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RECONSTRUCTION OF PENAL POLICY OF LAW ENFORCEMENT AGENTS IN CORRUPTION ERADICATION UNDER ADMINISTRATIVE PENAL LAW

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ABSTRACT

Corruption eradication in Indonesia is regulated in Anti-Corruption Act in which the management is conducted by the Corruption Eradication Commission (KPK). In enforcement of the law to eradicate corruption, KPK often applied the Anti-Corruption Act against the offense regulated in sectoral law containing administration penal. Consequently, inconsistency of penal policy taken by KPK in eradicating corruption occurred. The findings showed that penal policy in the eradication of corruption in Indonesia is still carried out by 3 (three) institutions: the KPK, police force, and attorney office. In carrying out the duties and power, there are some differences in perspective and definition and function of coordinating and monitoring conducted by the three institutions resulted in contra productivity in the corruption eradication program. It is because the sectoral ego that was put forward when handling the corruption cases. Reconstruction of penal policy on the corruption eradication done by the law enforcement is based on administrative penal law. It should be directed to: 1) the strengthening of coordination and supervision function of the law enforcement; and 2) the shifting of paradigm of the KPK investigator in understanding the administrative penal law.

Keywords: Corruption, Apparatus, Administration

INTRODUCTION

The idea of law contained in the Preamble of 1945 Constitution is to realize the welfare, just, and prosperous nation of Indonesia. To realize the idea, a social welfare policy was formulated manifested in the way of Indonesia to carry out development in every aspect of the life of the nation and the state either the politics, economy, social, and culture including security and defense. To achieve the aims, social defence policy is developed using the law as the means through the enactment of various laws. In this case, law is viewed as the law effectively legitimates policy.[1]

The use of criminal law in various legislation in Indonesia as the means of social control and social engineering seems unimportant. It is seen from the practice of legislation showing that the use of criminal law is the part of policy or legal policy adopted by Indonesia. Related to this, Barda Nawawi Arief argued that the measures to handle crime using criminal sanction is the oldest way, as old as the human civilization itself.[2]

Up to this moment, criminal law is still used and relied upon as one of the means of criminal policy. Even recently, at the end part of legislation products, provisions on criminal sanction are always stipulated as the character of administrative penal law. Criminal law mostly becomes the guard in other discipline in various fields, including the Administrative Law so

The Seybold Report
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that it seems that any product of legislations without provisions on criminal sanction will be considered as less important.

This reason does show that criminal law has limitations in handling crimes developed in the society. This limitation is one of the solutions to introduce the criminal law to other disciplines such as Administration law.[3]

The use of criminal law in most legislation products today that is considered normal and reasonable, as if the existence would no longer important, will create a serious problem for the existence of the criminal law itself. Considering that if criminal law is used without precaution, the policy will not only destroy the system of criminal law but also will omit the characteristic of the harshness of criminal sanction itself and even becomes one of the crime factors.

If the use of the criminal law is with no consideration on the eradication of the crime through criminal law and even is used indiscriminately and coercively, the provisions of the law will lose its characteristic as the prime guarantor. Even it can become the prime threatener.[4]

Prime threatener is because the criminal provisions when operational will create negative impact such as the attitude of the criminal who does not obey the rules of criminal law because they think they are judicial caprice. The criminal law becomes the means to protect the individual or collective interest that is veiled crime by making the violation against the interest be criminally sanctioned. It happens a lot in Indonesian legislations as found by Indonesian Transparency Society that in 1998 there were more than 64 Presidential Decrees with nature of collusion, corruption, and nepotism.[5]

The problem now is the approach on how to use the criminal law administrative legislation so that the sanction will not be used to legalize crime through regulation.

Theoretically, the crime eradication through criminal/penal law is a process of policy designed through some stages: (1) formulation by the law maker; (2) application in which the authorized body enacts the penal; and (3) execution by the executing body. The first stage often referred as the enactment of in abstracto penal, while the second and third is referred as the application of in concreto penal. As a process of criminal law enforcement mechanism, the three stages of sentencing are the chain link intertwined in one whole system.[6]

In the formulation stage or legislative policy in handling crime with criminal law to prevent negative impact, it should pay attention on three basic policies such as (1) policy on what wrongful acts to overcome for it was consider dangerous and harmful; (2) policy on sanction to be applied against the offender of the wrongful acts and the application system; (3) policy on the procedure/mechanism of criminal justice system in enforcing criminal law.

The first and second policy are included in material criminal law while the third is in the formal criminal law. Policy on what conduct is forbidden by law or policy on criminalization is closely related to policy on what sanction to be imposed upon the offender. This is because the objectives of sentencing are (a) to prevent crime by enforcing legal norms for public safety; (b) to correct the convicted criminal with educational treatments to make them good in personality

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

and useful; (c) to solve conflict created by the crime, to restore, to balance, and to provide peace in the society, and (d) for the convict to be free from guilt.

The formulation of criminal law without considering the three policies as mentioned above will result in a product of criminal law that lost its nature of criminal stipulation, even the law can be the means to commit the criminal offense or in disguise, can legalize crime. The condition of criminal law is like a wolf in sheep's clothing since formally it seems like a law but substantially reflects no legal norms such as respect to human rights, justice, and any other norms.

Based on the concept of criminal policy above, the criminal policy in the eradication of corruption in Indonesia today is regulated in the Anti-corruption Act implemented by the Corruption Eradication Commission (KPK). In enforcing the anti-corruption law, often KPK uses the Anti-corruption Act against the the crime of corruption as stipulated in varous sectoral law. For example, violation against Forestry Act, Custom Act, Immigration Act, Tax Act, Environment Act, Telecommunication Act, Fishery Act, Mining Act, Stock Market Act, Banking Act, etc should have been forestry crime, crime against custom, immigration violation, crime against environment, mining crime, etc. However, KPK used the Anti-corruption Act to impose sanction upon the offenders of the crime mentioned earlier. In this case, the Anti-corruption Act is used as 'all for one' law. In fact, Article 14 of the Anti-Corruption Act does not stipulate such action.[7]

RESEARCH METHODS

This research is a legal research with normative or doctrinal type of research. The normative research is used to produce arguments, theory, and new concept for the practitioner to solve problems occurred. The approach used to answer the legal problems in this research is juridical normative method using statute and conceptual approaches[8] that is a study on literatures related to the prevention of corruption with omnibus-model regulation. Research data were obtained with document study technique and interview. Data obtained were analyzed with juridical qualitative method by qualifying and classifying problems systematically and then analyze them qualitatively using no mathematic formula and statistical numbers.

RESULT AND DISCUSSION

A. Penal Policy on Corruption Eradication Taken by The Law Enforcement Agents

Criminal policy by G. Peter Hoefnagels is distinguished into:[9]

1. Criminal law application;
2. Prevention without punishment

From the distinction, in general, the measures to eradicate crime can be categorized into 2 (two) i.e., through penal (application of criminal law) and non-penal (out of criminal law solution)

Barda Nawawi Arief claimed that the eradication of crime through penal is focusing more on post-crime repressive nature, while non-penal is more on the preventive side.[10]

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

The discussion of this research will focus on the penal policy on the eradication of corruption carried out by the law enforcement. The penal solution means that the eradication of crimes applies criminal law or imposes sanction or desolation or misery to corruptor.

Penal policy is part of the law enforcement policy.[11] Barda Nawawi Arief argued that the process of legislation/formulation/enactment of legislation naturally is a process of in abstracto law enforcement. This process of legislation/formulation is the beginning phase that is so strategic of the enforcement of in-concreto law. Therefore, the error/flaw of the policy at the formulation of policy is a strategic error that can be an obstacle in the enforcement of an in-concreto law.[12]

Crime of corruption is an act that does not only harm the state asset but also creates damage on national economy. Barda Nawawi Arief mentioned that corruption is a despicable, condemned, and most hated, not only by the Indonesian people but also people of the world.[13]

In order to establish the supremacy of the law, the government of Indonesia has laid strong foundation for the policy to combat corruption. These policies are stated in various legislations, among others are the Resolution of People Consultative Assembly No. XI/MPR/1998 on the the Corruption, Colution, and Nepotism Free Governance, Law No. 28, 1999 on Corruption, and Law No. 31, 1999 concerning Eradication of Corruption amended with Law No. 20, 2001 on the Amendment of Law No. 31, 1999 regarding Eradication of Corruption.

Today, the eradication of corruption has been carried out by various institutions such as the Attorney Office and Police Force and also other institutions related to the eradication of corruption, therefore, the stipulation of the power of Corruption Education Commission (KPK) in this law is carefully done to avoid the overlapping of power with other institutions.

The power of KPK in conducting investigation, inquiry, and indictment of corruption are:

1. Involving law enforcement, statement, other people related to the corruption committed by the law enforcement or statement;
2. Getting attention that creates rumors in the society; and/or
3. Related with the state loss as minimum as Rp.1,000,000,000.00 (one billion rupiahs).

Under the Article 6 of Anti-corruption Act, KPK's duties are:

a. To take actions to prevent corruption;
b. To make coordination with authorized institutions to eradicate corruption and ones of public service.
c. To monitor the administration of the state;
d. To supervise the authorized institution in corruption eradication;
e. To carry out investigation, inquiry, and indictment against corruption;
f. To take actions to execute legally binding judgments of a court.

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

Of the duties of KPK above, in general, there are 5 (five) main duties carried out by KPK in the eradication of corruption:

1. Prevention

a. Registers and audits the report on the wealth of the statemen;

b. Receives report and determines the status of gratification;

c. Holds anti-corruption education program at every network of education;

d. Plans and carries out socialization on the eradication of corruption;

e. Makes anti-corruption campaign to the community; and

f. To make bilateral or multilateral cooperations in the corruption eradication.

2. Coordination

a. To coordinate the investigation, inquiry, and indictment in eradicating corruption;

b. To set up reporting system in the eradication of corruption;

c. To request for information on the eradication of corruption to related institutions;

d. To hold hearings or meeting with authorized institution in the eradication of corruption; and

e. To request reports to authorized institutions on the prevention measures.

3. Monitoring

a. To conduct research on management system of administration in every state and governmental organ;

b. To give advice to the state leaders and governmental organ to make changes in the management system of administration when suggested to potentially trigger a corruption under the findings of the research; and

c. To file report to the President of Republic of Indonesia, People Representatives Council, and the Audit Board of Indonesia if the suggestions from KPK on amendment is not taken.

4. Supervision

KPK is authorized to monitor, research, or analyze institutions carrying out tasks and duties related to the corruption eradication. KPK is authorized to take over any investigation and/or indictment against corruptors carrying out by the police force or the attorney office. The takeover is done on grounds of:

a. Calls from the community about corruption are not followed up;

b. The handling of corruption is stucked or delayed without any statutory reason;

c. The handling of the case is actually aiming to give sanctuary to the corruptor;

d. The handling of the corruption is harboring elements of corruption;

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

e. Interference from the executives, judicial, or legislatives; or

f. Other statutory grounds considered by the police or attorney office as obtacles

5. Enforcement

Corruption Eradication Commission is authorized to conduct an investigation, inquiry, and indictment against crimes of corruption:

a. Involving law enforcement, statemen, and any other individuals related to the corruption committed by the law enforcement or the statemen; an/or

b. Harming the loss of state finance as of Rp. 1,000,000,000.00 (one billion rupiahs).

In the case, if the corruption does not fit any categories above, KPK is obliged to hand over the investigation, inquiry, and the indictment to the police force and/or to the attorney office. KPK conducts the monitoring over the investigation, inquiry and indictment done.

In Article 12 of KPK Act, it is stated that in carrying out its duties of investigation and inquiry as stipulated in Article 6 letter e, KPK is authorized in conducting surveillance.

In carrying out its investigation, KPK is authorized to:

a. Command relevant institutions to prohibit people from traveling outside the country;

b. Request information from bank or any other financial institutions regarding the suspect or defendant subject to inquiry;

c. Order bank or any other financial institutions to freeze alleged proceeds of corruption of the suspect, defendant, or other related individual;

d. Order the suspect's superior to demote the suspect from the position;

e. Request the data on asset or tax of the suspect or defendant to related institution;

f. Freeze temporarily any transaction of finance, trade, and other agreement or revoke any permit, license, and concession held by the suspect or defendant accused, based on probable cause, of having relation with the corruption case being investigated;

g. Request assistance from Indonesia Interpol or other countries' law enforcement to conduct search, apprehension, and confiscation of evidence abroad; and

h. Request police assistance or from other institutions regarding the apprehension, detainment, search and confiscation in the case of corruption being investigated.

Based on the duty and authority above, the KPK Act makes KPK a superbody. All proess of legal action and proceeding since the inquiry, indiction is carried out by KPK. The suspect is even put on trial at the special court of corruption and is not tried by general court.

Based on its duties and functions, KPK has power to investigate, inquiry, and indictment against corruptor. This power is as same as the power of police investigator and attorney prosecutor. It is the reason that the three institutions have immediate relation with the eradication of corruption in Indonesia.

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

In 2017, an MoU in eradication of corruption among the police force, attorney office and KPK to improve the cooperation among the three institutions in eradicating corruption optimally, agreeing on the coordination and supervision function. Unfortunately, there is still differences in perspective and interpretation which did not start with the agreement on the perspective of the meaning and function of coordination and supervision carried out by KPK, police force and also the prosecutor office. One of the examples is the case of Driving License Simulator that shows conflict of power between the police force and prosecutor office.

This actually can result in contraproductivity of the corruption eradication measures since the institutional egos are dominant in handling the cases of corruption. From the case, it can be stressed that in conducting coordination and supervision, KPK should be supported by all parties, both the law enforcement and other governmental organs carrying out function of public service. It is impossible for coordination and supervision to run well when there is no support from each of the institution.

B. Reconstruction of penal policy of corruption eradication conducted by the law enforcement agents under the Administrative Penal Law

In investigation process of corruption in Indonesia, there are authorized investigating institutions that is police investigator, attorney office investigator, and KPK investigator which each operates under their own systems as stipulated under different laws.

With disaggregated investigator of corruption case creates the trend of institutional centric or fragmentation. Therefore, it affects the case handling process with of the investigation done by the police and the procesutor. With no integration and harmonization of ideas, values, norms and regulations as the foundation of professional code of conduct, the output of the investigation will not be a harmony of investigation of corruption.

Corruption will be continued if the eradication process of corruption is still sectoral and the corps ego is still high among the police, prosecutor, and KPK.[14] In addition to the problem, the performance of the law enforcement handling the corruption case, like what usually happens in handling corruption case, KPK ofter uses the Anti-corruption Act against the crime stipulated in other sectoral laws. For example, for violation against Forestry Act, Custom Act, Immigration Act, Tax Act, Environment Act, Telecommunication Act, Fishery Act, Mining Act, Stock Market Act, Banking Act, KPK uses the Anti-corruption Act to indict the corruptor. In this case, the Anti-corruption Act is used by KPK as the “all for one” law, even though the Article 14 of the Anti-corruption Act does not stipulate so.

Based on the problems above, the concrete measures as the ground of urgency for the reconstruction of penal policy on the eradication of corruption committed by law enforcement under the administrative penal law are directed to:

1. The strengthening of coordination and supervision function of the law enforcement

There are some factors influencing the weakness of the coordination and supervision done by KPK in handling cases of corruption, such as:

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

a. Law Factor

The function of coordination and supervision is still the secondary function of KPK. Naturally, the coordination and supervision function is the main function as the objectives of the establishment of KPK since corruption is related with large issues and space.[15] In addition, MoU among KPK, Police Force, and Prosecutor Office in 2017 is considered weaken the coordinating and supervising power held by KPK. The MoU in fact weaken the Anti-corruption Act,in which the supervising power of KPK lies at the same level as the prosecutor office's and the police's.[16]

b. Law Enforcement Factor

From the perspective of KPK, the coordination and supervision function has been carried out and increased significantly. However, the from the investigator attorney's and police's perspective this function is far from what is expected. The function is even considered to be carried out only if there is a call from the community. ICW argued that the technical problem related with the function of coordination and supervision includes the ranking issue of the investigator and the sectoral ego. Sectoral ego exists as the result of some investigating institution can carry out investigation of corruption. In the organizational structure of KPK, the duty of coordination and supervision is carried out by Coordinating and Supervising Unit under the Deputy of Enforcement so that even though these functions are important and significant, the structure of KPK is not lied separately such as Division of Prevention, Enforcement, Information and Data, Monitoring and Secretary General.[17]

c. Factor of Facilities

The facilities include skillful and trained manpower. In general, the number of human resources working at KPK is limited comparing to their huge work load. According to the 2020 Annual Report of KPK, the biggest problem dealt with by KPK is the shortage in human resources. The number of KPK personnel is 1,586 individuals. It is a shortage when comparing to their work load.[18] In addition, the coordination and supervision system should be supported with sophisticated technology to create transparency and integration in carrying out their duties.

Of some factors affecting the weakness of coordination and supervision done by KPK above, the author suggests the measures to strengthen the function of coordination and supervision as follows:

a. KPK as coordinating organ

The specification of KPK's duties is to carry out coordination and supervision. Mainly, coordinating and supervising in corruption eradication can be interpreted that KPK is the coordinator in eradication of corruption. Referring to Article 77 of KPK Law, KPK is the coordinator of the corruption eradication, and is to prevent corruption. First, in the case of enforcement, KPK coordinates the process of investigation, inquiry, and indictment of corruption.[19] Second, in the prevention program, KPK coordinates with relevant institution regarding the prevention of corruption. The institution is not only the police and the prosecutor but also other institutions such as Audit Board of Indonesia, Financial and Development

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

Supervision Board (BPK), Inspectorate, and any other institutions. In this case, KPK can make up strong network and consider those institutions as conducive counter partners to make the eradication of corruption works effectively and efficiently.[20]

b. Policy necessary to strengthen coordination and supervision:

1) KPK, police and prosecutor are recommended to form the Central Coordination of Integrated Eradication of Corruption (SKPKT). The establishment of SKPKT is to make the cooperation among KPK, police and prosecutor to be carried out according to a uniform standard of organization.

2) To strengthen the cooperation among BPKP, BPK, Inspectorate, PPATK and others. Today, KPK and other governmental organs focus more on coordination and supervision in the prevention measures since the coordination and supervision activities show an effective influence in encouraging measures of prevention and improving the quality of public service. In addition, the quality of public service should be improved. It can be done through Korsupgah program to be the prevention system to minimize things potential for corruption. This becomes the early warning for the potential corruption. KPK does not only enforce but also improve the system.[21]

3) The amendment of MoU among KPK, Police and Prosectur is one that is possible to do. The consideration is, first, the MoU is easier to enter into. Second, the MoU is more practical because duties can immediately be carried out

as stipulated in the regulation, specifically in the KPK Law.[22] This is to omit the overlapping of power in the eradication of corruption.

c. Involvement and the capacity strengthening of community

The role of community in the prevention and eradication of corruption is vital. It can be manifested in searching, obtaining, and submitting data or information on corruption and the right to give ideas and opinion and the responsibility in the prevention and eradication of corruption. In the explanation of the Governmental Regulation No. 43, 2018 concerning the Procedure of the Implementation of The Role of Community and the Reward in the Prevention and Eradication of Corruption, it is stated that: "The role of community in the prevention and eradication of corruption is in the form of searching, obtaining, providing data or information on corruption and the rights to give idea and opinion responsibly toward the prevention and eradication of corruption."

The basic principle of the role of community in the prevention of corruption is how to place the community to actively take part in the eradication of corruption, not only to file report on corruption but also to give suggestion, and importantly to conduct social control.

2. The shifting of paradigm of KPK investigator in understanding the provisions of the administrative penal law.

There are several problems regarding the scope of corruption spread over other laws outside the Law No. 31, 1999 jo. Law No. 20, 2001 on the Eradication of Corruption.The overlapping

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

of the criminalization policy also creates problems if related to the concursus and accomplishment (deelneming) theory. The problem is with the concursus theory since the deed committed by the defendant includes the action prohibited in many other legislations, while the defendant's fault is naturally against only one legislation.

It is more dangerous if the actions related to the Special Criminal Law for example, violation against Tax Law is deemed to breach the Anti-Corruption Act also. It also a problem with deelneming theory if a violation against administrative penal law qualifying the breach of the law, while the deed is also stipulated in other laws qualifying the violation as a crime. This will create chaos in the enforcement of the law considering Article 60 of the Penal Code stipulating that accomplishing a violation will not be criminally sanctioned,

As for the above mentioned, the crime of corruption as special-intra-legislation-criminal law is closely related to several criminal offense as the product of administrative law with criminal sanction since the legislation is often called as Administrative Penal Law, as the Special Extra Legislation-Criminal Law.

To make the special law applied among other legislations that similarly special in nature, Systematische Specialiteit principle applies. It means that the special criminal law intents to enact the provisions as a special law or it is special from the special law applied. For example, the personal subject, object of alleged violation, evidence obtained, the scene and locus delicti in the context of banking. Therefore, Banking Act is the one applied even though other special laws (such as Anti-corruption Act stipulates delict that can be imposed upon) are acceptability in nature.[23]

The dynamic doctrine of the teaching and principle of Lex Specialis closely related to the Concursus and Deelneming theory that if mistakenly understood will be the indicator of the performance of the law enforcement regarding the comprehending the principles of the criminal law. Violation against Prudential Principles of Banking cannot be regarded as corruptive because under the doctrinal academic approach through the Systematische Specialiteit or systematic specialization, the violation against the prudential principle is not corruption. All of it should be the legality basis to avoid the violation against the Concursus principle.[24]

Any acts of violation are unlawful however it cannot be interpreted as corruption. The systematic specialization principle is a means to prevent and to limit and to redirect the principle of unlawful action and abuse of power in the crime of corruption to avoid the all-purpose act and all-embracing act.[25]

To avoid the mistakes in understanding the Systematische Specialiteit (Systematic Specialization) principle as academic doctrine that is not necessarily understood by law community, especially in the relation with the administrative legislation stipulating criminal sanction (Administrative Penal Law) and Criminal Law (corruption). Therefore, the law maker (especially Professor Muladi the then Minister of Justice of Republic of Indonesia) elaborated the explicity through Article 14 of Law No. 31, 1999.[26]

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

Considering that the Systematische Specialiteit (systematic specialization) principle is applied as the academic recognition, the doctrine has been formulated through legislation norm to define in Article 14 of Law No. 31, 1999 stating: "any individual violating the law strictly stipulating that the violation of the law as the crime of corruption, provisions stipulated in this law applies."

Therefore, the meaning in the substance of this law is that the anti-corruption act applies when certain deed is stated as corruption strictly by the law extra the anti-corruption act.

Therefore, in the case certain legislation

Dengan demikian, dalam hal perundanga regulates otherwise, the Anti-corruption Act does not apply. This means that the anti-corruption act does not only cover all products of legislation (Administrative Penal Law) as an unlawful action (corruption) considered as spiderweb. It cannot be condoned if a person violates the Custom Act but is indicted with Anti-corruption Act or even (in the past) with Subversion Act even though the material deed indicted is single and similar.[27]

Other problem with the legislation in utilizing the criminal stipulation of the administrative law nowadays is that not all laws classifying their delicts as crime or violation. Based not the identification done by Barda Nawawi Arief, there are still many administrative laws with criminal sanction that cannot determine the classification of the delict, such as: (1) Law No. 31, 1964 on Atomic Power; (2) Law No. 4, 1992 regarding Housing and Settlement; (3) Law No. 5, 1999 regarding Prohibition of Monopoly and Unfair Business Competition; (4) Law No. 8, 1994 on Consumer Protection; (5) Law No. 9, 1994 concerning General Provisions and Tax Procedure.[28]

With no regulations determine the classification of delict such included in various regulation, it can create problems since the extra penal code regulation remains bound to the general provisions of the penal code distinguishing the general provisions of crime and general provision of violation. Related to the condition, according to Barda Nawawi Arief, there are different juridical consequences between crime and violation such as in the case of probation and accomplishment, concursus, limitation of indictment and criminal execution in terms of complaint delict, the application of national-active principle of Article 5 (2) of the Penal Code, etc.[29]

CONCLUSION

The penal policy in corruption eradication in Indonesia is still carried out by three institutions: KPK, police and prosecutor office. The three law enforcements have their own duties and power in carrying out the eradication of corruption according to the law. In carrying out the duty of corruption eradication, the police refer to the Law No. 2, 2002 jo. Law No. 11, 2020 while the prosecutor refers to Law N0. 16, 2004 jo. Law No. 11, 2021 and KPK refers to Law No. 30, 2002 jo. Law No. 19, 2019. KPK as an independent body and free from any power whatsoever in handling corruption has main task mainly to prevent, coordinate, monitor, supervision and enforce. Based on the duties, the KPK Act makes KPK as a superbody. All of

The Seybold Report
ISSN 1533-9211
DOI 10.5281/zenodo.7379429

the process of law and legal action since investigation, indictment is done by KPK. However, in carrying out its duties and power, there are different perspective and interpretation of the coordination and supervision beginning with different perspective of the interpretation and function of coordination and supervision carried out by KPK with police and attorney office that causes contra productivity of the corruption eradication because of sectoral ego that is put forward while handling cases of corruption.

Reconstruction of penal policy of corruption eradication conducted by the law enforcement agents under the Administrative Penal Law should be directed to: (1) The strengthening of coordination and supervision function of the law enforcement; (2) The shifting of paradigm of KPK investigator in understanding the provisions of the administrative penal law. Those should done considering until today, KPK as the law enforcement has main duties in handling corruption cases, especially in carrying out coordination and supervision that is not yet optimal. Therefore, overlapping of the power often occurs between KPK and other law enforcement in handling the corruption cases. In addition, lack of understanding of KPK investigator on the criminalization of administrative law on the offense stipulated in several sectoral laws, such as violation against Forestry Act, Custom Act, Immigration Act, Tax Act, Environment Act, Telecommunication Act, Fishery Act, Mining Act, Stock Market Act, Banking Act, KPK uses the Anti-corruption Act to indict the corruptor creating inconsistency in penal policy of KPK in handling corruption since the anti-corruption act is used by KPK as all-purpose act, even though the Article 14 of the Anti-corruption Act adopting the Systematische Specialiteit (systematic specialization) principle regulates otherwise.

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