CHAPTER I

A. Background of The Problem

The proliferation of state institutions, including the existence of independent state commissions, is actually a logical consequence of the redistribution of state power that occurred during the reforms. One of the targets of the constitutional amendment is that power is not concentrated on the president or the government. That is, reforms are about to replace the "concentration of power and responsibility upon the president" clause, which during the new order (1966-1998) has been manifested as a system of government or authoritarian political regime (Tauda, 2012).

Overlapping of authority between State agencies, inefficiency and wastage of organizing the budget essentially reflects the weakness in the General redistribution of power and design pattern relationships between State institutions. The solution can not only partially by assessing the existence of new institutions, but rather should be through with a cover design a system of Government that produced the post-war constitutional amendments, as well as the existence of ministries and non-Ministerial Department which is inherited from the era of the new order.

Recently Indonesia has been overwhelmed by the problems between Corruption Eradication Commission (KPK) and Indonesian republic police (POLRI). The problem of the dispute between those two law enforcement agencies is not the first

time; Indonesia has also been hit by similar problems. During the reign of President Susilo Bambang Yudhoyono had twice happened, and happened again in Jokowi era.

Here are some issues that made between those two institutions. There are three issues which concerning the stability between the country and people that made by KPK and POLRI conflicts. First, the feud of "small house lizard vs. crocodile" originated from the KPK's wiretapping action against the head of the National Police Criminal Investigation Unit at the time (2008), Commissioner General Susno Duadji, allegedly receiving gratuities from Century Bank customer Boedi Sampoerna for successfully "forcing" Century Bank to disburse funds the customer before the bank is closed. Shortly after that (2009), Police conducted a "counterattack" to the KPK, with their buzz criminalizing the KPK. Then the term small house lizard vs. crocodile comes from this case which assumes that the KPK is a small house lizard and POLRI is a crocodile. On the order of President Susilo Bambang Yudhoyono, the Attorney General finally issued a Decision of Termination of Prosecution for Chandra M Hamzah and Bibid Waluyo.

Second, in chapter II, July 2012, the dispute between KPK vs Police was reopened after the KPK appointed former Head of Traffic Corps of the Police Inspector General Djoko Susilo as a suspect in a corruption case in the simulator project of Driver License (SIM). Whereas previously, the National Police Headquarters had stated that after investigating the internal investigation, there was no element of corruption in the project, involving Djoko Susilo. There was mutual

seizure of authority to investigate the corruption case. KPK feels they are the most authorized to investigate the case, as well as the Police. Police even had time to "counterattack" also to the KPK. KPK criminalization efforts were re-done.

Another dispute between the KPK and the Police, related to the dualism of investigation of SIM simulator corruption case that was investigated by Novel Baswedan, now turned into a case of Novel examined by the Police. On October 5, 2012, a number of police officers surrounded the KPK building to arrest one of the KPK investigators who also came from Police, Commissioner Novel Baswedan. He is also one of the KPK investigators who play an important role in the disclosure of Djoko Susilo's case. Police reasoned to arrest Novel because in 2004, while serving in Bengkulu, he never conducted severe persecution of several suspected thieves swallow nest there.

Third, the latest conflict was on January 13, 2015, the Commission determined Commissioner General of Police Budi Gunawan as a suspect in the case of "Fat Account" and gratification. Shortly thereafter, on January 23, 2015, the National Police Criminal Investigation Agency arrested the Deputy Chairman of KPK, Bambang Widjojanto with allegations of being behind the provision of false testimony in the dispute over Kotawaringin election in Central Kalimantan in 2010. Subsequently, on January 24, 2015, Adnan Pandu Praja (Vice Chairman of the Commission) reported to the Criminal Investigation Agency Police Headquarters on allegations of counterfeiting notary letters and removal of shares of PT Desy Timber.

President Joko Widodo's plan to inaugurate Budi Gunawan to become the Chief of Police to replace General Sutarman is hampered. Parliament also has given the green light, but the status of suspects Budi Gunawan which pinned by KPK become a stumbling block, and the responsibility is in the hands of the president. Police and KPK relations, again made the community restless facing two institutions that have an important role in this country.

As a way out of the problem, the majority of people (50.8 percent) rated the annulment of Budi Gunawan's nomination and the submission of another candidate as the Chief of Police was the most effective way to stop the conflict (Wardhani, 2015). Both the Police as well as the KPK is an institution that has authority to conduct an enquiry and investigation in a criminal corruption offence, for special duty in KPK area criminal act corruption coupled with the authority of the prosecution. KPK accused of using his authority to drop a Single Assistant Candidates, and police accused of using his authority to undermine the leadership of the KPK. The two parties bring the basic law respectively. Any society has seen any breach of ethics which performed well by the KPK or Police.

With conditions of tension and conflict is not favorable for leadership because it will cause various difficulties in moving members to work together, even in an effort to achieve community welfare goals. Impacts that happen to people that we cannot avoid, so many people who think that the two institutions are not able to perform its functions properly. The conflict between the Indonesian National Police and the

Corruption Eradication Commission (KPK) has happened several times, and each case has a considerable impact on Indonesian politics. Each party and its supporters hold the basis of argumentation that refers to the authority of the institution which guaranteed by law.

The impact that can be seen now is that this feud has potential threats to the stability of the national economy. Ahmad Ma'ruf said in (Tribun Timur, 2015)that the 2015 APBNP targets proposed by the Jokowi-JK government are also threatened to be unfulfilled. Among these, in 2015, the inflation target of five percent, the rupiah exchange rate of Rp 12,200 per US dollar, the rate of letter of the state Treasury (SPN) 3 months 6.2 percent, and economic growth of 5.8 percent. This figure is more pessimistic compared to those set out in the 2015 State Budget. Lord Acton said that "Power tends to corrupt". However, there must be a wise and quick settlement of this tension, so that the public will publish law enforcement institutions, be they police, prosecutors, KPK, and the Supreme Court (MA) clean and sterile from public criminals.

B. Research Questions

Looking from the background that has been explained, then the result of problem formulation as follows.

1. What kind of conflicts between Corruption Eradication Commission and Police of the Republic of Indonesia?
2. What are the factors causing conflict between Corruption Eradication Commission and Police of the Republic of Indonesia?

C. Objectives and Benefits of Research

The purpose of this research is to understanding how Corruption Eradication Commission and Nation Police's authority should be implemented and prevent the overlapping in the future, as well as providing solutions as a recommendation for the government to consider. In addition, this research can be used as a source for further research related to this topic.

The Theoretical benefits of the results in this study are:

a. The results of this study are expected to provide benefits and input to the Corruption Eradication Commission to be useful in handling corruption in Indonesia for the creation of a nation and state that is free and clean from corruption.

b. For the police, is expected with this research could provide insight into the laws on corruption in order to understand their authority, so that in investigating a similar case with other institutions to coordinate with related institutions such as the KPK and AGO[1] honestly and openly.

c. For the community in general expected to restore confidence to law enforcement agencies, especially KPK and POLRI in conducting investigation of criminal acts of corruption and other criminals associated with these two institutions.

d. Last, for the University of Muhammadiyah Yogyakarta especially in majoring Government Affairs and Administration, this research can be used as a source for further research related to this topic and improve the faculty as well as the major.

D. Review of Related Literature

Referring to various literature from previous research related to the background of problems in this research, literature related to this research among others as follows:

Tatuil (2013), in his research entitled *Settlement of disputes over the authority of the KPK and the Police in handling corruption cases,* that he explains how corruption works, and he also explains the legislation for the KPK and Police authorities in every corruption case. In addition, he explained the way in which the investigation

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[1] Attorney General's Office

should be conducted by KPK and Police in the case of corruption. He also explained the dispute resolution of authority pursuant to Article 50 of Law no. 30 of 2002 (KPK law). In this case, the lack of articles written by Tatuil is how he concludes the conclusions only from the KPK's own rules, and forgets how the Memorandum of Understanding has been agreed upon by both parties, the KPK and the Police along with the prosecution conducted on 29 March 2012 and ended 29 March 2016.

Nazriyah (2012) stated in his journal, entitled *The authority of the Corruption Eradication Commission in Investigation Case Simulators SIM (Chief of Police vs KPK)* that the right to investigate is the Commission. He also explained the book of the Law of Criminal Law (Criminal Code) states that in the case of investigations carried out simultaneously by police and or prosecutors and the Corruption Eradication Commission, investigations conducted by the police or the prosecutor's office shall be terminated immediately. While this paper explained who is most needed to investigate and become an investigator in the case of a SIM simulator.

Rompas (2016) in his research entitled "*The authority of the Corruption Eradication Commission in conducting investigations of corruption by state officials*" argue that the position of the Corruption Eradication Commission in the completion of State agencies as criminal acts of corruption, for the moment still desperately needed to survive in the eradication of corruption. Considering that the Commission managed to show its performance could ensnare the organizers of the State not only at local level but also the organizers of the State at the national level of corruption

both in the executive, legislature and judiciary. Authority of the Commission in investigating corruption has been running effectively. This is evidenced by almost all cases of corruption investigated by the KPK was finally convicted by the court.

Sahid (2015) said in his journal entitled "*Conflict KPK vs Polri vol. III: Contest of power in law enforcement in Indonesia*" said that there are three indicators that power in law enforcement in Indonesia. First, the affirmation of the separation of the duties, functions and powers between law enforcement agencies. In the case that power is not concentrated and is institutional absolute, the mechanism of checks and balances is important to implement. Here the concept of Trias Politics as a necessity must be meaningful and practicing separation of power rather than division of power; Second, strengthening the authority of coordination and synergy between law enforcement institutions; and Third, release all legal proceedings from all political processes.

Denny Indrayana in Baskoro (2013) stated in his journal entitled "*The dispute between KPK and POLRI in efforts to eradicate corruption*" that There are several reasons why the Commission was given a mandate to focus combat political corruption and judiciary are among KPK relatively cleaner than the other law enforcement agencies and with the Commission is an independent commission that is different from the state attorney and police department under the supervision of the President. The enmity between law enforcement agencies will undermine the efforts of the Indonesian people in preventing and combating corrupt practices and making

corruptors feel happy to create intentions to tame the tensions that occurred in Indonesia.

Apriyani (2016) stated in her journal entitled "*News Analysis KPK vs POLRI (Frame Analysis Model Gamson at Tempo Magazine Issue 9 to 22 February 2015)*" that Tempo media reports on the February issue is more to explain the emergence of the problems faced by the KPK while explanation onset of the problems facing the Police just a few. Researchers assume that Tempo is not neutral in relaying the ongoing issues. Which means, some media reported the news that is not neutral in this respect. Maybe even some media do not preach factually.

Rachnaningsih (2013) in "*Conflict of authority Police and the KPK as investigators in the case of SIM Simulator (the study of Juridical Settlement through a Memorandum of Understanding)*" that MoU[2] that has been signed by the Police, KPK and the Attorney which there is one article that is contrary to the Corruption Eradication Commission Law. Therefore, based on the Criminal Code of the MoU is considered null and void. It is declared null and void because the MoU or the agreement shall not be contrary to the applicable law and the law has a permanent legal force binding on all parties.

In this study, researchers will describe how the investigation on suspects should when arrested candidates (either by KPK or Police) in the corruption case

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[2] Memorandum of Understanding (MOU) on the eradication of corruption in Jakarta, Wednesday (29or03). There are 15 articles regulated in MOU of KPK, Police and KPK leadership.

above 1 billion, State officials and staff. In this research will be also explained how should the authorities of the KPK and the authority of the Police in case of SIM simulator that occurred in the year 2015, or what is now called the police vs. KPK Vol III. In addition to a description of the authority of the Police and the KPK, researchers also will analyze this SIM simulator in case if similar incidents would occur by the KPK and police in subsequent years. The results of this analysis will be used as a reference for the next in the event of a conflict between the institutions that are similar to this case.

E. Theoretical Framework

Theoretical framework is a description that explains a variable and relationship between variables based on certain concepts and definitions. To conduct a research there is a very important element that is theory; the theory has a role in explaining what is in the problem to be searched on a solution.

1. Theory of Conflict

The conflict is one of the essences of life and human development that have diverse characteristics. The conflict also occurs because of economic problems or the livelihood of the public. Therefore according to Sedarmayanti (2000:137) suggested that "Conflict is a struggle between needs, wishes, ideas, interests or

conflicting parties, as a result of the difference in goals; the values; the thought (cognition); feeling (affect); and behavior".

Conflict theory appear as a reaction to the theory of structural functionalism flourish that is considered less attentive to the phenomenon of conflict as one of the symptoms in a community that needs to get attention. "The most influential or Thinking became the basis of the theory of this conflict was the thought of Karl Marx, and in 1950's, the theory of conflict that is increasingly starting to spread (Bernard, 2007).

The theory aims to analyze the origin an event the occurrence of a breach of the regulations or the background of someone who behaves diverges. The conflict here emphasizes the nature of the pluralistic society and the distribution of power imbalances that occur among different groups, because the powers belonging to the elite groups then it also has the power to create regulations, particularly law that can serve their interests.

The conflict comes from the Latin verb "Configere" meaning "the mutual spanking". In sociological, conflict is defined as a social process between two or more people in which one party tried to get rid of the other party or destroy it in a manner making it helpless (Dany Haryanto dan Edwy Nugroho, 2011). The conflict affected by the difference in traits that brought individuals in an

interaction. The differences among them concerning physical characteristics, intelligence, knowledge, customs, beliefs and so on.

Conflicts are inherent to mean conflict will always exist in any space and time, anywhere and anytime. Form of social conflict that could have all kinds, hence conflicts between individuals, groups, or Nations. Marx says that the potentialities of the conflict primarily occur in the areas of the economy, and she saw that the struggle or conflict also occurred in the field of distribution of prestigeorstatus and political power.
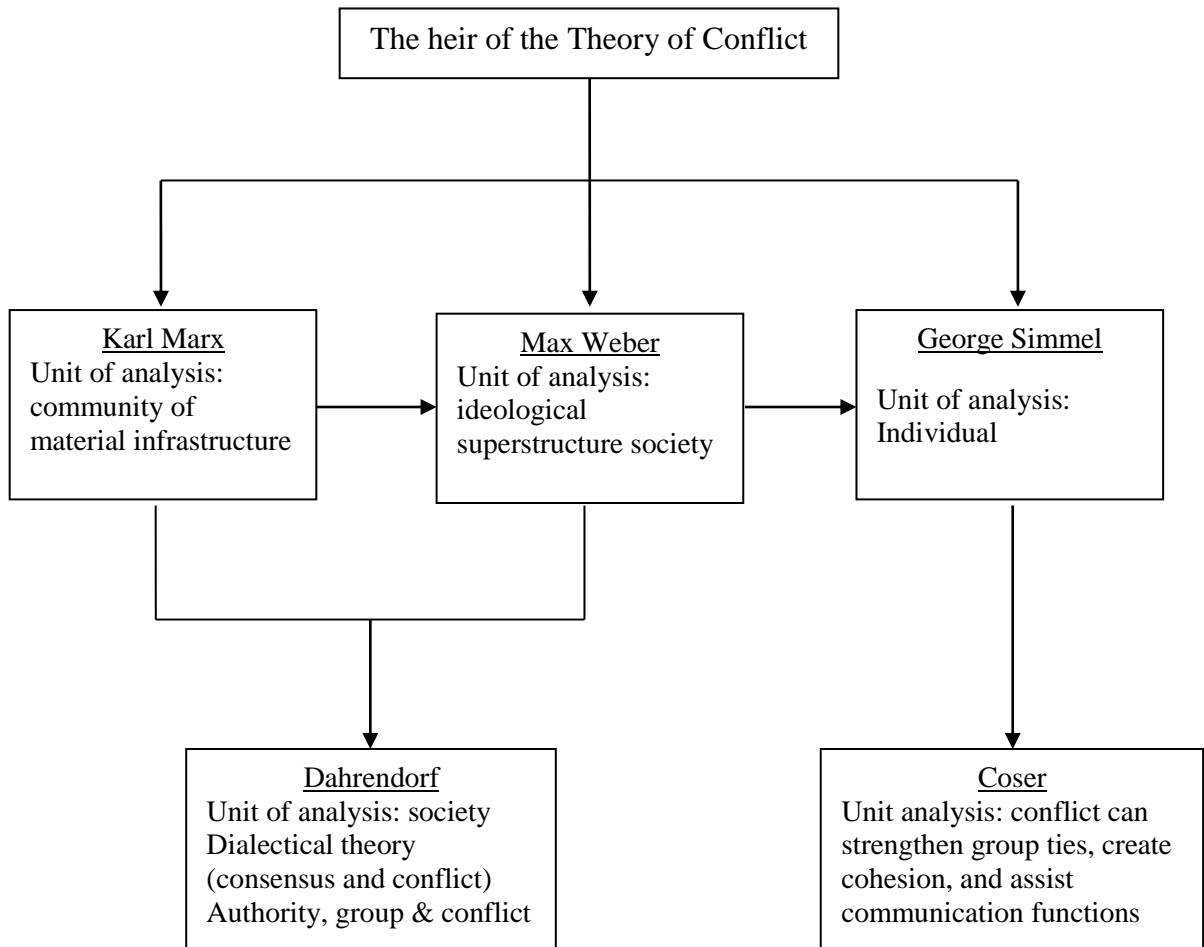
The emergence of a conflict due to differences and diversity. From the statement, then taken an example where there are in the country of Indonesia that the longer shows that there is a conflict of any actions that occur and the conflict divided horizontally and vertically. Horizontal conflict is a conflict that developed between members of the group; it seems conflicts between related tribes, religion, race, and class. While a vertical conflict was a conflict fought between the society and also state or Government. These conflicts generally arise because the public is not satisfied with the performance of the Government, such as the conflict that happened lately that demands the existence of a policy from the Government to raise the salaries of the workers.

There are many conflicts that occur in the life of the community, because of the small things can cause a conflict that ends with major riots if not responded

quickly and seriously. But such conflicts can lead to a unified society when the lower classes can form a group to settle the problem with cold minds. And there are not many conflicts that can lead to disunity that destroys people's lives, such a breakage makes life not work very well.

In this case the conflict between agencies that have different interests with the same purpose. Of course every State institution has the obligation and right of him respectively, also missed how the institution created for particular interests. Everyone has different interests even though they are one and the same community organization. When a person has different interests with others will pose a conflict, as happened in the KPK and the national police. The two institutions already reasonably clearly has a different authority, but lack of communication as well as some self-interest makes the cone of the two institutions overlap, because both wanted to get the title from either the Central Government.

Pic 1.
The roots of theory of conflicts

The heir of the Theory of Conflict

Karl Marx
Unit of analysis:
community of
material infrastructure

Max Weber
Unit of analysis:
ideological
superstructure society

George Simmel

Unit of analysis:
Individual

Dahrendorf
Unit of analysis: society
Dialectical theory
(consensus and conflict)
Authority, group & conflict

Coser
Unit analysis: conflict can
strengthen group ties, create
cohesion, and assist
communication functions

Source : Turner (1998) in Sjaf (2010)

Marx in Turner (1998) says that those who are marginalized will be concerned about their collective interests over the dominance of ordinates by questioning the uneven distribution of natural resources. Subordinate groups (marginalized) build an ideological unity to question the ongoing system and perform "resistance"

through the collective leadership of the ordinate group (dominant). This then causes polarization between ordinate groups and prolonged subordinate groups.

In contrast to Marx, Weber's analysis (Turner, 1998) emphasizes his conflict theory from the perspective of the ideological superstructure (referring to Sanderson, 2003). He built a proposition in the process of conflict between the superordinate and the subordinate. Weber gives an example of the bureaucratic process he has packed into a political institution. According to him, the bureaucracy has different authority and is divided into three systems of authority, namely: traditional, charismatic, and rational-legal. Of the three systems of authority, rational-legal authorities can only thrive in modern western society and only in the rational-legal system of authority that modern bureaucracy can thrive.

Different things done by George Simmel that emphasizes individual analysis unit in the theory of conflict. Sociology is to understand the interaction between individuals that can give birth to conflict or solidarity of fellow (Ritzerdan Goodman, 2003). Related to that, then the proposition that was built by Simmel tend to look at the incidence of conflict with the interaction between individuals who have "emotional power" which was then building the bonds of solidarity between each other..

The key concept of Dahrendorf's conflict theory is of interest. According to him, the groups above and below are defined by common interests. This

phenomenon can be seen in people who are in a dominant position trying to maintain the status quo, while people who are in subordinate position attempt to make changes. Relates to the interests that are always attached to different groups. The different groups, namely: (1) quasi-group or quasi group is a number of holders of positions with the same interests; (2) interest groups are a number of agents that have the structure, form of organization, and the goals or programs and individual members.

In contrast to Dahrendorf, Coser is the heir of the theory of Simmel whose theory of conflict is more about individual analysis. According to Coser, those conflicts can help solidify loosely organized group bonds. Communities experiencing disintegration or conflict with other societies can improve integration cohesiveness.

1.1   Conflict from Political Perspectives

Politics is a conflict in seeking or sustaining the sources that are considered important. Paul Conn in Conflict and Decision Making (1971) says that activities to influence the process of formulation and implementation of general policies are no other as an attempt to obtain or retain values. In fighting for it, there is often disagreement, debate, competition, and even physical opposition between various parties seeking to gain values and those who seek to keep what has been so far. Political scientists who examine power (powers)

generally argue that politics is an attempt to gain, seize and retain power by peaceful means or through conflict. Harold D. Laswell and A. Kaplan for example, in "Power and Society" say that political science studies the formation and distribution of power that is done peacefully or through conflict. Various conflicts lead to anarchism, cheating, omission of all means, ranging from the use of fake diplomas, money politics, to intimidation of candidates. All that is evidence that the catalyst of democratic consolidation has the potential to hamper the acceleration of democracy because of the ubiquitous conflict.

Politics is the process of forming and sharing power in a tangible society in the decision-making process, especially in the state. This notion is an attempt to merge between different definitions of the political nature known in political science. William Robson in Political Science (1954) defines that political science as a science that focuses on the struggle to gain and retain power, influence others, or oppose the exercise of power. Power is defined as the ability to influence others to think and behave in accordance with the will of influence. Politics is the art and science of achieving power in a constitutional or non-constitutional way

1.2   Indicators of analysis conflict

Based on the explanation described above, it can be explained that in analyzing conflict there are at least some important indicators. The indicators are as follows:

a. Interaction, the social relations that occur between individuals or groups that can lead to conflict.

b. Sources of conflict, including physical differences, differences of interests, differences in identity treatment, disappointment, resource constraints, language, perception differences.

c. The parties to the conflict, the parties to the conflict or has an interest in the conflict, include: individuals, groups, and third parties.

d. The process, which is how the conflict begins and lasts until today. The process also includes the extent of such conflict or potential conflict will occur.

e. The final result, covering how the final outcome of the conflict occurs, such as win-win, win-lose and lose-lose conditions.

Conflict cannot be avoided and proven to produce something good in addition to something bad. Conflict cannot be said good or bad. The good of the conflict depends on how one manages, if managed well, the conflict will

produce something good. Conversely, if poorly man- aged, conflict will produce something bad as well.

2. Causes of Conflict

According to Robbins (1996), conflicts arise because of the conditions underlying them (accident conditions). These conditions are called sources of conflict, consisting of three categories, namely: communication, structure and personal variables (Pupun Sofiyati, dkk, 2011).

1. Communication, poor communication between individuals, in the sense that differences in perceptions or views of things, ideas, or ideas within an organization can be a source of conflict. A research result shows that semantic difficulties, insufficient information exchange, and disruption in communication channels are a barrier to communication and are an antecedent condition for conflict creation.

2. Structure. The term structure in this context is used in the sense that includes: size (of the group), the degree of specialization that is granted to members of the group, the clarity of the jurisdiction (working area), the match between the objectives of members with the purpose of groups, styles leadership, reward system, and the degree of dependence between the groups. Research shows that the size of the Group and the degree of specialization is the variable which encourages the occurrence of conflicts.

The group grew, and the more specialized activities, the greater the possibility of conflict.

3. Personal Variables. Other potential sources of conflict are personal factors, including: the value system that each individual possesses, the personality characteristics that cause the individual to be unique and different from the other. These things are different in each individual, so that will tend to cause a conflict within the organization.

From the factors causing the conflict above, it can be concluded that communication, structure and personal factors are the things that can cause the conflict occurred, especially in the conflict of KPK and Police institutions which will be discussed in this paper.

3. Types of Conflict

Conflicts are of many kinds and can be grouped by various criteria. For example, conflicts can be grouped according to the background of the conflict, conflict-related parties and conflict substances such as personal and interpersonal conflict, Conflict of interest, conflict of reality and non-reality conflict, destructive conflict and constructive conflict (Wirawan, 2010).

Conflicts can be distinguished by the position of the conflicting perpetrator, namely:

a. Vertical Conflict

Vertical conflicts are conflicts between groups that have different strata or levels in society. This conflict occurs a lot between the government and the community or the conflict between the company and the workforce in a company. This conflict is usually more difficult to complete and more complex. The handling of vertical conflicts usually takes a long time with the help of an independent body.

b. Horizontal Conflict

Horizontal conflict is a conflict between people or groups with similar social, social class, or social class. This conflict often occurs in society, usually dissent can be a trigger of horizontal conflict. Some horizontal conflicts can be resolved without the intervention of others, but many horizontal conflicts need to be resolved with the help of a third party. Usually there is a law violation in it.

By its nature, the conflict can be divided into destructive conflict and constructive conflict (Lauer, 2001), namely:

a. Destructive Conflict

Destructive conflict is a conflict that arises because of feelings of displeasure, hatred and resentment of a person or group against another party. In this conflict there are physical clashes resulting in loss of life and property such as Poso, Ambon, Kupang, Sambas, and so on.

b. Constructive Conflict

Constructive conflict is a functional conflict, this conflict arises because of differences of opinion from groups in the face of a problem. This conflict will result in a consensus of these opinions and result in an improvement. For example dissent in an organization.

Based on the type of organizational case, there are five types of organizational case conflict (Wahyudi, 2015), namely:

a. Conflict within Individuals. This conflict arises when the individual feels indecisive about which work to do, when job requests are conflicting or the individual is expected to do more than he or she can.

b. Conflict between individuals within the same organization. This conflict arises from pressures related to personality positions or differences.

c. Conflict between individuals and groups. This conflict is related to the way individuals respond to pressure for uniformity imposed by their working groups. For example, a person is punished for violating group norms.

d. Conflict between groups within the same organization. Conflict of interest between groups.

e. Conflict between organizations. Due to the form of economic competition in the economic system of a State. Such conflicts as a means of developing new products, technologies, services, lower prices and efficient use of available resources.

Soerjono Soekanto divides social conflict into five forms (Soekanto, 1992) namely:

a. Personal conflicts, is a conflicts that occur between two individuals or more because of different views and so on.

b. Racial disputes are conflicts arising from racial differences.

c. Conflict between social classes, are conflicts that occur due to differences in interests between social classes.

d. Political conflict is conflict resulting from the interests or political goals of a person or group.

e. Conflicts that are international, is conflicts that occur because of differences in interests that then affect the sovereignty of the state.

Meanwhile, Ralf Dahrendorf said that conflicts can be divided into four kinds in society (Lauer, 2001), namely as follows :

a. Conflicts between or occurring in social roles, or commonly referred to as role conflict. Role conflict is a situation in which the individual faces opposing expectations from his various roles.

b. Conflict between social groups.

c. Conflict between organized and unorganized groups.

d. Conflicts between national units, such as between political parties, between countries, or international organizations.

4. State Institution after Amendment

After the amendment of the 1945 Constitution, the 1945 Constitution of the Republic of Indonesia mentioned many agencies or bodies as compared to the bodies mentioned in the 1945 Constitution before the amendment. The mention of either in an explicit nomenclature of the name of the institution concerned or that without explicit nomenclature. Some of the institutions mentioned by nomenclature are: MPR, DPR, DPD, DPRD, President, Vice President, Minister, Governor, Mayor, Regent, TNI, POLRI, MA, MK, KY, BPK.[3] While the agency

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[3] People's Consultative Assembly (MPR), House Of Representatives (DPR), Regional Representative Council, Financial Supervisory (BPK), Corruption Eradication Commission(KPK), the House of representatives of the region (DPRD), Indonesia national army (TNI), Indonesia National Police (POLRI), The Supreme Court (MA), the Constitutional Court (MK), judicial Commission (KY) and Electoral Commission (KPU).

or body whose nomenclature is not explicitly mentioned KPU, and the central bank.

MPR, DPR, DPD, President, Supreme Court, Supreme Court, BPK, Judicial Commission, KPU and Regional Government are state institutions or organs whose authority is granted by the Constitution. And the Constitutional Court has the right to resolve disputes between state institutions whose authorities are granted by the constitution. The state institutional formats of the Republic of Indonesia include: MPR, DPR and DPD as the Indonesian Parliament; The Constitutional Court and the Supreme Court as the holder of the judicial powers; and the President and Vice President as head of the executive government. The existence of BPK and Judicial Commission can be said not stand alone. The existence of each and its duties and authorities must be linked and related to the duties and authorities of the institutions that are its partners, namely the BPK related to the DPR and DPD, while the Judicial Commission with the Supreme Court.

Based on the above description can be concluded that within the organization of the modern state of development is very rapid. Along with the developments that occur, institutions with variations in functions grew because of the perceived importance of a particularity. Determination of institutions of state institutions of the Republic of Indonesia based on the amendment of the 1945 Constitution is done by way of:

a. Changing the MPR's position to parallel with other state institutions;

b. Maintaining the position of the old state institutions (President, DPR, BPK, MA)

c. Adding new state institutions based on legislative power clusters (DPD) and the clan of judicial power (Constitutional Court).

In the study of inter-state relations based on the 1945 Post-Amendment Constitution, the state institutions in question are limited to MPR, DPR, DPD, President, MA, MK, and BPK.

5. State Auxiliary Institutions

The State Auxiliary Institution is an institution whose function does not position itself as one of the three power institutions according to trias politica. The Corruption Eradication Commission (KPK) is an independent state institution that deals with judicial power but is not under the jurisdiction of the judiciary. It is also asserted regarding the status of the existence of a state institution, such as what has been explained by the Constitutional Court (MK) in a decision stating that in the Indonesian state administration system, the birth of new state institutions in various forms is a logical consequence of a country modern democracies who want to more fully run the principles of checks and balances.

The rise of the establishment of new state institutions is also due to internal pressures in Indonesia in the form of strong political, legal and political reforms of political, legal, and legal systems that have resulted in deconcentrating of state power and repositioning or restructuring in the constitutional system. Externally the phenomenon of the global current movement of the free market, democratization, and international human rights movement (Asshiddiqie, 2008).

The Corruption Eradication Commission has the status of an Independent State Institution, but it has "extra ordinary" authorities that are in accordance with what it eradicates. In this case, extraordinary crimes can only be eradicated in ways that are also extraordinary. The view that the existence of the Corruption Eradication Commission (KPK) is extra constitutional is wrong, considering the existence of KPK institution is firmly regulated in Law Number 30 Year 2002 concerning Corruption Eradication Commission as a form of political law of corruption eradication in the country. Thus, the Corruption Eradication Commission (KPK) as a strong corruption eradication institution is not outside the state administration system, but instead it is placed juridical in a constitutional system whose basic framework already exists in the 1945 Constitution.

6. Corruption

Corruption comes from English, which is corrupt, derived from a combination of two words in Latin is "com" which means together and "rupere" which means broken. The term corruption can also be expressed as an act of dishonesty or misappropriation committed because of a gift. In practice, corruption is better known to accept money that has to do with a position without an administrative record. The definition of corruption is more emphasized on acts that harm the interests of the public or the wider community for personal gain or class.

Meanwhile, according to Fadjar (2002) the pattern of corruption can be distinguished in three major areas namely: First, the form of abuse of authority that impacts the occurrence of corruption is the first; Mercenary abuse of power, abuse of authority exercised by a person with a certain authority in co-operation with others by means of bribes, kickbacks, reduced standards of specification or volume and markup. The abuse of authority of this type is usually non-political and carried out by the level of officials who are not very high position.

Second, Discretionary of power, in this type of abuse of authority by officials who have special authority by issuing certain policies such as decisions of the Mayor or Regent or in the form of local regulations or decisions of the Mayor or Regent that usually makes them able to cooperate with friends or groups (despotism) as well as with his family (nepotism).

Third, the Ideological abuse of power, this is done by officials to pursue the specific goals and interests of the group or party. There can also be group support on certain parties to occupy strategic positions in the bureaucracy or executive institutions, where they will later get compensation from his actions; this is often called a cunning reply politics. This kind of corruption is very dangerous, because with this practice all the supporting elements have been compensated.

6.1 Kind of Corruption

Corruption also has several types, according to Benveniste in Suyatno corruption defined in 4 types as follows:

1. Discretionary corruption is corruption that is done because of the freedom in determining the policy, even if it appears to be legitimate, is not a practice that can be accepted by members of the organization. Example: A Foreign Workers licensing waiter, providing faster service to "brokers", or people willing to pay more, than the mediocre applicants. The reason is that brokers are people who can provide additional income.

2. Illegal corruption is a type of action intended to disrupt the language or legal purposes, rules and regulations of the law. Example: in the auction rules stated that for the procurement of certain types of goods must be through the process of auction or

tender. But because the time is urgent (due to the decline in the budget late), then the process is not possible. For project leaders looking for legal basis that can support or strengthen the implementation so as not to be blamed by the inspector. Look for articles in the rules that allow to be used as a legal basis to strengthen the validity of the tender implementation. In the implementation of a project like this case, it is actually legitimate or illegitimate, depending on how the parties interpret the applicable rules. Even in some cases, the location of illegal corruption lies in the sophistication of playing words; not the substance.

3. Mercenary corruption is a type of criminal act of corruption intended to gain personal gain, through abuse of authority and power. Example: In a tender competition, an auction committee has the authority to grant tender participants. For that either covertly or blatantly he says to win the tender the participant must be willing to give a certain amount of "bribe" or "polish".

4. Ideological corruption is a type of illegal corruption or discretionary intended to pursue group goals. Example: The case of the Watergate scandal is an example of ideological corruption, in which some individuals give their commitment to the president of Nixon rather

than to law or law. Sale of BUMN[4] assets to support the winning of the election (Djaja, 2008).

7. Overview of Memorandum Of Understanding (MoU)

A Memorandum of Understanding (MOU) or pre-contract is basically unknown in conventional law in Indonesia. However, in practice, especially in the commercial field, MoU is often used by related parties. Another term often used for this MoU, especially by European countries is the so-called Head Agreement, Cooperation Agreement, and Gentlemen Agreement which actually has the same meaning with the meaning contained by the terms MoU (Fuady, 2002).

The MoU is a legal act of either party (the legal subject) to express its intent to the other party for something it offers or has. In other words, the MoU is basically a preliminary agreement, which regulates and provides an opportunity for the parties to conduct a feasibility study first before making a more detailed agreement and binding the parties later on.

Quoting from the Legislative Research Bureau's Answers that the MoU is defined in the Black's Law Dictionary as a Letter of Intent. The Letter of Intent is defined:

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[4] State-owned enterprises (BUMN)

"A written statement detailing the preliminary understanding of parties who plan to enter into a contract or some other agreement; a noncommittal writing preliminary to a contract. A letter of intent is not meant to be binding and does not hinder the parties from bargaining with a third party. Business people typically mean not to be bound by a letter of intent, and courts ordinarily do not enforce one, but courts occasionally find that a commitment has been made..."

Based on the above, it can be understood that the MoU covers the following matters:

a. The MoU is the introduction of a tie (grounding certainty);

b. The content of the MoU contains only the main points;

c. The MoU has a grace period, in other words temporary;

d. The MoU on its custom is not formally made and there is no obligation to compel a contract or a detailed agreement; and

e. Because there is still doubt from one party to the other, the MoU is made to avoid difficulties in cancellation.

The hallmark of the Memorandum of Understanding is that the content is concise, often even one page; contains the essentials only; preliminary, which will be followed by another more detailed description; has a period of time, and is usually made in the form of an agreement under the hand.

7.1 The position of the MoU

According to Munir fuady, two kinds of opinions of the Memorandum of Understanding are known as follows:

1. Gentlemen Agreement

This view teaches that the MoU is merely a gentlemen agreement only. The point is that the binding force of a MoU is not the same as the usual agreement, indeed the MoU is made in the strongest form as with notarial deeds (but in rare practice the MoU is made notarial). Even according to the opinion of this group declared that the MoU is bound only to mere moral recognition, in the sense of not having the power of law.

2. Agreement is Agreement

There are also those who argue that once an agreement is made, regardless of its form. Oral or written, short or long, complete or detailed or only regulated the subject matter, is still a treaty, and therefore has a binding legal force like a treaty, so that all the provisions of the articles on the treaty law have been applicable to it. And in this opinion to find the right juridical grounds for the use of the MoU is contained in article 1338 paragraph 1 of the Civil Code which means anything that is made according to the agreement of both parties, is the law that apply to him so that binding both parties. In addition, according to the principle of freedom of contract

and consensual principle, any matter as long as lawful and has been freely agreed, then an agreement or if applied in writing then it can be said as a contract.

For a Memorandum of Understanding that is not a contract there is no sanction for those who deny it except moral sanctions such as the existence of a blacklist for those who deny the Memorandum of Understanding. As for MoU which is in the form of a contract or equivalent to the agreement based on Article 1338 of the Civil Code, if there is a default on the substance of this MoU, then the party shall be subject to sanction from applicable legislation (Sari, 2009).

F. Conceptual Definition

To avoid mistakes and misunderstandings of the discussion, the author will give some concepts that aim to explain from some of the terms used in this study. The term used in this study is:

1. Conflict

In sociology, conflict is defined as a social process between two or more people in which one party tried to get rid of the other party or destroy it in a manner making it helpless.

2. Causes of Conflicts

   Conflicts arise because of the conditions underlying them (accident conditions). These conditions are called sources of conflict, consisting of three categories, namely: communication, structure and personal variables.

3. Types of Conflicts

   Conflicts are of many kinds and can be grouped by various criteria. For example, conflicts can be grouped according to the background of the conflict, conflict-related parties and conflict substances such as personal and interpersonal conflict, conflict of interest, conflict of reality and non-reality conflict, destructive conflict and constructive conflict.

4. State Institution in Indonesia

   Indonesian state institutions are state institutions established under the lower Constitution, law, or regulation. The institution is made by the state, from the state, and to the country where it aims to build the country itself. State institutions are divided into several kinds and have their respective duties.

5. State Auxiliary Institution

   Supporting state institutions or auxiliary state institutions are institutions which in the performance of their functions, do not clearly position

themselves as one of three institutions trias politica, executive, legislative or judiciary. In this case, the KPK is a state institution that is independent and free from the influence of any power.

6. Corruption

Corruption is corruption is a behavior that uses the position and authority to pursue personal gain, harm the public interest. As a result of corruption the inequality between the poor and the elite is becoming more and more visible.

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G. Operational Definition

Indicators that guidance analysis of conflict between the Corruption Eradication Commission and the Police of the Republic of Indonesia are:

1. Types of Conflicts

    1.1 Based on the positions of conflict actors, conflict divided to

        a. Horizontal Conflict

        b. Vertical Conflict

    1.2 Based on its nature, conflict divided into:

        a. Deductive Conflict

        b. Constructive Conflict

1.3 Based on the type of organizational case, conflict divided into:

a. Conflict within Individuals

b. Conflict between individuals within the same organization

c. Conflict between individuals and groups

d. Conflict between groups within the same organization

e. Conflict between organizations

1.4 Based on social environment by Soekanto, conflict divided into 5 forms:

a. Personal conflicts

b. Racial disputes

c. Conflict between social classes

d. Political conflict

e. Conflicts that are international

1.5 Based on interest of society by Ralf Dahrendorf, conflict divided into 4 kinds:

a. Role conflict

b. Conflict between social groups

c. Conflict between organized and unorganized groups

d. Conflicts between national units

2. Causes of Conflict

If it is related to the causes of the conflict, then the cause of the conflict of KPK and Indonesian Police are:

    2.1   Communication

    2.2   Structure

    2.3   Personal variables

3. State Auxiliary Institution

Indonesia's State institutions are State agencies that were formed on the basis of the Constitution, law, or regulation. State institutions at the central level can be divided into four levels, namely:

    3.1 The institutions established by the Constitution as the President, Vice President, MPR, DPR, DPD, CPC and KY

    3.2 The institutions designated by law as Attorney General, Bank Indonesia, the Commission, the KPK, KPI, PPATK, and so forth

    3.3 The Agency established by government regulations or decisions of the President; and

    3.4 Established by the regulator.

4. State Auxiliary Institution

State auxiliary institutions are part of the structure's attempt. Its existence in the structure's attempt can be summed up as follows.

4.1 The institutions of State aides can form part of the functions of State power (legislative, Executive, and judicial) or formed outside the functions of State power.

4.2 The nature of the powers that can be owned by a maid or semi quasi may take the form of Government, and was given a single function or sometimes mixed, as functions on the one hand as a regulator, but also punishes as a judicial mixed with the legislature.

4.3 These institutions there are permanent and not permanent (ad hoc).

4.4 The legal sources of its formation can be sourced on the Constitution or the law.

5. Corruption

5.1 Discretionary corruption

5.2 Illegal corruption

5.3 Mercenary corruption

5.4 Ideological corruption

H. Research Method

1. Types of Research

The method used in this research is descriptive research method, which is a method that discusses some possibilities to solve actual problems by collecting data, compiling or classifying, analyzing, and interpreting. Kutha (2010: 53) in Gindarsyah (2010: 30) explains descriptive method of analysis is done by describing the facts which then followed by the analysis, not merely elaborate, but also provide sufficient understanding and explanation. The type of research used is literature study. The literature study method is a series of activities related to library data collection methods, reading and recording, as well as managing research materials (Zed, 2008: 3).

The reason the author uses this method is because basically this research is a qualitative research. In addition, this method is considered appropriate to approach the problem to be studied. The type of data used is secondary data. Secondary data sources used include primary legal materials, secondary materials and tertiary materials. The materials is limited to one case in sim simulator between Corruption Eradication Commission and Police of Republic of Indonesia in 2015.

2. Data collection technique

Data collection techniques conducted in this study is by way of literature study. This method is used to collect secondary data. In this case, the researcher obtained bibliographic data by identifying the contents of the library material in the form of laws and regulations, scientific works, articles from the internet, journals, and books that content in the scope of the problem which is the conflicts between KPK and POLRI handling SIM simulator corruption cases in 2015.

a. Getting started with the research materials that are sequentially noticed from the most relevant, relevant, and relevant enough. Other ways can be, for example, by looking at the year of research beginning with the most recent, and continuing to retreat to a longer year.

b. Read the abstract from each research in advance to provide an assessment of whether the issues discussed in accordance with that to be solved in the study.

c. Recording important and relevant parts of the research problem, to keep from being trapped in plagiarism elements, researchers should also record the sources of information and list the literature. If indeed information comes from the ideas or research results of others.

d. Last, make notes, quotations, or information organized systematically so that research can easily be searched if at any time necessary (Darmadi, 2011).

3. Unit of Analysis

The definition of the unit of analysis in this study is specific units accounted for as a subject or target of the study (which is used as a target or focus of analysis under study). The unit of analysis of a research can be a particular object, individual, group, region and time according to the focus of his research. The unit of analysis of this research is reference data relating to the Conflict of KPK and Police as Investigator in Case of SIM Simulator 2015.

4. Data Type

In this study, secondary data types are used, which from the point of binding strength are classified into several data sources, namely:

a. Primary Data

Is a material in the form of legislation relating to the title used in this study. The law used is Law no. 30 of 2002 on the Corruption Eradication Commission related to the KPK, Law no. 2 of 2002 on the Police of Republic of Indonesia and the 2012 Memorandum of Understanding

between the KPK and Police as law enforcers conducting investigations in the SIM Simulator Case 2015.

b. Secondary Data

Is material that gives an explanation about primary law material, such as a scientific result of scholars, journal, scientific papers, books, internet, and paper which in this research researcher use literature relating to SIM Simulator case and or KPK and Police volume III.

c. Tertiary Data

That is the legal material that supports primary and secondary legal materials in the form of dictionaries, encyclopedias, and others.

5. Data Analysis

The data have been obtained then analyzed by descriptive analysis method. This method is analyzes the data only to the description of the variables one by one. Descriptions mean the systematic and factual giving of certain characteristics of a particular population (Hadeli, 2006; 11). Descriptive analysis method is done by describing the facts which then followed by the analysis, not merely elaborate, but also provide sufficient understanding and explanation.

Researchers followed the steps as recommended by Miles and Huberman in Sugiono (2008:21), namely:

1. Data collection

In the first model analysis, collecting data from various documents based on categorization in accordance with the problem of research which then developed the data sharpening through further data. In this case, the researcher obtained bibliographic data by identifying the contents of the library material in the form of laws and regulations, scientific works, articles from the internet, journals, and books that content in the scope of the problem which is the conflicts between KPK and POLRI handling SIM simulator corruption cases in 2015.

2. Data reduction

Data reduction is a form of analysis that sharpens, classifies, directs, discards unnecessary data and organizes data in such a way that the final conclusion can be drawn and verified (Miles and Huberman, 2007: 16). In this paper, the author recording important and relevant parts of the research problem, to keep from being trapped in plagiarism elements, researchers should also record the sources of information and list the literature. If indeed information comes from the ideas or research results

of others. This research problem is only by a case of driving license simulator in 2015.

3. Display data

Data display is a set of information organizations that allows research conclusions to be made. The data display is intended to find meaningful patterns and provide the possibility of drawing conclusions and giving action (Miles and Huberman, 2007: 84). Research data can display in the form of descriptions supported by network matrix work. the presentation of data is to present data in the form of matrices, networks, charts or graphs, etc. Thus, researchers can master the data and not immersed with a stack of data.

4. Conclusion

Conclusion is part of whole configuration activities (Miles and Huberman, 2007: 18). The conclusions are drawn since the researchers compiled records, patterns, statements, configurations, causal directions, and propositions (Harsono, 2008: 169).

I.   Systematics of writing

To be able to know the contents of this study, it will be compiled systematics writing consisting of four chapters, with the writing system is to facilitate discussion and writing. Systematic writing of this research is as follows:

CHAPTER 1

This chapter discusses the background of problems, problem formulation, research objectives, research benefits, review literature, theoretical framework, operational definitions, concept definitions, research methods and systematics of writing.

CHAPTER II

This chapter discusses the description of the object of research consisting of the general picture, the history of the object of research, the vision and mission, the contents of the Memorandum of Understanding, the Law on Investigation of KPK and Police, and the authority of both institutions.

CHAPTER III

Chapter Three will analyze the Memorandum of Understanding on the investigation law for the KPK and Police, which creates a conflict of authority

between the two institutions. In addition, researchers will analyze the authority of these two institutions so that no overlapping occurs.

CHAPTER IV

This chapter is a closing chapter consisting of two sub-chapters, namely conclusions and suggestions, obtained from research results as input for KPK, Police and Government.