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Role in Revealing Police Investigators Crime Corruption

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Abstract:

Civil Servant Investigators set out in Article 6 paragraph (1) letter b of the Criminal Procedure Code, the Civil Servants who have the functions and powers as an investigator. Basically they have authority rooted in the provisions of a special law that has set itself the authority granting the investigation on one of the articles. So in addition to the official police investigators, Criminal Law specifically authorizes the Civil Service officials concerned to conduct an investigation. Investigation authority possessed by the official only limited civil servants along with related offenses stipulated in the laws of the particular criminal.

The role of police investigators to uncover corruption is in Act No. 2 of 2002 on the Indonesian National Police In accordance with Article 25 of Law No. 31 Year 1999 on Eradication of Corruption that "the investigation , prosecution , and examination at trial in corruption cases shall take precedence over other cases to completion as soon as possible ". This is consistent with the spirit of reform that makes a grand strategy Police Police Police Leadership in Strategic Policy in it, that eradication of Corruption is a priority for the police. Police role here becomes very important, because the police spearhead the development of law enforcement even though police and prosecutors in addition, states should establish another institution that focuses on corruption is the Corruption Eradication Commission (KPK), this was due to the Corruption is crime which is extra ordinary and has a great implication for inhibition of progress of the country, also the majority of perpetrators of corruption in the bureaucracy are in authority so that it takes in order to get past superbodi agency regulations.

Eradicate corruption in the handling of the police also have to work together with other relevant institutions are included in the Criminal Justice System so that it can uncover cases of corruption following the motives and perpetrators as well as save the state money.

Keywords: *Investigators police, corruption*

1. Introduction

Corruption is a symptom of society that can be found everywhere . History proves that almost every country faced with the problem of corruption. Not excessive if the definition of corruption is always evolving and changing according to the changing times.

The term corruption is derived from the Latin word " coruptio " or " corruptus " ¹ which means damage or dilapidation. In addition, corruption in some countries the term is used to indicate the state or the foul deed. Corruption is defined with much dishonesty someone in finance. Many terms in some countries, such as " gin Moug (Thailand) " which means greed , " ashuku (Japanese) " which means dirty.² Baharuddin Lopa who cites the opinion of David M. Chalmers, decipher the meaning of the term corruption in various fields , namely concerning the bribery issue, which relates to the manipulation in economics, and related areas of public interest . This conclusion is drawn from the definition put forward , among others, affirmed the financial manipulations and deliction injurious to the economy are Often labeled corrupt (Manipulation and financial decisions regarding economic harm is often categorized as acts of corruption . Later he explained Often the pitch is applied also to misjudgements by the Officials the public economies (the term is often used to mistakes by officials provisions concerning the common areas of the economy).

He also said that disguised payment in the form of gifts, legal fees, employment, favors to relatives, social influence, or any relationship that sacrifices the public and welfare, with or without the implied payment of Money, is usually Considered corrupt (disguised in the form of payment gift-giving , administration fees , services, gifts to relatives, the influence of social status, or any relationship detrimental to the interests and livelihoods of the general, with or without payment of money, usually regarded as an act of corruption.³

Baharuddin Lopa also outlines that other forms of corruption, which is termed as political corruption (political corruption) is electoral corruption includes purchase of vote with money, promises of office or judicial decision , governmental appointments (corruption in

¹ Andi Hamzah, 1986, Bunga Rampai Hukum Pidana dan Acara Pidana, Ghalia Indonesia, Jakarta, hlm.197

² Sudarto, 2001, Tindak Pidana Korupsi di Indonesia dalam Hukum Pidana dan Hukum Pidana, Alumni, Bandung, hlm.122

³ Evi Hartanti, 2005, Tindak Pidana Korupsi, Sinar Grafika Jakarta, hlm. 9

general studies, including obtaining votes with money, appointment with the office or a special gift, coercion, intimidation, and interference with freedom of choice. Corruption in the office involving the sale of a voice in the legislative, administrative decisions or decisions relating to governance.⁴

Literally, corruption is the decay, ugliness, depravity, dishonesty can be bribed, deviation from chastity, nuanced words that insult or slander, bribery, corruption in the Indonesian word is bad deeds, such as embezzlement, receiving bribes and so on.⁵

Further types of corruption in practice include the following characteristics:

1. Corruption is always more than one person
2. Corruption is generally done in full confidentiality
3. Corruption involves elements of reciprocal obligations and benefits
4. Corruption with a wide range of reasonable justification under the law
5. They are involved in corruption are wanting a firm decision and they were able to influence the decision .
6. Act of corruption scams contain either the political or public entity
7. Every form of corruption is a betrayal of trust .⁶

Formulation of corruption under Article 2 paragraph (1) of the Act PTPK is any person (individual or corporation) that satisfies the element or elements of the article . Thus the perpetrators of corruption under Article 2 paragraph (1) is "Everyone ", there is no necessity of civil servants, so also can be done by people who are not civil servants or status as a corporation, which can form a legal entity or association.

The elements of corruption according to Law No. 20 of 2001 as follows:

- a) Element of the tort
- b) Elements actions to enrich themselves or someone else or a corporation
- c) Elements act or state financial harm state's economy
- d) The element acts abusing authority, opportunity or means available to him because of the position or the position .⁷

Ad . a . The element acts against the law.

As for the law is against tort includes the notion of formally and materially. Formally unlawful means an act that violates / contradicts with the law, while the law against materially means that even though the act is not regulated in legislation but it is considered reprehensible act because it does not conform with the sense of justice or social norms in community, as opposed to the habits customs , morals, values , religion and so on .⁸

Ad . b . Elements actions to enrich themselves, or someone else or a corporation

The actions by these elements are:

1. Enrich yourself, it means that the unlawful act was the perpetrator enjoy increased wealth or possessions of his own .
2. Enriching others, meaning that the result of an unlawful act of the perpetrator, there are others who enjoy increased wealth or increase their possessions . So here are benefited not direct actors
3. Enriching the corporation, meaning that the benefit from tort committed by the offender is a corporation that is a collection of individuals or a collection of assets organized, either a legal entity or legal entity .

Ad . c . Adverse action element of state benefits or state economy

Means reducing the country financial harm or disturb the state or the economy of the state finances . Detrimental to the country's economy means reducing or disrupting life developed as a joint effort by the family (cooperative) or community businesses independently based on government policy both at the central and regional levels in accordance with the provisions of the applicable legislation, which aims to provide benefits, prosperity, and well-being throughout the life of the people.

Ad . d . Elements of abusing authority act, there is an opportunity or target him because of the position or the position.

The deed is done is misuse of authority, opportunity available to him because of the position or a position of authority means the authority / right. So it is misused power or right in the actors, for example to benefit children, siblings, grandchildren or their own cronies. Abusing opportunity means abusing the time available to him in the position or the position. While abusing the means means abusing the tools or equipment available to him because of the position or the position.

2. Subject and Object Crime

In the history of criminal law recognized the existence of the subject of something criminal offense , namely human (*natuurlijke personen*). Thus the only men that are considered as the subject of a criminal offense .⁹ According to SR . Sianturi that man as the subject of a criminal act can be seen from three (3) terms, namely :

- a) Formulation offense that always determines the subject with the term whosoever, Indonesian citizen , skippers , civil servants and others. The use of such terms other than those specified in the formulation of the offense in question can be found basically in Article 2 to Article 9 of the Criminal Code . For whom term, in Article 2 3, and 4 of the Penal Code used the term *een ieder* (each person) .

⁴ Ibid, hlm. 10

⁵ Martiman Prodjohamidjojo, 2001, Penerapan Pembuktian Terbalik Dalam Delik Korupsi, Mandar Maju, Bandung, hlm. 8-9.

⁶ Evi Hartanti, Op Cit, hlm. 10

⁷ Ibid, hlm. 16

⁸ Barda Nawawi Arief, 2007, Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan, Kencana, Jakarta, hlm. 131

⁹ Bambang Poernomo, 1982, Asas-Asas Hukum Pidana, Ghalia Indonesia, Yogyakarta, hlm. 91

- b) Provisions on criminal liability as set primarily in Article 44 , 45 , and 49 of the Criminal Code , which among other things requires psychiatric (verstandelijke vermogens - are then considered as geestelijke vermogens) of actor . Similarly, elements of errors (dolus / culpa) which is a psychological relationship between actor with his actions .
- c) The provisions concerning criminal under Article 19 of the Criminal Code, particularly regarding criminal penalties . Only men that understand the value of money .¹⁰

Human rights and obligations as the carrier begins from the moment he was born and ended at the time of death. Even a child who is still in the womb is also regarded as a subject or as a carrier right after birth if their interests require it . But the times that more and more advanced by scholars can not be said that only a human being can be the subject of a legal entity but can also be a subject but in matters concerning :

1. Sources state finances (taxation, import duties, and eskport goods and so on)
2. Setting economy (price controls, the use of checks, corporate settings, and so on)
3. Setting security (subversion, danger, and so forth) .

When viewed in the sense of corruption contained in Article 2 till with Article 17 and Article 21 through Article 24 of Law no. 31 of 1999 in conjunction with Law 20 of 2001 which determines that the offender or the subjects of corruption is every person , which means any individual or corporation. Thus perpetrators of Corruption Act is more comprehensive understanding of the Law. 3 of 1971. Understanding corporation is a collection of people and or properties, either in the form of a legal entity, or not. Legal entity in Indonesia consists of limited liability companies, foundations, cooperatives , and Indonesische Maatchapi op Andelem (IMA) .¹¹

When observed history, it was originally in the article of the Criminal Code has not known the term or terms of corruption , but the bribes, either active or passive . Criminal bribery under Article 209 , 210 , Article 387 , Article 388, Article 415 , Article 416 , Article 417 , Article 418 , Article 419 , Article 420 , Article 425 , and Article 534 of the Criminal Code was originally formulated with whoever said , which means individual . Articles of criminal acts by the Law no. 3 of 1971 is pulled into the articles of corruption with the expansion of the notion of civil servants, which was originally only as defined in Article 92 of the Criminal Code be more widely after the Act No.20 of 2001, which is not only against any person (the perpetrator) but also includes the delivery of state (state employees), contractor, builder, people who run public office, continuous or temporary, judges and lawyers .

State Officials are officials who run the functions of the executive, legislative , and judicial and other official functions and duties related to the delivery of state substantially in accordance with the legislation in force (Article 1 lift (1) of Act 28 of 1999) . State officials who run the executive functions, such as presidents , ministers, governors, regents / mayors, district and so on , while the state officials who carry out the function of the legislature is a member of the MPR, DPR and DPRD members . While state officials who carry out the function of the judiciary is a judge for each judicial level .¹²

Understanding people who run public office is a person who is not a civil servant or state apparatus, but given the power or mandate to run public office, such as dues collectors television (TV) , collecting water electricity bills , telephone and so on that job well done continuously or not .¹³

3. Principles of Corruption

Hermien Hadiati Koeswadji say that corruption is not much different from other crimes that should have its legal principles. The principle of corruption contained in the Law. 31 of 1999, namely:

1. Culprit is every person, Understanding each person in the Law. 31 of 1999 is covering individual or corporation that is comprised of legal entities and associations of people
2. Comulation and Criminal are alternatives . Article 2 to Article 13 of Law no. 31 of 1999 regulating provisions of corruption which is comulation organized criminal threats and alternatives .
3. Existence of minimum and maximum punishment. Set out in the Criminal Law 31 of 1999 set the minimum and maximum limits of punishment so as to prevent the judge ruled bizarre, were deemed unfair .
4. Experiment committing corruption , abetment or conspiracy of corruption shall be subject to the same criminal offense of corruption and is regarded as completed (formal offense) .
5. Everyone outside Indonesia to provide assistance, the opportunity , the means and information to the same corruption convicted as perpetrators of corruption as referred to in Article 2, Article 3, Article 5 through Article 14 (Article 16 of Law no. 31 of 1999) .
6. Additional criminal Criminal addition to those mentioned in the Criminal Code (Article 18 of Law No. 31 of 1999).
7. If the convicted person pay compensation (Article 18 paragraph (2) within a period of 1 month after the court decision binding , then his property may be seized by prosecutors and auctioned to cover the replacement money.
8. In case the convict does not have enough wealth to pay compensation (Article 18 , paragraph 3), the other sentenced to exceed The maximum threat of criminal substantially in accordance with the provisions of Law No.31 of 1999 and the length of the criminal has been determined in a court decision .
9. Persons who intentionally prevents , cover or foil directly or indirectly investigation , prosecution , and checks can be convicted at trial (Article 21 of Law No. 31 of 199) .
10. Persons who deliberately do not provide information or give false information can be imprisoned

¹⁰ S.R. Sianturi, 2002, *Asas-Asas Hukum Pidana di Indonesia dan Penerapannya*, Sinar Grafika, Jakarta, hlm. 205

¹¹ Hermien Hadiati Koeswadji, 1999, *Tindak Pidana Korupsi di Indonesia*, PT. Citra Aditya Bakti, Bandung. hlm.35.

¹² Djoko Prakoso, 1990, *Peranan Pengawasan dalam Penangkalan Tindak Pidana Korupsi*, Aksara Persada Indonesia, Jakarta, hlm. 1.

¹³ CST. Kansil, 1984, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Balai Pustaka, Jakarta, hlm. 220

11. Investigation, prosecution, and court proceedings take precedence in the examination of other cases to completion as quickly as possible.
12. Teams can be formed under the coordination of the Joint Attorney General
13. Suspect is required to provide information about the whole of their possessions and property of the wife / husband, children and property of any person or corporation that is known or suspected and have a relationship with the corruption of the accused.
14. Investigators / prosecutors / judges the authority to request information from banks about the financial status of suspects
15. Identity of the complainant is protected
16. In terms of the elements of corruption there is not enough evidence , while the real has incurred losses to the state , it can be sued in civil
17. Acquittal in corruption case does not eliminate the right to sue the financial loss to the state
18. Heirs suspect or accused or convicted of corruption can be sued for restitution .¹⁴

4. Police Investigators Uncover Role in Corruption

Eradication of corruption is a priority for the police. Police role here becomes very important , because the national police spearhead in law enforcement, although at the moment other than the police and prosecutors , state establish other institutions, specifically addressing corruption is the Corruption Eradication Commission (KPK), this was due to criminal acts corruption is a crime yagn extra ordinary crime and has enormous implications for the inhibition of the progress of the country, also the majority of perpetrators of corruption are on track bureaucracy institution that holds the power needed to get past superbodi existing regulations .

Investigation of corruption can be grouped in two activities, namely:

1. Activity preparation . Steps taken in the preparation of criminal investigations of corruption are as follows :
 - a. Making warrant investigation
 - b. Constructing the team / organization duties of investigation
 - c. Plan of investigation activities
 - d. Making warrant the start of the investigation .
2. Activity prosecution
 - a. summoning witnesses
 - b. Dialling suspects
 - c. Dialling expert
 - d. Examination of witnesses or suspects
 - e. expert examination
 - f. foreclosure
 - g. arrest
 - h. detention
 - i. Completion and submission of case files
 - j. Termination of investigation
 - k. Degree of corruption crimes

His case is one of the mechanisms controlling the investigation in order to achieve optimal results with the aim of :

1. To provide feedback to the investigator when experiencing difficulties in the investigation and application of articles that presupposed
2. Supervise and control the direction of the investigation of corruption in order to ensure all steps and actions are in accordance with the results of the investigation procedure stipulated by law
3. To determine whether the results of the investigation has been flawless and all the elements of the article which presupposed supported by evidence .

Other things to note:

a. To find elements enrich themselves / others it is necessary to search about:

1. Flow of funds
2. Assets / assets acquired from the proceeds of crime .
3. In determining regional head / deputy regional head as a suspect then the investigator must know his role in :
 - a. Knowledge of crimes
 - b. Approve the deviation
 - c. The existence of a conspiracy
 - d. Receive the proceeds of crime
4. Alternating order to avoid the occurrence of the case file :
 - a. SPDP is sent immediately after requesting P - 16 of the prosecutor to determine the public prosecutor .
 - b. Doing his case beginning with the prosecutor to make the perception of corruption cases to be handled
 - c. Each of the investigation that informed the prosecutor that the direction of the investigation remain coordinated.
5. Deadline investigation and supervision :

¹⁴ Hermien Hadiati Koeswadji, Op. Cit, hlm. 36

- a. In the investigation of the corruption investigation within 30 days should be able to determine whether or not there is a criminal element
- b. After the police reports and the issuance of the warrant investigation investigator supervisor should have appointed supervisor to supervise the investigation of corruption cases handled by investigators .
6. In case investigators conduct the investigation of the case from the reports / information society , according degan publishing SP2HP PP 71 /2000 must be submitted within 1 month after the report is received .
7. Cooperation among agencies :
 - a. Everything is set in the memorandum of understanding between the national police and other agencies in order to be used as guidelines in the handling of corruption cases .
 - b. Especially for case-handling corruption that hinder national development that guided the memorandum of understanding between the Indonesian Attorney, Police and BPK about cooperation irregularities in the handling of cases of financial management that potential corruption including non-budgetary funds
 - c. In the case of SPDP to KPK investigators expressed as coordinator and supervisor of criminal investigations of corruption that informed the investigation progress periodically to the relevant authorities as well as the report from the BPK, CPC, and INTRAC .

5. Conclusion

The role of the police investigators in law enforcement corruption is very important, because it has the task of the police as an investigator of all criminal cases in the ways set out in the Criminal Code and other legislation. Combating corruption is also aligned with the strategic policies that prioritize national police prominent cases such as corruption. Eradicate corruption in the handling of the police also have to work together with other relevant institutions are included in the Criminal Justice System, so as to uncover corruption cases following the motives and perpetrators as well as save the state money.

The steps of the police investigators in uncovering a problem against committing criminal offenses of corruption

- a. Investigating a suspected something of corruption against a person suspected of committing corruption on the reports / information from the government inspectorate . Financial supervision and development agency (BPK), Supreme Audit Agency (BPK), non-governmental organizations .
- b. Conduct an audit investigation and calculation of financial loss by BPK state representatives
- c. After an investigation and audit investigations and calculation of losses to the state then it can be determined from the results of his investigation, unlawful element investigation will be made with reference to :
 1. No. 8 of 1981 on Criminal Proceedings
 2. Law No. 31 Year 1999 on Eradication of Corruption , as amended by Law no. 20 of 2001
 3. Law. 2 of 2002 on the Police of the Republic of Indonesia

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