

The Jurisdiction of the Corruption Eradication Commission and Military Police in Addressing Corruption in Military Procurement

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The Jurisdiction of the Corruption Eradication Commission and Military Police in Addressing Corruption in Military Procurement

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Article History

Abstract

Keywords

KPK, Military Police, military procurement, corruption, Military Courts

The aim of this research is to ascertain how the corruption eradication commission and the military police are involved in handling corruption crimes in the military environment. The method used in this study is normative juridical by using a statutory approach and a conceptual approach. Corruption in the procurement of goods and services in the military has its own challenges because it involves strategic materials and defense projects. The Military Police plays an important role in investigating military personnel involved in corruption, especially in maintaining military discipline. The Corruption Eradication Commission has broad authority to investigate corruption cases, including those involving military personnel. However, for the prosecution process, cases involving military personnel must be heard in Military Courts. The results of this study show that the balance between the military civil justice system is essential for effective law enforcement in corruption cases in the military environment.

1 Introduction

Nowadays, corruption crimes do not only occur to civilian officials, military officials who are members of the Indonesian National Army agencies are also involved in many corruption cases. The military is a state-authorized organization empowered to use lethal force in defending the nation from real or perceived threats. The military functions and works as societies with *societies*. Just like a military officer who is a member of the military who should be able to maintain the dignity and dignity of himself and the State and not become a corruptor, it will tarnish the dignity of the nation and state. The military has several legal systems, namely discipline, code of ethics and criminality (Wijana, Sepud, and Dewi 2020). The legal system adopted by the military is a different legal system from the civilian legal system.

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¹ Military Criminal Law is a form of special criminal law, distinguished by its unique characteristics from general criminal law. Special criminal law is designed for specific legal subjects or particular situations, and therefore contains provisions and principles applicable only to certain subjects. Based on these criteria, Military Criminal Law falls under the category of special criminal law, as it pertains to specific legal subjects and actions that can only be committed by particular individuals. This is explicitly governed by Law Number 31 of 1997 concerning the Military Courts (hereinafter referred to as Law No. 31/1997), which confers jurisdiction upon military tribunals to adjudicate criminal offenses committed by individuals who were members of the Indonesian National Armed Forces (TNI) at the time the offenses were perpetrated. The purpose of this is to ensure that law enforcement and justice within the military adhere to the principles outlined in Law Number 48 of 2009 on Judicial Power, which mandates that the judiciary uphold law and justice based on Pancasila, in alignment with the legal framework of the Republic of Indonesia (Ramadhani and Hutagalung 2016).

However, within the Military Justice Law, there are certain provisions that no longer align with societal developments, necessitating changes, particularly concerning the jurisdiction of military courts over TNI members involved in corruption (Dewi and Triadi 2023). Currently, the Military Justice Law grants authority to military courts to prosecute TNI members for military crimes as specified in the law, but not for offenses outside its scope. In practice, however, military courts also handle cases of crimes not explicitly covered by the Military Justice Law, such as prosecuting TNI members for corruption. In these cases, the applicable legal reference used during the trial is Law Number 31 of 1999, as amended by Law Number 20 of 2001, regarding the Eradication of Corruption (Hukum and Cokroaminoto n.d.).

² For example, the case of corruption in the procurement of the main equipment of the weapon system (hereinafter referred to as Alutsista). Case of corruption in the military domain involving active TNI officers is the case of the convicted Brigadier General of the TNI (Retired) Teddy Hernayadi when he served as the head of the Financing Implementation Division of the Ministry of Defense at the Ministry of Defense (Kemenhan) 2010-2014. Teddy was rewarded with almost the same sentence from the Jakarta Military Court II, the court of first instance to the cassation at the Supreme Court (MA), namely life imprisonment. The case of alleged corruption in the procurement of Agusta Westland 101 (AW-101) VVIP helicopters worth Rp 738 billion in the 2016 fiscal year at the Indonesian Air Force in 2016-2017. The KPK has named Irfan Kurnia Saleh as a suspect. Meanwhile, Puspom has named four suspects. First, Deputy Governor of the Air Force Academy First Marshal Fachri Adamy as a suspect. The appointment of Fachri in his capacity as a commitment-making official or Chief of Procurement Staff of the Indonesian Air Force 2016-2017. Conventional law enforcement in combating corruption has encountered numerous challenges, particularly in addressing corruption within the armed forces. Therefore, an extraordinary approach is required, involving the establishment of a special body with extensive authority, independence, and freedom from external influence. This body would focus on eradicating corruption in a manner that is optimal, intensive, effective, professional, and sustained. Based on the school of positivism, the law teaches that the law arises from an authorized power. Authority here in the sense of competence (Badu and Apripari 2022).

■

The extraordinary authority possessed by the KPK institution in tackling corruption crimes has reaped pros and cons in various circles, one of which is related to the authority of the KPK in investigating corruption in the procurement of defense equipment involving TNI personnel in conflict with the oath of soldiers who must maintain secrecy and obey their superiors and the Military Justice Law (Hukum and Cokroaminoto n.d.). Based on the provisions of Article 9 paragraph (1) of Law Number 31 of 1997 concerning Military Courts, it reads "Courts within the military court have the authority to judge criminal acts carried out by an individual at the time of their commission. the criminal act was a soldier."

Corruption crimes involving TNI Soldiers So far, in the military criminal justice system, the right to conduct investigations, investigations, and prosecutions comes from within the military itself, namely the Military Police (POM) and/or through connection investigations. This system requires collaboration between civil law enforcement (KPK) and the military. In such conditions, the KPK is often inferior to the military, especially in the process of investigation, investigation and prosecution. In this connectivity system, the KPK institution in investigating corruption cases in the TNI often has a minimal role (Badu and Apripari 2022).

This regulation is of course more specifically applied to TNI soldiers where the laws and regulations in question are harsher and heavier in addition to the existing general laws and regulations. The special laws and regulations are the Military Criminal Law and the Military Criminal Procedure Law. Both laws are classified as special laws that are specifically applicable to a certain group TNI, or to specific individuals, as outlined in the corresponding regulations. Article 1 of the Criminal Code reads: the application of this Code, general criminal provisions apply, including Chapter Nine of the first book of the Criminal Code, unless there are irregularities stipulated by the Law. The presence of military criminal law does not imply that general criminal law is inapplicable to the military. Instead, both general criminal law and military criminal law apply to military personnel. If viewed from a justifiable point of view, in this case the military and the equivalent, the Military Criminal Law is one of the criminal laws that specifically applies to the military and that is equated in addition to the application of other criminal laws, both general and special (Wijana et al. 2020).

2 Materials and Methods

¹⁴ This study employs a normative juridical method, utilizing both a conceptual approach and a statutory approach. The normative juridical method focuses on analyzing legal principles, rules, and doctrines as they are outlined in legislation and relevant legal texts. The conceptual approach is used to explore the theoretical framework and underlying legal concepts, while the statutory approach examines the specific laws and regulations governing the issue under study. Together, these approaches provide a comprehensive analysis of the legal aspects of the topic (Peter Mahmud Marzuki 2016).

3 Results and Discussions

Procedures for Addressing Corruption in the Procurement of Goods and Services in Military Courts

Corruption in the procurement of goods and services sector is a serious problem in various institutions, including in the military environment. The procurement in the military context has different characteristics from procurement in other public sectors because it involves strategic goods, military equipment, and is often related to state security. This makes transparency in the procurement process often limited by security reasons, which in turn creates opportunities for abuse of authority and corruption (Pakasi and Aling 2013).

In the military environment, cases of corruption in the acquisition of goods and services can occur at various levels, ranging from officials who have the authority to enter into contracts, suppliers involved in procurement, to military personnel who act as project supervisors. The most common forms of corruption in this case include price inflation, tender manipulation, procurement of fictitious goods, and bribery to officials involved in the selection process of vendors or contractors (Sutrisno and Paksa 2019).

One of the biggest challenges in tackling corruption in procurement of military goods and services sector is the limited access of the public and media to information related to military procurement projects. The procurement process of strategic goods is often carried out under strict supervision, under the pretext of maintaining state secrecy and national security. On the one hand, the protection of sensitive information is indeed important to maintain the stability and security of the country, but on the other hand, the lack of transparency can be used by certain parties to commit acts of corruption without being detected (Pakasi and Aling 2013).

Not only does it cause financial losses for the country, but it also has the potential to reduce the effectiveness of national defense. For example, the procurement of weapons or military equipment that does not meet the standards or the price marked up will reduce the quality and quantity of equipment that should be used to protect the country. As a result, this can have an impact on the readiness and professionalism of the army in carrying out defense duties.

Furthermore, the existence of military personnel involved in corruption also damages the image of military in the eyes of the public. Military institutions that should be upheld as the guardian of state security can lose public trust if allowed to be involved in corruption scandals. Therefore, it is important to maintain the integrity of military institutions through the strict and fair application of laws for corrupt actors (Bunga et al. 2019).

One of the important aspects in handling corruption on procurement of goods and services in military courts is the synergy between general criminal law and military law. Corruption cases involving military personnel are not only a violation of military discipline, but also a criminal act that threatens the interests of the state in general. Therefore, it is important to maintain a balance

■ between the enforcement of general criminal law regulated by the Criminal Code and the Corruption Eradication Law, with the internal rules that apply in the military.

Corruption procurement of goods and services in the military environment does not only concern aspects of economic crimes, but also serious violations of the Sapta Marga and the Soldier's Oath, which is the code of ethics for TNI soldiers. Corrupt perpetrators from the military can be subject to heavier punishments, because their actions are considered to violate integrity and weaken the country's defense. Military courts have a strategic role in maintaining the integrity of military institutions. Firmness in handling corruption cases shows that military institutions do not tolerate actions that can damage the image and professionalism of soldiers. The decision issued by the military court is also an important precedent for preventive efforts, encouraging transparent, and accountability in procurement goods and services in military environment (Faiz and Redhani 2018).

The Authority of the Corruption Eradication Commission and Military Police in Addressing Corruption in Military Procurement of Goods and Services

The handling of corruption crimes in the military environment, related to procurement of goods and services involves two main institutions, namely the Corruption Eradication Commission (KPK) and the Military Police. These two institutions have special authority regulated by law in order to eradicate corruption committed by military personnel. However, because corruption in the military environment involves violations of military discipline, it requires a different approach than corruption in the civilian environment (Muhammad Dani Ihkam 2020).

The authority of the KPK and the Military Police often overlaps in corruption cases involving military personnel, but they also complement each other in several aspects. The following will discuss the authority of each institution in handling corruption cases in the procurement goods and services in the military environment (Triwahyuningsih 2019).

KPK as an independent institution established, has the main task of preventing, investigating, and prosecuting corruption crimes that are detrimental to the state. The authority of the KPK covers all aspects of government, including cases involving military personnel, especially if the criminal act (Hengstz 2016).

The KPK has a very broad authority in dealing with corruption, including conducting investigations against high-ranking military officials or contractors involved in procurement corruption in the military environment. In certain cases, especially those involving strategic or large-scale projects, the KPK often cooperates with the Military Police to conduct investigations and investigations, especially if the suspect is an active member of the military (Bima and Suwanto 2022).

Although the KPK is authorized to investigate and investigate corruption cases among the military, in terms of prosecution, the KPK cannot take the case directly to the general court. If the suspect

■ is a member of the military, then the case will be transferred to the Military Inspectorate for further processing at the Military Court. This collaboration establishes a unique mechanism to ensure that the military remains subject to national law while still being adjudicated within the military court system, in line with military discipline regulations (Nadirah 2021).

In addition to law enforcement, the KPK also plays a role in prevention through supervision of the procurement process of goods and services, including in the military environment (Faiz and Redhani 2018). The KPK can provide recommendations related to strengthening military procurement governance, encouraging transparency, and ensuring that procurement is carried out in accordance with applicable procedures (Nadirah 2021).

In the context of corruption, the Military Police has the duty to conduct investigations and investigations against military personnel who are allegedly involved. The Military Police also has the authority to arrest and detain military personnel involved in corruption crimes. When there is a suspicion of corruption involving military members, the Military Police will initiate an internal investigation. They collect evidence, conduct interrogations, and compile investigation reports. It is proven that there are elements of corruption, the case will be transferred to the Military Inspectorate to be processed to the prosecution process at the Military Court (Badu and Apripari 2022).

The Military Police act as investigators in this regard, with special powers to interrogate military members and enforce military discipline, which distinguishes them from civilian law enforcement officials. In addition, the Military Police have better access into the military structure and understand its internal dynamics, making the investigation process more efficient. environment, the KPK and the Military Police have complementary roles and authorities. The KPK has broader authority in terms of investigations and investigations, especially if the case involves parties outside the military, such as contractors or government officials. Meanwhile, the Military Police focuses more on aspects of military discipline and conducts investigations into military personnel.

This collaboration is crucial in handling cases involving military and civilian personnel simultaneously. The KPK can work closely with the Military Police to handle parts of cases involving military personnel, while the KPK handles parts involving civilians. This synergy is necessary to ensure that every perpetrator, both military and civilian, can be tried according to appropriate jurisdiction (Wijana et al. 2020).

4 Conclusion

The handling of corruption in the procurement of goods and services in military courts shows the importance of integration between the rules of general criminal and military law. Military courts play a crucial role in maintaining the rule of law in the military environment by applying strict legal standards and high discipline. The KPK and the Military Police have an important role in eradicating corruption in the procurement of good and services in the military environment. The KPK, with its broad authority, can conduct corruption investigations and prevention at the national

level, including in the military environment. Meanwhile, the Military Police acts as an internal law enforcer who maintains discipline and order among the military. Collaboration between the KPK and the Military Police is urgently needed to ensure that corruption crimes in the military environment can be handled effectively and fairly. Despite the challenges in terms of transparency and legal procedures, the synergy between these two institutions is an important step in realizing clean and accountable governance, both in civilian and military environments.

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PAGE 4

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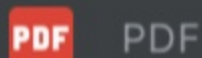
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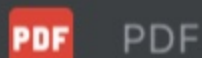
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