

## **Reformulation of Investigation Arrangements On Corruption In Law No. 31 of 1997 on Military Justice In Indonesia**

**Novalia Pertiwi<sup>1)</sup>, Nurini Aprilianda<sup>2)</sup>, Faizin Sulisty<sup>3)</sup>**

<sup>1,2,3)</sup>Magister Ilmu Hukum, Fakultas Hukum Universitas Brawijaya

\*Corresponding Author

Email: [novaliaprtiwi@gmail.com](mailto:novaliaprtiwi@gmail.com)

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### **Abstract**

*This study examines the reformulation of the regulation of investigation of corruption committed by members of the military within the framework of Law No. 31 of 1997 on Military Justice. The main purpose of this study was to analyze the urgency of the KPK's involvement in the investigation of military corruption cases and to formulate a more effective reformulation of legal arrangements. This study uses the type of normative research with reference to the theory of justice, the theory of legal certainty, and the theory of Criminal Law Policy, using the approach of legislation (Statute Approach) and conceptual approach (conceptual approach). Based on the results of research conducted by the author shows that the involvement of the KPK can increase the transparency and effectiveness of law enforcement in cases of military corruption. Furthermore, because the existing military justice system has not been fully able to handle the complexity of corruption, especially due to the lack of involvement of the Corruption Eradication Commission (KPK) in the investigation process. thus, reformulation is needed to create an investigation system that is more fair, responsive, and consistent with the principle of "equality before the law", by adding a special provision in the military justice law that explicitly regulates the investigation of corruption committed by members of the military by including the role of the KPK in regulating the investigation of corruption. With this change, the investigation process runs more transparently and reduces the potential for conflicts of interest that may arise when military institutions investigate corruption cases in their own environment while law enforcement for corruption crimes in the military environment is expected to run more comprehensively, and strengthen the integrity of State defense institutions.*

**Keywords:** *Reformulation, Corruption, Military Justice in Indonesia*

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## **INTRODUCTION**

The development of the current corruption case shows that corruption in Indonesia can no longer be considered an ordinary crime, but has become an extraordinary criminal offense. Corruption undermines public confidence in state institutions and hinders economic and social progress. In addition, corruption is often regarded as a crime that is difficult to detect (invisible crime) so that eradication efforts require a clear and firm political policy. This corruption case involves various groups, not only limited to civil society and the government sphere, but also includes military personnel (TNI). This shows that the perpetrators of corruption come from various backgrounds, including the military sector which is supposed to maintain the integrity of the country.

Military personnel in Indonesia bear a great responsibility in maintaining security and maintaining the sovereignty of the country. However, there are times when some members of the military are involved in corruption, such as embezzlement of funds, abuse of office, and various other forms of fraud. Although the military justice system generally focuses more on violations of military discipline and law, involvement in corruption cases among the military has serious consequences, not only harming the country's finances but also damaging the image of defense institutions that should be role models of integrity.

Law No. 31 of 1997 on Military Justice is currently the legal basis for handling criminal acts by members of the military. However, this law limits the role of anti-corruption agencies such as the Corruption Eradication Commission (KPK), so the investigation process is often hampered by conflicts of authority. The misalignment between the Military Justice Law and

other laws governing corruption eradication, such as the KPK Law, creates major challenges in law enforcement.

Article 9 of Law No. 31 of 1997 concerning military justice, regulates investigation procedures in legal proceedings involving military personnel, the article stipulates that investigations into TNI soldiers are carried out by Ankuam (superiors who have the right to punish), Military Police, and military Orditur. This provision highlights the important role of such officials in the handling of military crimes in the military justice system. However, the Corruption Eradication Commission (KPK) has not been fully integrated in the process of handling these crimes, which sometimes poses various obstacles when law enforcement attempts to prosecute military personnel involved in corruption cases, while the current investigation procedures are often inadequate to deal with the complexity and breadth of the scale of corruption involving military personnel and hinder efforts to enforce the law effectively and fairly.

Several major cases such as the soldiers' housing compulsory savings (TWPP) scandal and budget abuses at the Ministry of Defence point to weaknesses in the military justice system that is less able to handle the complexities of corruption. Another example that can be highlighted is the bribery case involving the budget management of the Maritime Security Agency (BAKAMLA) in 2016. This case relates to budget management for the procurement of satellite monitoring and drone projects within the framework of the state budget (APBN), with a total value of Rp 200 billion. This situation indicates a deviation in the budget management process, which involves the practice of bribery in order to profit from the project. The case involves six suspects, including five members of civil society, namely Eko Susilo Hadi (deputy for Legal Information and cooperation), Fahmi Darmawansyah (President Director of Pt Melati Technofo Indonesia), as well as two employees of the company, Hardy Stefanus and Muhammad Adami, as well as Fayakhun Andriadi (security member of the House of Representatives), and one member of the military, namely Bambang Udoyo (TNI Navy). In this case raises various questions related to the release of suspected TNI personnel. This condition has caused controversy because the Corruption Eradication Commission (KPK) has not been fully involved in the investigation process of this case, due to the provisions of Law Number 31 of 1997 concerning military justice, which stipulates that cases involving members of the TNI are under the auspices of military justice with supervision from the Military Police (POM) or military prosecutors. However, this provision appears to be contrary to the provisions in Article 6 to Article 15 of Law Number 30 of 2022 which regulates the role and authority of the KPK in combating corruption. The incompatibility of these two laws complicates efforts to effectively and thoroughly combat corruption. Given the rise of corruption cases involving military personnel, a more effective and responsive investigation system is needed to address the situation.

This study will examine the urgency of the KPK's involvement in the investigation of corruption committed by members of the military as well as the reformulation of the investigation settings on corruption in Law No. 31 of 1997 on Military Justice.

## **RESEARCH METHODS**

This study uses a normative juridical approach, which is research that focuses on the analysis of applicable legal norms. This approach aims to identify and analyze weaknesses in the legal arrangements contained in law No. 31 of 1997 on military justice, particularly related to the investigation of corruption involving members of the military. In doing this writing the analysis process is done by using the approach of legislation (statute approach) and conceptual (conceptual approach). The legislative approach is used to assess the consistency between the Military Justice Law and other laws such as the KPK Law and the Corruption Eradication law.

Meanwhile, the conceptual approach is used to explore theoretical ideas and legal principles, such as justice theory, legal certainty, and criminal law policy, which are relevant to the issues raised. Using this method, the study aims to provide recommendations for legal reformulation that are more effective and aligned with the needs to combat corruption in the military environment

## RESULT AND DISCUSSION

### **The urgency of the KPK's involvement in the investigation of corruption committed by members of the military in Law No. 31 of 1997 on Military Justice**

The government's seriousness in tackling corruption crimes in Indonesia is carried out by issuing Law Number 30 of 2002 concerning the Corruption Eradication Commission. This institution was formed specifically to deal with corruption and has full authority to prevent and combat corruption throughout the Republic of Indonesia, including among the state civil apparatus and other institutions, such as Social Security and non-menristek agencies in charge of maintaining security and has broad authority in conducting investigations, prosecution and Prevention of corruption, in addition to the KPK has human, including auditors and financial experts who can analyze state losses. The Corruption Eradication Commission (KPK) has a very important role in efforts to eradicate corruption in Indonesia. Here are some of the main roles of the KPK.

1. Investigation and prosecution of corruption cases.

KPK serves as an institution that can conduct investigations and prosecutions directly on corruption cases that occur, especially for major cases involving public officials, state officials, or law enforcement officers. This includes cases of corruption that are considered detrimental to the state on a large scale or involve high political power.

2. Coordination with other law enforcement agencies

The KPK plays a role in coordinating corruption eradication efforts with other institutions, such as the police and prosecutors. The purpose of this coordination is to avoid overlapping in the handling of corruption cases as well as to ensure that each case is handled properly and effectively.

3. Supervision in cases of corruption

In cases handled by other law enforcement agencies, the KPK may act as a supervisory agency. This means that the KPK has the authority to monitor and supervise the investigation and investigation of corruption cases under other institutions. If the KPK finds indications of irregularities or potential conflicts of interest, the KPK can take over the handling of the case.

4. Prevention Of Corruption

In addition to enforcement, the KPK has an important task in terms of preventing corruption. Through socialization programs, education, and anti-corruption campaigns, KPK aims to increase public awareness and build an anti-corruption culture. This is done through training, counseling, and cooperation with educational institutions, government agencies, and the general public.

5. Establishment of prevention and integrity Improvement System

KPK is also responsible for building and implementing a system that can prevent corruption in the government. This includes the formulation of integrity policies, improvement of internal oversight systems, and implementation of good governance standards in government agencies, including the implementation of e-government systems for better transparency.

#### 6. International Cooperation

In cases of corruption involving cross-border or requiring international assistance, the KPK cooperates with law enforcement agencies in other countries and international organizations. This cooperation includes evidence collection, asset search, and repatriation of corruption suspects who are abroad.

#### 7. Data collection and Research

KPK has a role in collecting data related to corruption cases and conducting research to understand corruption patterns, identify corruption hotspots in various sectors, and provide improvement recommendations to the government and related institutions to prevent corruption in the future.

Although the KPK can conduct investigations into corruption committed by members of the TNI, the exercise of such authority often requires coordination with the Central Military Police (Puspom TNI). This shows that the KPK does not have the absolute authority to establish suspects from the military without any connection with military institutions. One vivid example of this conflict of authority is the case of alleged bribery of the monitoring tool procurement project at the Marine Security Agency (Bakamla), in which there were allegations of involvement of TNI members. In this situation, although the KPK has designated some suspects from civilian elements, they must coordinate with the Puspom TNI to deal with the military members involved. The KPK recognizes the limitations of its authority in handling cases involving active TNI members. The deputy chairman of the KPK stated that for all matters related to the military, they must coordinate with the pom TNI, indicating the recognition of a different structure of military law. From this case shows how the conflict of authority between the KPK and military institutions can affect law enforcement. Despite sufficient evidence to investigate TNI members, the KPK was forced to coordinate with Puspom TNI, which could slow down the process and affect the final outcome of the investigation.

The limited authority of the KPK towards members of the military in handling corruption cases creates significant challenges in efforts to eradicate corruption in Indonesia. Although there is a legal basis that allows the KPK to act, the reality is that it is often hampered by the regulations that govern military justice. In fact, the KPK's involvement can strengthen corruption eradication efforts by providing supervision and technical expertise, ensuring that investigation and prosecution procedures run independently and free from intervention. KPK should have an active role and broad authority without limits to participate in the investigation process against members of the military, this statement is in line with the provisions contained in Law No. 30 of 2002 on the KPK, especially in accordance with Article 6 to Article 15, the article states the KPK has the right or authority to handle corruption cases in various agencies, including in the military. With the involvement of the KPK in investigations in the military sector, efforts to eradicate corruption can be carried out more thoroughly.

The existence of military members as subjects in corruption is regulated by Law No. 31 of 1999 concerning the eradication of corruption. The law clearly states that the subjects subject to the article of the criminal act of corruption include not only corporations, but also public servants. Thus, members of the military can also be considered part of the legally responsible group if they are involved in corrupt practices. Under the provisions of the article, members of the military are considered civil servants because they receive salaries and wages from the state. Law No. 43 of 1999, amendment to Law No. 8 of 1974 on personnel matters gives further support to this view in Article 2 Paragraph 1. This article stipulates that civil servants consist of civil servants, members of the Indonesian National Army, and members of the Indonesian National Police, in the provisions of the article states that members of the Indonesian National Army (TNI) belong to the category of civil servants and have the same legal status in the context of employment in Indonesia.

Indonesia as a country of law adheres to the principle of Equality Before the law, which means that it guarantees equality before the law. Therefore, even though the perpetrator of the corruption is an active TNI, it does not mean there is a difference in enforcement. In accordance with the principle of Equality before the law, the KPK has the authority to investigate active TNI members who commit corruption crimes. The principle of justice in the settlement of corruption cases in the military environment must be carried out impartially according to the procedure by upholding the values of justice on the basis of “everyone is treated equally before the law (equality before the law)”, in line with the provisions of Article 3 Paragraph (1) of Law Number 48 of 2009 on Judicial Power which states that, both in the civilian and military spheres, sanctions must be comprehensive, transparent, regardless of status or background, and accountable. However, there is a lack of clarity regarding the role or involvement of the Corruption Eradication Commission (KPK) in the process of handling corruption cases involving members of the military. This can hamper effectiveness and transparency in a fair enforcement process. Thus demanding a rethinking of the provisions of the investigation of corruption in law no. 31 of 1997 on Military Justice. This reformulation is crucial as a step to improve integrity in the military justice system, as well as to ensure that law enforcement related to corruption is carried out by applying the principles of justice and transparency. It also includes efforts to ensure that law enforcement is carried out consistently and fairly.

In the context of law enforcement, justice theory is an important foundation for understanding how the legal system functions, including in dealing with corruption cases involving members of the military. The limited authority of the Corruption Eradication Commission (KPK) towards members of the military creates challenges in achieving justice, both for the individuals involved and for society in general.

The theory of justice, in particular developed by John Rawls, emphasizes the importance of the principle of justice as fairness. In this context, justice must be applied without discrimination, ensuring that all individuals, including members of the military, are treated equally before the law. This concept is relevant when considering the limitations of the KPK's authority that may result in injustice in law enforcement. The principle of Equality Before the Law demands that all individuals be treated equally before the law. However, the limited authority of the KPK in handling cases of military members can create the impression that there is preferential treatment for them, which is contrary to the principle of Justice. The inability of the KPK to act independently can undermine public confidence in the legal system.

Thus, a revision of the regulations is needed to provide legal certainty. This study suggests the establishment of a cooperation mechanism between the KPK and the military judiciary that allows the KPK to act as a supervisory institution and, in some cases, participate as an investigator. This mechanism is designed to make the investigation process more transparent and reduce potential conflicts of interest that may arise when military institutions investigate corruption cases in their own environment.

### **Reformulation of Investigation arrangements on corruption in the Military Justice Act as IUs constituendum**

The eradication of corruption in the military environment in Indonesia faces various challenges related to weaknesses in the laws governing law enforcement. This weakness has significant implications for the effectiveness of corruption eradication efforts, especially in the context of law enforcement against military members involved in corruption.

In Indonesia, corruption cases involving members of the military, such as the soldier's Mandatory Housing savings (TWPP) scandal and the Teddy Hernayadi case, underscore the need to reform the investigative system. The current military justice system, based on Law No. 31 of 1997, is inadequate to deal with the complexities of corruption, mainly due to the limited role of anti-corruption agencies such as the KPK.

The results of this study highlight the importance of an in-depth study of the legal norms governing the investigation of corruption within the scope of military justice. Based on the analysis, it was found that the legal norms in force today in military justice, in particular law No. 31 of 1997 on Military Justice, although it has undergone amendments, has not been fully aligned and consistent with other relevant laws, such as the law on Combating Corruption and the law on the Corruption Eradication Commission. In addition, the impact of less rigorous investigations into corruption in military institutions has serious implications for morals, ethics, and public perception. The results showed that weak law enforcement in cases of corruption involving military personnel can erode public confidence in the integrity of the military. When acts of corruption are ignored or handled with a purely formality approach, this not only damages the internal morale of personnel, but also creates a permissive culture that can lower ethical and disciplinary standards in the military environment

This results in potential inconsistencies in the handling of corruption cases in military institutions that have an impact on the credibility and effectiveness of the management of these institutions. This potential inconsistency opens up opportunities for rule reformulation to create harmony between various regulations, so that the approach to dealing with corruption in the military can be more comprehensive and effective.

Reformulation of Investigation policy is expected to be a solution to bring transparency and consistency in handling corruption. Stricter and clearer policies will encourage discipline among personnel, inculcate the principle of accountability, as well as provide a firm message that acts of corruption will not be tolerated. In addition, this reformulation is expected to strengthen the credibility of military institutions in the eyes of the public, making the military a trustworthy and respected institution. With a more transparent and effective approach, military institutions will be better able to maintain integrity and carry out the country's defense functions more professionally. it also has the potential to improve relations and synergies with other law enforcement agencies, such as the Corruption Eradication Commission (KPK). The KPK should have explicit authority to investigate corruption cases involving members of the military, in coordination with the Military Police, this provision can be poured through revisions to articles in the military justice law, by involving the KPK in the investigation process, military institutions can show openness to external supervision, which will strengthen public confidence that each corruption case is investigated independently and there is no preferential treatment. This coordination will not only strengthen the effectiveness of the investigation, but also confirm the position of the military as an institution subject to the same legal principles as other institutions. Furthermore, related views of The Theory of legal certainty, as described by Gustav Radbruch, emphasize the importance of a clear, consistent, and predictable rule of law. In the case of military corruption, if there is uncertainty regarding who is authorized to investigate between the military judiciary or the KPK, justice and legal certainty will be disrupted. Based on this theory, the reformulation must ensure that the KPK's authority in investigating military corruption cases must be explicitly regulated in the military justice law, so that there is no overlap with the Military Police and military prosecutors and the provisions in the Military Justice Law and the KPK Law must be harmonized to avoid rule conflicts. In addition, the investigation process must be designed so that it can be monitored by the public through periodic reports without disturbing military confidentiality, it must also provide guarantees that the investigation runs objectively without the influence of the military hierarchy that can obscure Justice, and also ensure that members of the military involved in corruption are treated equally before the law with civilians. It supports the principle of "equality before the law," so that no special treatment can harm law enforcement efforts.

In the long run, this reformulation is expected to pave the way for the revision of laws governing military justice and corruption. One of the main objectives is to create a more transparent, independent, and integrated investigation mechanism with law enforcement

agencies such as the Corruption Eradication Commission (KPK), with the addition of a special provision in the military justice law that explicitly regulates the investigation of corruption crimes involving members of the military. This policy change will narrow the scope for abuse of authority, reduce the potential for corruption, and provide a better example for other institutions in terms of transparency and accountability.

## CONCLUSION

Based on the results of the discussion above, the author concludes that corruption cases involving members of the military reflect the urgent need for reform of the current investigation system. Based on Law No. 31 of 1997, the investigation of military corruption cases is under the authority of the Military Police, Anum (superiors who have the right to punish), and the Military Prosecutor. However, this approach is limited in addressing the complexity of corruption cases, especially when it comes to significant financial management or involving extensive networks. The Corruption Eradication Commission (KPK), with the authority stipulated in Law Number 30 of 2002, has the capacity to handle corruption cases that have a major impact on the country. The integration of the KPK in the investigation of military cases can increase transparency, accountability, and public confidence in law enforcement. In practice, the discrepancy between Law No. 31 of 1997 and Law No. 30 of 2002 is often an obstacle. Therefore, the involvement of the KPK in the investigation of corruption cases in the military environment is a necessity that cannot be ignored. Therefore, reformulation is needed to create an investigation system that is more fair, responsive, and consistent with the principle of "equality before the law". By adding a special provision in the military justice law that explicitly regulates the investigation of corruption committed by members of the military by including the role of the KPK in regulating the investigation of corruption. With this change, the investigation process runs more transparently and reduces the potential for conflicts of interest that may arise when military institutions investigate corruption cases in their own environment while law enforcement for corruption crimes in the military environment is expected to run more comprehensively, and strengthen the integrity of State defense institutions

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