

SETTLEMENT OF CORRUPTION CONNECTION CASES FROM THE PERSPECTIVE OF GENERAL CRIMINAL AND MILITARY CRIMES

By

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ABSTRACT

Corruption can be committed by any community. It is possible to do so by members of the TNI together with civilians, who must be formally tried legally in the connectivity court. Based on the research, it can be concluded that the mechanism for handling connectivity cases in corruption cases is specifically for the investigation of connectivity cases, carried out by the Connectivity Investigation Permanent Team as stipulated in Article 89 of the Criminal Procedure Code and article 198 paragraph (2) of Law Number 31 of 1997 concerning Military Justice, namely general judicial investigators as referred to in article 6 of the Criminal Procedure Code, consisting of State Police Officials of the Republic of Indonesia, and certain Civil Servant Officials (PPNS) who are given special authority by law, Military Police and Military Inspectors or High Military Inspectors. The obstacle to resolving corruption crimes through the connectivity court is too complicated and long a procedure because the formation of a connection case investigation team was formed based on a joint decree between the TNI Commander and the Supreme Court. In addition, the Supreme Court and the Minister of Defense must also reciprocally propose the appointment of member judges who will handle connectivity cases.

Keywords: *Connectivity, Crime, Corruption.*

PENYELESAIAN PERKARA KONEKSITAS TINDAK PIDANA KORUPSI DALAM PERSPEKTIF PIDANA UMUM DAN PIDANA MILITER

ABSTRAK

Tindak pidana korupsi dapat dilakukan oleh masyarakat manapun. Tidak menutup kemungkinan dilakukan oleh anggota TNI bersama-sama dengan warga sipil, yang secara formil harus diadili secara sah di pengadilan koneksitas. Berdasarkan penelitian dapat disimpulkan bahwa mekanisme penanganan perkara koneksitas pada kasus korupsi adalah khusus untuk penyidikan tindak perkara koneksitas, dilakukan oleh Tim Tetap Penyidikan Koneksitas sebagaimana diatur dalam Pasal 89 KUHP dan pasal 198 ayat (2) Undang-Undang Nomor 31 Tahun 1997 tentang Peradilan Militer, yakni penyidik peradilan umum sebagaimana dimaksud dalam pasal 6 KUHP, terdiri dari Pejabat Polisi Negara Republik

Indonesia, dan Pejabat Pegawai Negeri Sipil (PPNS) tertentu yang diberi wewenang khusus oleh undang undang, Polisi Militer dan Oditur Militer atau Oditur Militer Tinggi. Hambatan penyelesaian tindak pidana korupsi melalui peradilan koneksitas adalah prosedur yang terlalu rumit dan panjang karena pembentukan tim penyidik perkara koneksitas dibentuk berdasarkan surat keputusan bersama antara Panglima TNI dan Mahkamah Agung. Selain itu Mahkamah Agung dan Menteri Pertahanan juga harus secara timbal balik mengusulkan pengangkatan hakim anggota yang akan menangani perkara koneksitas.

Kata Kunci: Koneksitas, Tindak Pidana, Korupsi.

INTRODUCTION

Corruption has been very widespread systemically permeating all sectors at various levels at the central and regional levels, in all state institutions, both executive, legislative and judicial. Corruption is classified as an *extra ordinary crime*. Corruption cases in Indonesia are public consumption that can be obtained through various mass media, both print and electronic. Hardly a day goes by without news of corruption cases. Crimes that occur in society do not rule out the possibility of being committed by military personnel or members of the Indonesian National Army (TNI) together with civilians who are juridically formally prosecuted in a general court (District Court) or in the scope of military justice (Military Court). This is called connectivity justice. Connectivity court is a court that is tasked with prosecuting if a criminal act is committed jointly by civilians and the military (TNI) as well as not a crime of theft. The crime of theft can be committed by military personnel (TNI) together with civilians (not the TNI). If such a theft crime occurs, the case of the theft must be tried in a connectivity court environment.

RESEARCH METHODS

This research is descriptive analysis, namely research that describes, examines, explains and analyzes laws and regulations related to the purpose of this research. The purpose of descriptive research is to accurately describe the characteristics of a particular individual, state, symptom or group, or to determine the frequency or spread of a symptom or the frequency of a particular relationship between symptoms and other symptoms in society. The main purpose of the analysis of legal materials is to find out the meaning contained by the terms used in the legal rules conceptually, as well as to know their application in legal

practice and decisions.

RESULTS AND DISCUSSION

Considering that the procedure for handling connectivity criminal cases regulated in the Criminal Procedure Code is not as simple as the principles that apply in the Criminal Code, according to the author's knowledge, the provisions regulated in the Criminal Procedure Code in legal practice are rarely applied as they should. In the event of a connection crime, suspects/defendants with the status of military members are handled by law enforcement officials and military courts, while suspects/defendants with civilian status are handled by non-military law enforcement officers and the general judiciary (Police investigators/civil servant investigators, public prosecutors, district courts, high courts and supreme courts).

The criminal procedural law regulated in the Criminal Procedure Code adheres to the principle of the administration of justice which must be carried out precisely, simply and at a low cost, so the provisions in the Criminal Procedure Code that regulate connectivity cases need to be reviewed/revised to simplify so that in real life they are really carried out in accordance with the principles of fast, simple and low-cost justice. The criminal acts committed by him are the object of examination. The examination was aimed at the criminal offense committed by the suspect. The suspect must be presumed innocent, in accordance with the legal principle of "*presumption of innocence* " until a court decision is obtained that has permanent legal force.

A connection case is examined and tried by the Military Justice environment is regulated in the provisions of article 90 of the Criminal Procedure Code which explains: to determine whether the military judicial environment that is authorized to examine and adjudicate a connection case, measured in terms of the "loss" caused by the criminal act, if the losses caused by a criminal act are more detrimental to the "military interest", Even though the perpetrators of criminal acts are more from civil society, the examination of connectivity cases will be carried out by the military justice environment. As long as the losses caused by the criminal act that occurred are not detrimental to the interests of the military, even if the perpetrators are more members of the TNI/Polri, the connectivity case is examined and prosecuted by the general judicial institution.

Investigation is the second step in the beginning of the first stage of the implementation of the criminal procedure law. The first step is to find the truth that the term research is used in the Criminal Code. The method of investigation is of course the same in the connection court, the difference is that the official who carries out the investigation function is regulated in Article 89 paragraph (2) of the Criminal Code which states as follows: "The investigation of criminal cases as referred to in paragraph (1) is carried out by a permanent team consisting of investigators as intended in Article 6 and the Military Police of the Armed Forces of the Republic of Indonesia and the Military Inspector or High Military Inspector in accordance with the authority each of them according to the applicable law for the investigation of criminal cases". Article 89 paragraph (3) of the Criminal Code specifies the manner of appointing a team to investigate connectivity cases which states: "The team as referred to in paragraph (2) is formed by a joint decree of the Minister of Defense and Security and the Minister of Justice".

It can be concluded that in this connectivity case the investigation was carried out by a joint team formed by the Minister of Defence and Security and the Minister of Justice (now the Minister of Law and Human Rights) consisting of:

1. Investigators as referred to in Article 6 of the Criminal Code. TNI Military Police Military Inspector or High Military Inspector. This investigation is in accordance with their respective authorities according to the applicable law, in the sense that for the investigation of military members (TNI) Law Number 1/Drt/1951 jo. Law Number 6 of 1950 is still used.

On December 29, 1983, a Joint Decree of the Minister of Defense and Security and the Minister of Justice was issued, namely Number KEP.10/M/XII/1983 and Number M.57.PR.09.03 of 1983 concerning the Establishment of a Permanent Team for the Investigation of Connectivity Criminal Cases which in Article 1 states: "for the investigation of criminal acts committed jointly by those belonging to the general judicial environment and the military judicial environment, hereinafter referred to as connectivity criminal cases, a permanent team was formed in: Center. The position of the central permanent team is the capital of the Republic of Indonesia Regions. Domiciled in the jurisdiction of the District Court or the relevant High Court.

The mechanism for handling connectivity corruption cases involves different law enforcement (civilian and military) with a collaborative process that includes investigations and pre-prosecutions by joint teams, prosecutions by prosecutors and military prosecutors, and execution of judgments by designated courts. The establishment of the Permanent Investigation Team and the Connectivity Prosecution Team as well as the Military Criminal Inspectorate General (Jampidmil) played a role in coordinating and managing this case. The initial stage of handling connectivity corruption cases involving civilians and the military starts from:

2. Permanent team formation:

Based on the Joint Decree (SKB) between the Minister of Defense, the Attorney General, and the Commander of the Indonesian Armed Forces, a Permanent Investigation Team and a Connectivity Prosecution Team were formed.

Establishment of the Military Criminal General Prosecutor

3. The Attorney General's Office also formed Jampidmil (Deputy Attorney General for Military Crimes) which is tasked with coordinating the technical prosecution by the inspector and handling connectivity cases.

Research and Pre-Prosecution

The investigation was carried out collaboratively by law enforcement elements such as the Military Police (POM), the Inspector, and Investigators.

4. Coordination:

There has been increased coordination between the police, prosecutors, and military prosecutors to equalize steps in handling this case.

5. Prosecution

The prosecution was carried out by a Prosecution Team consisting of prosecutors (for civilian actors) and military prosecutors (for military actors). Jampidmil plays the role of coordinator as well as quality control in handling connectivity cases at the prosecution level.

6. Trial

Determination of the Court The court that hears connectivity cases can be a general court or a military court, depending on the decision of the Minister of Justice (now the

Minister of Law and Human Rights).

7. Judges and Referees: The trial involves judges from the general judicial environment and the military prosecutor for military defendants, who seek to establish a structured process.
8. Implementation of the Decision Execution: The judgment that has been set will be executed. The Deputy Attorney General for Military Crimes (Jampidmil) conducted an examination to control the quality of the case until the decision execution process.

Prior to the enactment of the Criminal Procedure Code, an emergency regulation was created in the form of a Joint Decree of the Minister of Justice, the Minister of Defense/Pangab, the Chief Justice of the Supreme Court and the Attorney General Number Kep.B/01.XII/1971 concerning the discretion in the examination of criminal acts committed jointly by persons included in the Military Justice which determines that:

1. Investigations are carried out jointly by police officers and public prosecutors together with police officers and military officers in accordance with their respective authorities according to the applicable law in the investigation of criminal acts.
2. The determination of which court prosecutes connectivity offences is determined by joint research between the Prosecutor or Prosecutor Tiggi and the Inspector or High Inspector of the Armed Forces. The results of the research were reported to the Attorney General and the Inspector General of the Indonesian Armed Forces.
3. The determination of which court will adjudicate the connectivity offence is based on the losses it causes. If the loss is in the military field, then the judge is the Military Tribunal. In addition, additional factors such as the nature of the crime, the role and number of perpetrators in each party are also considered.
4. If it is determined that the general court is the one who adjudicates, the minutes are ratified (taken over) by the Prosecutor/Public Prosecutor. Likewise, it is a matter of urgency if it is determined that the military courts are the ones who are prosecuting.
5. As long as the losses caused by the criminal act that occurred are not detrimental to the interests of the military, even if the perpetrators are more members of the TNI/Polri, the connectivity case is examined and prosecuted by the general judicial institution. Article 89 paragraph (2) of the Criminal Procedure Code has determined

the manner and authority in conducting investigations into connectivity cases. The investigation apparatus for connectivity cases consists of a permanent team consisting of the following elements:

- a) Police investigator elements;
- b) Military Police;
- c) Military Inspector or High Military Inspector.

The way the team works is adjusted to the authority that exists in each element of the team. Viewed in terms of the authority of each team element, then:

- a) The suspected civilian perpetrator was examined by elements of the National Police investigators.
- b) The suspected perpetrator was a member of the TNI/Polri and was examined by investigators from the Military Police and the Military Inspectorate.
- c) The composition of the judicial legal panel for connectivity cases is adjusted to the judicial environment that adjudicates the case, namely:
- d) If the connectivity case is examined and tried by the general judiciary, the composition of the panel of judges is:
- e) At least the Panel of Judges consists of three people.
- f) The presiding judge is taken from the general court judge (District Court).
- g) Member judges are determined in a balanced manner between the general judicial environment and the military judicial environment.
- h) If the connectivity case is examined and tried by the military justice environment, the composition of the panel of judges is:
- i) The presiding judge of the military judicial environment.
- j) Member judges are drawn in a balanced manner from the judges of the general court and the military courts.
- k) Member judges who come from the general judicial environment are given titular military ranks.

CONCLUSION

The legal arrangements for the settlement of corruption crimes through the connectivity court

are regulated in Article 89 paragraph (2) of the Criminal Procedure Code and Article 198 paragraph (2) of Law Number 31 of 1997 concerning Military Justice, Article 39 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes and based on Article 42 of Law Number 30 of 2002 concerning the KPK. The mechanism for handling connectivity cases in corruption cases is specifically for the investigation of connectivity cases, carried out by the Connectivity Investigation Permanent Team as stipulated in Article 89 of the Criminal Code and article 198 paragraph (2) of Law Number 31 of 1997 concerning Military Justice , namely general judicial investigators as referred to in article 6 of the Criminal Code, consisting of State Police Officials of the Republic of Indonesia, and certain Civil Servant Officials (PPNS) who are given special authority by law, Military Police and Military Inspectors or High Military Inspectors.

The settlement of corruption cases in the perspective of general criminal and military crimes is too complicated and long a procedure because the formation of a connection case investigation team was formed based on a joint decree between the TNI Commander and the Supreme Court. In addition, the Supreme Court and the Minister of Defense must also reciprocally propose the appointment of member judges who will handle connectivity cases. These two things cause the process of resolving connectivity cases to take a long time and often lead to the separation of case examinations (not in accordance with the principles of fast, simple and low-cost justice).

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