passengers and is charged a fee of SGD 7 each out (Rusdianto, 2012). But still in the same year, the Attorney General's Office stopped the investigation process because the fees charged to general passengers at this particular port were not included in the criminal act of corruption (Rachman, 2012).

Strengthening KPK Supervision in Handling Corruption Crimes

The formation of the KPK was not intended to take over the task of handling corruption by the Police and the Attorney General's Office, but as a trigger mechanism. In the elucidation of the KPK Law, it is stated that the KPK is a trigger mechanism, which means that the KPK is expected to be a driving force or stimulus so that the handling of criminal acts of corruption can be more effective and efficient.

The structure of the KPK based on the KPK Law consists of: 1) KPK leadership totaling 5 KPK members; 2) Advisory Team consists of 4 members; 3) KPK employees as task executors. Then in the KPK Law the changes in the KPK structure became: 1) The Supervisory Board consists of 5 members; 2) KPK leadership, totaling 5 members; 3) KPK employees.

The position of the KPK is independent and has freedom from the influence of any power in carrying out its duties, functions and authorities (Sumakul, 2012). The hope is that with independence and freedom from the influence of any power in carrying out its duties and authorities, the KPK has high integrity in handling corruption crimes (Sadono et al., 2020).

It's just that the independence of the KPK is still being questioned as there are facts regarding KPK employees who are investigators, investigators and prosecutors who are active members of the Police and Attorney General's Office who are only temporarily dismissed as long as they are KPK employees as stipulated in Article 39 paragraph (3) of the KPK Law. The independence of investigators from the Police becomes a severe test when facing corruption cases committed by superior investigators at the Police as well as prosecutors from the Attorney General's Office face trials if they prosecute acts of corruption from their superiors at the Attorney General's Office, of course the level of independence of the investigators and public prosecutors is still low. low when compared to KPK employees who are not elements of the Police and the Attorney General's Office.

As a stimulus in accelerating the handling of criminal acts of corruption, the KPK Law determines which parties have the potential to be investigated, investigated, or prosecuted by the KPK (Kaligis, 2020), namely those involving law enforcement officials and state administrators which disturbs the community (Nada, 2022). For this reason, the KPK in exercising state power must be given authority beyond that of the Police and the Attorney General's Office. The authority in question is the authority to conduct wiretapping of perpetrators who are suspected of committing acts of corruption and Hand-Catching Operations (OTT) if they are strongly suspected of committing acts of corruption.

Paradigm of Settlement of Corruption Crimes Using Penal Mediation Approach

In the criminal justice system, the role of the police as investigators is primarily concerned with the process of handling criminal cases through the police force. Police investigators have discretionary authority to be able to follow up a crime to a litigation court or choose to resolve it for processing outside a non-litigation court (Yani and yusuf, 2021).

Discretionary authority in terms of Law Enforcement law enforcement can be carried out with considerations of justice and legal benefits (Suyono and Firdiyanto, 2020). Given this, the discretionary benefit of the Police is to make the implementation of policies based on professionalism in work from the Police required to work optimally in providing a service, guidance and protection to the wider community in general and upholding the law in particular so that implementation can run effective and efficient. In Article 18 paragraph (1) For the public interest officials of the State Police of the Republic of Indonesia in carrying out their duties and authorities may act according to their own judgement.

In paragraph (2) Implementation of the provisions referred to in paragraph (1) can only be carried out in very necessary circumstances by taking into account laws and regulations, as well as the Professional Code of Ethics for the Indonesian National Police.

The Police Agency, as stipulated in Article 18 paragraph (1) of the Police Law, gives investigators the right to exercise discretion, namely the right to act according to their own judgment not to proceed with the law against criminal acts as long as it is in the public interest or morals, because discretion is essentially between law and morals.

Discretionary practices can be observed in the Letter of the Chief of Police of the Republic of Indonesia, Pol No.: B/3022/XII/2009/SDEOPS dated 14 December 2009 concerning Case Handling Through alternative dispute resolution. The discretionary authority

to handle criminal acts with an alternative dispute resolution mechanism by the police is the basis for Penal mediation (Faisal, 2011).

Settlement of cases through mediation was originally only known in the realm of civil case settlement. Even though the case has entered the judiciary, mediation is still offered to both parties by law enforcement officials legally (Prihatini, 2015). At present, the settlement of criminal cases in Indonesia is starting to lead to penal mediation (Cahya Wulandari, 2018). Settlement of cases through penal mediation is offered directly by the police for cases classified as minor crimes (Tipiring) and complaint offenses. Nevertheless, there is also a settlement of cases through penal mediation originating from the request of the party concerned (Flora, 2015).

Therefore, if the police institution provides a large space in the process of resolving criminal acts by penal mediation, the goals and objectives of the law can be achieved (Lilik Mulyadi, 2013). In addition to penal mediation being considered more humane for the perpetrator (Santoso, 2020) it is also felt to be more effective for restoring the victim's sense of justice (Sari et al., 2016)

Using Jeremy Bentham's analysis of Utilities theory starting from the principle of legal expediency, it may be considered a form of settlement of corruption crimes with a mediation pattern with a policy of prioritizing the return of state financial losses. This is supported by indications that the process of handling corruption by the Police has not been effective as described in the previous sub-chapter.

For this reason, a penal mediation approach to criminal acts of corruption is needed as an answer to simplifying bureaucratic law enforcement procedures in the criminal justice system which requires a relatively long time and the perspective of the benefits of law enforcement processes when applied to crimes with relatively small losses to the state. This is supported by the statement by the Candidate for Chief of the Indonesian National Police Listyo Sigit Prabowo during a fit and proper test meeting at the DPR RI Office which emphasized that in handling corruption crimes, it will prioritize prevention and recovery of state finances (Putri, 2021).

The Role of the Prosecutor's Office as Part of Judicial Power in Implementing Restorative Justice in Corruption Crimes

In current developments, the termination of prosecution by the Prosecutor's Office is also based on restorative justice (Pangestu, 2022). In restorative justice, criminal sanctions given to perpetrators do not eliminate the suffering experienced by victims so that in practice, other alternatives or other approaches are needed to improve the criminal justice system by carrying out or using non-litigation settlements with a restorative justice approach (Hartono, 2015).

The concept of restorative justice itself is to restore the rights of victims and perpetrators outside the court through a mediation process. Restorative justice is one of the settlement efforts for both perpetrators of violations and victims that leads to rehabilitation for perpetrators of violations and healing for victims in their own communities so that all parties will experience an open sense of justice. One form of regulation that is used as the basis for implementing restorative justice is the Attorney General's Regulation No. 15 of 2020 concerning termination of prosecution based on restorative justice (Kristanto, 2022).

In this Prosecutor's Regulation it is stated that there are three basic considerations for issuing this regulation (Danial et al., 2022) : The first relates to the affirmation of the Attorney General's Office of the Republic of Indonesia as a government agency that exercises state

power in the field of prosecution; Second, the affirmation of the settlement pattern with a restorative justice approach; Third, ensure the law enforcement process provided for by law by taking into account the principles of fast, simple and low-cost trials. With this approach, the Attorney General's Office has stopped prosecuting 1334 criminal cases (Medistiara, 2022).

The application of restorative justice to the perpetrators of corruption committed by the Attorney General's Office is certainly not easy to implement. When the Head of the Attorney General's Office proposed corruption with a value of under 50 million Rupiah, there was no need for imprisonment, various criticisms of this proposal adorned the mainstream media Satrio (2022); Chaterine (2022); Hafid (2022) however, given the importance of returning state financial losses, this can be considered.

Following the view of the Chief Attorney General Burhanudin ST who stated that criminal law enforcement that pivots on retributive application is felt not to always provide benefits to perpetrators, victims and society. Thus, the application of restorative justice which emphasizes the settlement of cases outside the court by placing the victim as an important part of the purpose of punishment is considered more beneficial.

This is in line with Jeremy Bentham's view, with the theory of legal benefits that a legal policy is considered better if more benefits are provided. The application of law enforcement with a restorative justice paradigm that provides benefits not only to victims but also to perpetrators is better when compared to using a retributive legal approach which only focuses on giving a deterrent effect to perpetrators without regard to the benefits to victims. Likewise in corruption cases, the state and society are victims, so of course it does not fulfill a sense of justice if the state's financial losses are not returned or even if the perpetrators of corruption are severely punished even if they do not provide benefits to society. In fact, the state has to pay more for accommodation and food for the perpetrators while in prison.

The Political Direction of Changes in the Position of the KPK in Eradicating Corruption Crimes

Arrangements regarding the basis of authority in carrying out investigations, the Police are based on the Criminal Procedure Code Law in particular in Article 7 paragraph (1) and the Police Act in particular in Article 16. The basis for the authority of the Prosecutor's Office in carrying out investigations is contained in the Prosecutor's Law in particular Article 30 paragraph (1) letter d. The KPK's authority to carry out the investigative process is contained in the Corruption Crime Act, specifically article 43 paragraph (2) and the KPK Law, in particular, article 6 letter c.

Due to the existence of this authority relationship, in the implementation of the handling of criminal acts of corruption conflicts of interest often occur which in the end can result in the performance of eradicating corruption not running effectively.

Relations can be made in pointers as follows: 1) Between the Police and the Corruption Eradication Commission intersects the Investigation Task; 2) Between the Police and the Prosecutor overlapping on Investigation tasks; 3) Between the Police, Prosecutors and the Corruption Eradication Commission there is a division of Investigation tasks; 4) Between the Prosecutor and the Corruption Eradication Commission overlap the task of Prosecution.

After the issuance of Law 19 of 2019 concerning the second amendment to Law no. 30 of 2002 concerning the Corruption Eradication Commission (hereinafter referred to as the Second Amendment Law on the KPK), there was a significant change in political policy in the position of the KPK as an Independent Institution which eventually became an independent Government Institution. Observing the basic considerations for the revision of the Amended KPK Law which the DPR included in the explanation that the purpose of making changes was

to place the KPK as a unitary apparatus of government institutions which together with the Police and/or the Attorney General's Office make integrated and structured efforts in preventing and eradicating corruption. This change means that the KPK is no longer positioned as a trigger mechanism in the Police and Prosecutor's Office, but that the Corruption Eradication Committee has become a permanent institution under the authority of the President whose position is the same as that of the Police and Prosecutor's Office.

At present, the limitations of the KPK's space for movement are seen from the KPK's authority which is strictly regulated in the KPK Law, changes include: 1) The status and position of the KPK Institution; 2) Addition to the principle of respect for human rights; 3) The establishment of the KPK Supervisory Board organ; 4) Restrictions on the Wiretapping function; 5) Procedure for issuing an Investigation Termination Letter (SP3), 6) Coordination Mechanism of the KPK with other Law Enforcement Officials; 7) Restrictions on Seizures and Searches; 8) Recruitment and status of KPK employees (Second KPK Amendment Act, 2019).

Conclusion and Perspective

After discussing the handling of criminal acts of corruption by the Police, Prosecutor's Office and the KPK, it can be concluded that prior to the existence of the KPK Law, the handling of criminal acts of corruption was carried out by the Police as investigators using the Criminal Procedure Code and Law No. 2 of 2002 concerning the Indonesian National Police. The Prosecutor's Office as the Public Prosecutor uses the Criminal Procedure Code and Law 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

KPK as an institution formed based on the mandate of the Corruption Crime Law is given authority not only as an investigator which is the authority of the Police but also to carry out prosecutions which is the Authority of the Attorney General's Office as can be seen in the following framework

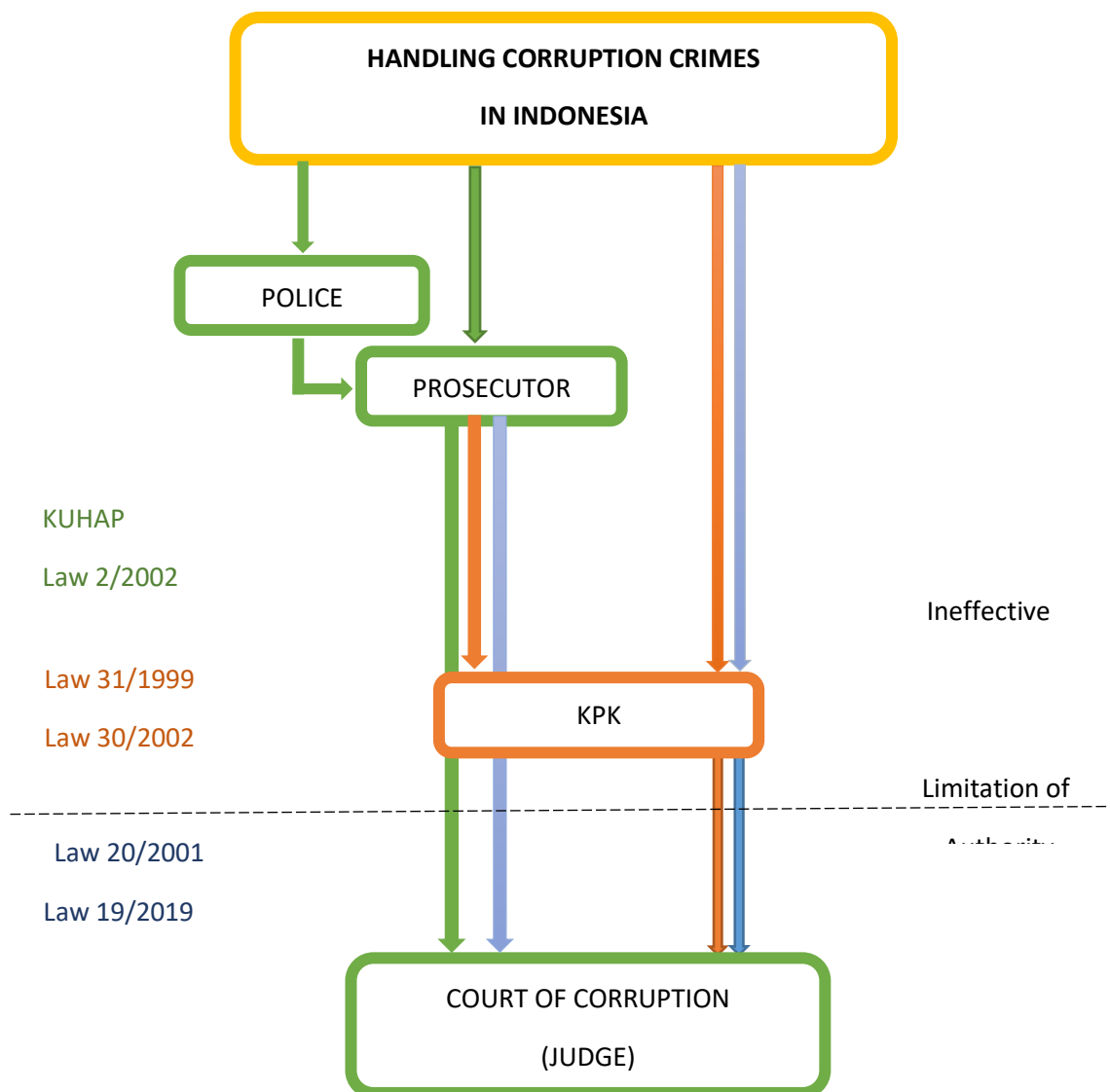


Figure 1. The Process of Handling Corruption Crimes in Indonesia

Article 11 paragraph (2) of the Corruption Eradication Commission Law stipulates that the handling of criminal acts of corruption committed by the Police and Prosecutor's Office is related to law enforcement officials or state administrators and/or involves state losses with a limit above Rp. 1,000,000,000.00, then given to the KPK to continue the handling process.

In addition, the KPK was also strengthened by Presidential Decree No. 102 of 2020 concerning the implementation of supervision on the eradication of criminal acts of corruption which gives authority to the KPK to take over the handling of criminal acts of corruption committed by the Police and the Attorney General's Office as stipulated in Article 9. Based on the results of supervision of cases being handled by the Police and or the KPK Prosecutor's Office has the authority to take over the Corruption Crime case that is being handled.

The takeover of corruption cases between the Police and the Corruption Eradication Commission led to the "Cicak vs. Crocodile" feud which could hamper the handling of corruption, and even tend to make the eradication of corruption ineffective. Not to mention, the value of the effectiveness of handling criminal acts of corruption in the Police institution

which is the starting point in disclosing the occurrence of criminal acts of corruption is still far from expectations.

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