

## CHAPTER II

### **A. History of Corruption Eradication in Indonesia**

In the colonial period, when the Dutch colonized Indonesia, the custom of taking the "tribute" from the "little people" by the King of Java was imitated by the Dutch when it dominated the Archipelago (1800 - 1942) minus the British Age (1811 - 1816). As a result of that policy there are many people's resistance against the Dutch. The contents of the rules (theories or laws) in *Cultuur Stelsel* (CS) are actually very "human" and very "civilized", but its implementation or practice is very inhumane, then the people of Indonesia more often call this practice is *Dwang Stelsel* (DS) as "Coercion System".

#### 1. Eradication of corruption of the old order era

The enactment of Law no. 74 of 1957 on the Dangerous State on 17 April 1958, became the basis for the Djuanda Cabinet during the Old Order to establish a corruption eradication body called the State Apparatus Retooling Committee (PARAN), the body headed by A.H. Nasution and assisted by two members namely Professor M. Yamin and Roeslan Abdulgani (Darwan, 2002). To this Paran all officials should submit data on the official in the form of the form provided. However, the model of corrupt official's resistance at the time was to react violently with the juridical pretext that with the doctrine of direct responsibility to the President, the form was not submitted to Paran, but directly to the President.

Influenced by political turmoil, Paran ends tragically, deadlocks, and finally relinquishes his duties to the Djuanda Cabinet.

In 1963 through Presidential Decree no. 275 in 1963 proclaimed what is called Operation Budhi, in this operation the government again pointed A.H. Nasution, then Minister of Defense and Security Coordinator and assisted by Wiryono Prodjodikoro. Through Operation Budhi the government hopes the perpetrators of corruption can be dragged the main perpetrators of corruption in the bodies of companies and other State Institutions that are considered prone to corruption and collusion. Political reasons caused stagnation and effectiveness in the implementation of Operation Budhi, Operation Budhi then dissolved through announcements read by Subandrio and replaced by the Supreme Command of Revolutionary (KONTRAF) with President Soekarno as chairman and assisted by Soebandrio and Lt. Gen. Ahmad Yani (Darwan, 2002). During the period 1960-1970 the development and increasing the potential for corruption crimes were felt to continue with great progress (Bohari, 2001).

## 2. Eradication of corruption of the new order era

In the early days of the New Order, through a state address on August 16, 1967, Soeharto blatantly criticized the Old Order, which was unable to eradicate corruption in relation to centralized democracy to the palace. The speech seemed to give great hope along with the establishment of the Corruption Eradication Team

(TPK), chaired by the Attorney General. However, it turned out that TPK's lack of seriousness began to be questioned and led to Soeharto's policy of appointing the Four Committees composed of senior figures considered clean and authoritative, such as Prof. Johannes, I.J. Kasimo, Mr. Wilopo, and A. Tjokroaminoto.

"Four clean figures" is so without spurs when the findings of corruption cases in Pertamina, for example, completely ignored by the government. The weak position of this committee also became the main reason. Later, when Admiral Sudomo was appointed Commander of the Restoration of Security and Order (Pangkopkamtib), the Order of Operation (Opstib) was established, with the task of eradicating corruption, among others. Disputes over the method of corruption eradication that bottom up or top down among corruption eradicators themselves tend to further weaken the eradication of corruption, so Opstib also disappeared with the strengthening of the position of the corruptors in the New Order throne (Darwan, 2002).

### 3. Eradication of corruption of the reformation era

In the era of reform, efforts to eradicate corruption started by B.J. Habibie by issuing Law No. 28/1999 on the Implementation of a Clean and Free State of Corruption, Collusion and Nepotism and the establishment of new committees or bodies, such as the State Officials Supervisory Commission (KPKPN), KPPU or Ombudsman Institution. At this time was born a law to eradicate corruption Law no. 31 of 1999, during the time of President Abdurrahman Wahid formed the Combined

Corruption Eradication Team (TGPTPK) led by the attorney general, composed of prosecutors, police and community members who were subsequently dissolved in accordance with the Supreme Court Decision on the judicial review on the establishment of TGPTPK and the Pretrial Decision Number 11/Pid/Prap/2000/PN.JAKSEL in the South Jakarta District Court for the case of Supreme Court Justice Harah, Kahar and Supraptini Sutarto.

At the time of President Megawati Soekarnoputri, the Commission began to perform its functions, although not yet complete the legal device. In 2004 the KPK has conducted investigations and trials of NAD<sup>1</sup> Governor Abdullah Puteh on charges of corruption related to the purchase of helicopters which, according to the KPK, are mark-ups.

After President Susilo Bambang Yudoyono was elected, in addition to the existence of the Corruption Eradication Commission (KPK), Corruption Crime (TIPIKOR) was established under the Attorney General with the objective of resolving cases of alleged corruption that have not been handled by the prosecutor and other cases that result from prosecutorial investigations. In 2008 the KPK pounded the legal world with investigations accompanied by the arrest of the attorney general, members of the House of Representatives and officials of Bank Indonesia.

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<sup>1</sup> Nangroe Aceh Darussalam, one of the province in Indonesia.

Here are the changes that occurred during the eradication of corruption in the reform era:

1. Stipulation of MPR RI No. XI / MPR / 1998 on the Implementation of a Clean and Corrupt-Free Country, Collusion and Nepotism.
2. Presidential Period B.J. Habibie by issuing Law No. 28 of 1999 on the Implementation of a Clean and Free State of Corruption, Collusion and Nepotism and the formation of various commissions or new bodies such as the State Commission of Wealth Supervisory Commission (KPKPN), the Business Competition Supervisory Commission and the Ombudsman Institution.
3. Article 43 of Law no. 31 of 1999 on the Eradication of Corruption as amended by Law no. 20 of 2001.
4. At the time of President Abdurrahman Wahid formed a Combined Team of Eradication of Criminal Act (TGPTPK) through Government Regulation no. 19 Years 2000. But amid a passionate desire to eradicate corruption from members of this team, through the judicial review of the Supreme Court, TGPTPK finally dissolved by the logic of striking it into Law no. 31 year 1999. Similar fate but not the same experienced by KPKPN, with the establishment of Corruption Eradication Commission, KPKPN's duties merged into the KPK, so the KPKPN itself lost and evaporated.

5. Law no. 30 of 2002 on the Corruption Eradication Commission (UU KPK) until now (Alberto, 2016).

### **B. Corruption Eradication Commission (KPK)**

The Commission for the eradication of criminal acts of corruption or better known as the Corruption Eradication Commission (KPK) is a State auxiliary institution that established to eradicate corruption in Indonesia. Understanding the corruption eradication Commission is listed in section 3 of Act No. 30 of 2002 is "the State institutions in the exercise of those powers and duties are independent and free from the influence of any power". Law enforcement to combat corruption crimes committed conventionally has proven to be obstacles. Therefore, extraordinary methods of law enforcement are required through the establishment of special bodies with wide and independent powers and are free from any power in the effort to eradicate corrupt acts, which are carried out in an optimal, intensive, effective, professional and sustainable manner. In order to realize the rule of law, the government has laid a strong policy foundation in preventing criminal acts of corruption.

The idea of forming the KPK was preceded by the MPR Decree No. 11 of 1998 on the Clean Government of Corruption, Collusion and Nepotism (KKN). Following the mandate, the Parliament and the government then made Law no. 31

Year 1999 on the Criminal Act of Corruption. The Corruption Eradication Commission (KPK) itself was officially established in December 2003 based on Law No.30 of 2002 on the Corruption Eradication Commission (KPK). The law stipulates that the KPK was established because the government agency handling corruption cases has not functioned effectively and efficiently in combating corruption. KPK is an organic commission, the commission that was born from the Law, hereinafter referred to as the Corruption Eradication Commission Law.

The KPK's definition contained in Article 3 of the Corruption Eradication Commission Law "The Corruption Eradication Commission is a state institution which in carrying out its duties and authority is independent and free from any influence of power." As regulated in Article 19 of the Corruption Eradication Commission Law, the Corruption Eradication Commission is domiciled in the Capital of the Republic Indonesia and its working territory covers the entire territory of the State of Indonesia and the Corruption Eradication Commission may establish representation in the Provinces. However, the existence and position of the KPK in the structure of the Indonesian state began to be questioned by various parties. The duties, authorities and obligations legitimized by Law Number 30 Year 2002 regarding the Corruption Eradication Commission indeed make this commission seem to resemble a super-body.

The Corruption Eradication Commission (KPK) as a strong corruption eradication agency is not outside the constitutional system, but instead it is placed

juridical in a constitutional system whose basic framework already exists in the 1945 Constitution. Then based on Jimly Asshiddiqie's "Theory of Norms of Source of Legitimacy", KPK can be categorized as "institutions established by law" in which the process of granting authority to these institutions involves a role of the DPR and the President (Ashiddique, 2006). Therefore, the implications of the process, in the case of dissolution or change of form and authority of such institutions also re-involve the DPR and the President. Like the law in general, the KPK was born with the involvement of the legislative and executive roles. Within reasonable limits of reasoning, seeing such systemic corruption practices, political support in parliament is key in determining the success or failure of the corruption eradication agenda.

#### 1. Duties of Corruption Eradication Commission

Based on Law no. 30 of 2002, the Commission has the following duties:

- a. Coordination with the competent authority to eradicate corruption.
- b. Supervision of institutions authorized to eradicate corruption.
- c. Investigate, inquiry, and prosecute corruption.
- d. To take measures to prevent corruption; and
- e. Monitoring of state administration.

#### 2. In performing coordination duties, the Corruption Eradication Commission is authorized as follows:



- a. Coordinate inquiry, investigation, and prosecution of criminal acts of corruption
  - b. Establish reporting system in eradication activities of corruption
  - c. Request information on corruption eradication activities to the relevant agencies
  - d. Carry out hearings or meetings with agencies authorized to eradicate corruption
  - e. Requesting the relevant agency's report on the prevention of criminal acts of corruption.
3. The vision and mission of KPK are as follows:
- a. Vision: Creating an institution capable of realizing Indonesia free from corruption
  - b. Mission: The breaking and pushing of corruption-free Indonesia into a leader and activator of change to create a corruption-free Indonesia
4. Regulation of the Corruption Eradication Commission
- The setting of the legal basis and authority of the Commission as State institutions can be seen in some of the rules follows:
- 4.1 Legal Basis of the Corruption Eradication Commission
1. Law no. 30 Year 2002 on the Corruption Eradication Commission

2. Presidential Decree. 73 of 2003 on the Establishment of the Candidate Selection Committee of the Corruption Eradication Commission (KPK)
3. Government Regulation no. 19 of 2000 Concerning the Combined Team of the Eradication of Corruption

#### 4.2 Constitution

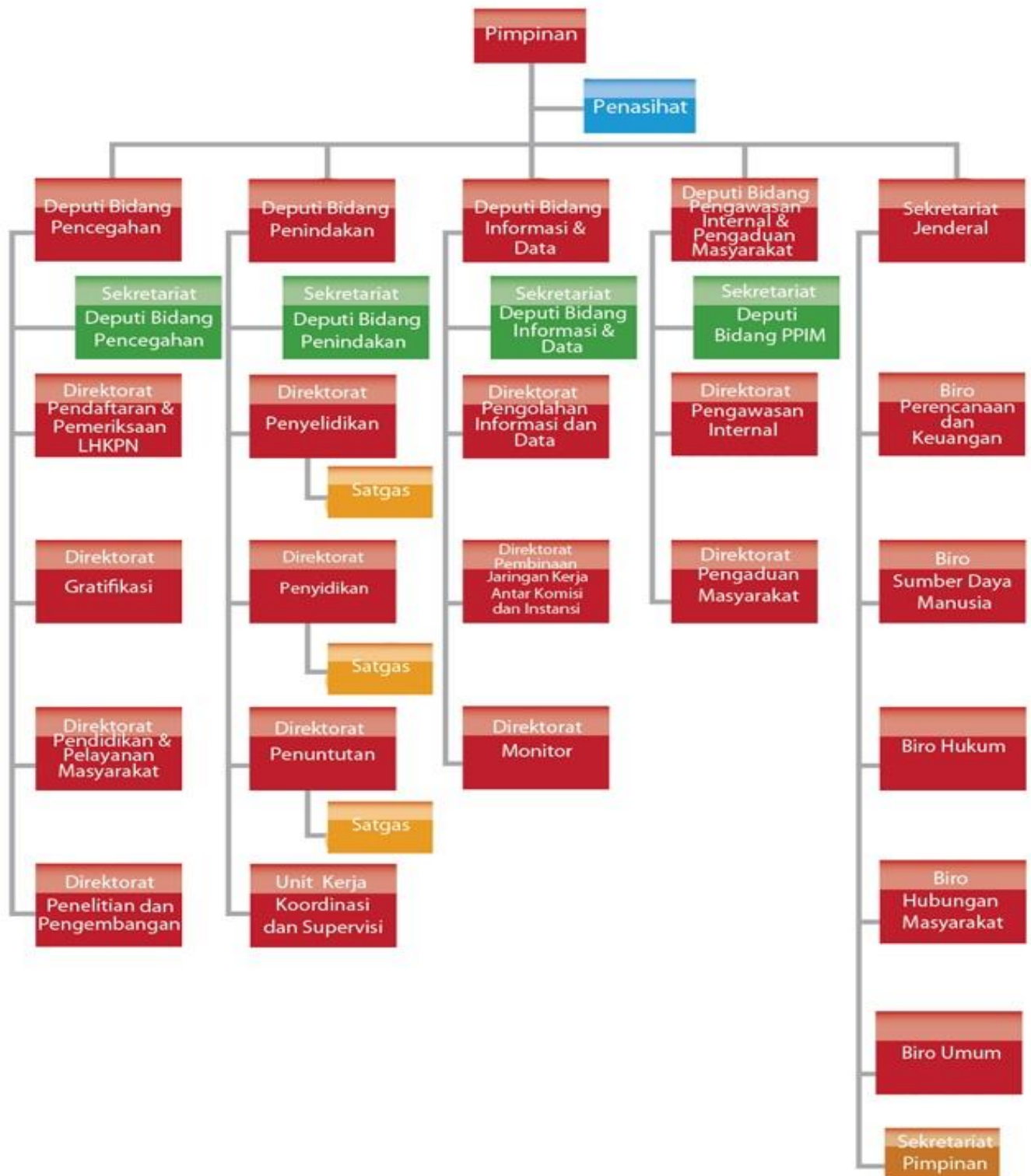
1. Law no. 28 Year 1999 on the Implementation of Clean and Free State Of KKN
2. Law no. 31 Year 1999 on the Eradication of Corruption
3. Law no. 20 of 2001 on Amendment to Law no. 31 Year 1999 on the Eradication of Corruption
4. Law no. 25 of 2003 on Amendment to Law no. 15 Year 2002 on the Crime of Money Laundering

#### 4.3 Government Regulations

1. Government Regulation no. 71 Year 2000 on Procedures for the Implementation of Public Participation and Awarding in the Prevention and Eradication of Corruption
2. Government Regulation no. 109 Year 109 Year 2000 on the Financial Position of Regional Head and Deputy Regional Head

## 5. Structure of KPK

Based on Attachment to the Regulation of the Chairman of the Corruption Eradication Commission. PER-08 / XII / 2008 dated December 30, 2008 on the Organization and Working Procedures of the KPK.<sup>41</sup> The explanation of the decision can be explained through the following chart:



Source: [kpk.go.id](http://kpk.go.id). Retrieved February 2018, from <https://www.kpk.go.id/id/tentang-kpk/struktur-organisasi>

[Here is a table of the leadership structure of the Commission from the first year made to date that is in progress, along with its explanation.](#)

### 1. Period of 2003–2007

No	Chief of KPK	Length of Service		Position	Notes
1	Taufiequrachman Ruki	29 December 2003	18 December 2007	Chairman	
2	Erry Riyana Hardjapamekas	29 December 2003	18 December 2007	Vice Chairman	
3	Tumpak Hatorangan Panggabean	29 December 2003	18 December 2007	Vice Chairman	
4	Amien Sunaryadi	29 December 2003	18 December 2007	Vice Chairman	
5	Sjahrudin Rasul	29 December 2003	18 December 2007	Vice Chairman	

### 2. Period of 2007–2011

No	Chief of KPK	Length of Service		Position	Notes
1	<a href="#">Antasari Azhar</a>	18 December 2007	11 October 2009	Chairman	1
	<a href="#">Tumpak Hatorangan Panggabean</a> (Tasks executor)	6 October 2009	20 December 2010		2

	<a href="#">Muhammad Busyro Muqoddas</a>	20 December 2010	16 December 2011		3
2	<a href="#">Bibit Samad Rianto</a>	18 December 2007	21 September 2009	Vice Chairman	4
	Waluyo (Tasks executor)	6 October 2009	4 December 2009		
	Bibit Samad Rianto	4 December 2009	16 December 2011		5
3	<a href="#">Chandra Hamzah</a>	18 December 2007	21 September 2009	Vice Chairman	6
	Mas Achmad Santosa (Tasks executor)	6 October 2009	4 December 2009		
	Chandra Hamzah	4 December 2009	16 December 2011		7
4	Mochammad Jasin	18 December 2007	16 December 2011	Vice Chairman	
5	Haryono Umar	18 December 2007	16 December 2011	Vice Chairman	

### Notes

1. Dismissed from his position as chairman concurrently member for being accused of murder case Director of PT Putra Rajawali Banjaran Nasrudin Zulkarnaen
2. Antasari Azhar's successor is temporary
3. Served as the definitive chairman to replace Antasari Azhar

4. Disabled temporarily because it has been designated as a suspect in case of abuse of authority related to the ban of corrupt fugitives Anggoro Widjoyo and Joko S Tjandra
5. Reactivated after the issuance of Prosecution Cessation Decree (SKPP) by the Attorney General Office (AGO)
6. Temporarily disabled because it has been designated as a suspect in the case of abuse of authority related to the ban of corrupt fugitives Anggoro Widjoyo and Joko S Tjandra
7. Reactivated after the issuance of Prosecution Cessation Decision Letter (SKPP) by the AGO

### 3. Period of 2011-2015

No	Chief of KPK	Length of Service		Position	Notes
1	<a href="#">Abraham Samad</a>	16 December 2011	18 February 2015	Chairman	1
	<a href="#">Taufiequrachman Ruki</a> (Tasks executor)	20 February 2015	20 December 2015		2
2	Zulkarnain	16 December 2011	20 December 2015	Vice Chairman	
3	<a href="#">Bambang Widjojanto</a>	16 December 2011	18 February 2015	Wakil Ketua	3
	<a href="#">Johan Budi</a> (Tasks executor)	20 February 2015	20 December 2015		4
4	<a href="#">Busyro Muqoddas</a>	16 December 2011	16 December 2014	Wakil Ketua	5

	<a href="#">Indriyanto Seno Adji</a> (Tasks executor)	20 February 2015	20 December 2015		6
5	<a href="#">Adnan Pandu Praja</a>	16 December 2011	20 December 2015	Wakil Ketua	

### Notes

1. Temporarily suspended as a suspect in the case of document forgery in the regional police of South and West Sulawesi
2. Replacing the non-active KPK Chairman Abraham Samad
3. Suspended as a suspect of a false witness case in a dispute over Regional Head Election of Kotawaringin Barat, Central Kalimantan
4. Replacing the Deputy Chairman of the off Bambang Widjojanto
5. Undergoing the remaining term of office after the Constitutional Court stipulates that the position of Busyro Muqoddas, which has been established for one year since it was appointed by Presidential Decree, shall be interpreted to serve for four years
6. Replaces the previous Deputy Chairman of the KPK, Busyro Muqaddas who expires on December 16, 2014

#### 4. Period of 2015-2019

No	Chief of KPK	Length of Service		Position	Notes
1	<a href="#">Agus Rahardjo</a>	21 December 2015	<i>Now</i>	Chairman	
2	<a href="#">Basaria Panjaitan</a>	21 December 2015	<i>Now</i>	Vice Chairman	
3	<a href="#">Alexander Marwata</a>	21 December 2015	<i>Now</i>	Vice Chairman	



4	<a href="#">Saut Situmorang</a>	21 2015	December	<i>Now</i>	Vice Chairman	
5	<a href="#">Laode Muhammad Syarif</a>	21 2015	December	<i>Now</i>	Vice Chairman	

Source: KPK.go.id

### C. Police of the Republic of Indonesia

The police came from the Greek word "Politeia". This word was originally used to refer to "people who became citizens of the city of Athens", then over time the notion expanded widely into "town" and was used to refer to "all city enterprises" in the context of a part of a government (Utomo, 2005). Police means as an organ and a function, ie as a government organ with the task of supervising, if necessary use coercion so that the governed run the body does not impose restrictions on orders. According to Law no. 2 of 2002 on the Police of the Republic of Indonesia, the definition of the Police is all matters relating to the functions and police institutions in accordance with the laws and regulations.

The Indonesian National Police is a national police institution in Indonesia. The definition of Police as stated in article 1 paragraph (1) of Law Number 2 Year 2002 is "all matters relating to the functions and police institutions in accordance with the laws and regulations". As Article 13 of Law Number 2 Year 2002, the State

Police of the Republic of Indonesia as the instrument of the state has the main duty, that is:

1. Maintain the security and order of the community.
2. Enforce the law.
3. Provide protection, shelter, and service to the community

The State Police of the Republic of Indonesia or often abbreviated with the Police in relation to the Government is one of the functions of state government in the field of maintaining security and public order, law enforcement, protection, advisory and service to the public, which aims to realize domestic security which includes maintaining security and public order, orderliness and enforcement of the law, the implementation of protection, guidance and service to the community, as well as the establishment of the tranquility of society by upholding human rights. The duties, functions and authorities are exercised on the obligation to conduct intensive supervision and, where necessary, by coercion by way of performing public obligations with court intermediaries, and forcing the governed to perform general obligations without intermediaries (Kelana, 1972).

In relation to the duties and authorities of the police it must be carried out properly so that the police objectives contained in the articles are useful, the Police Law aims to ensure the orderliness and enforcement of the law and the establishment of the tranquility of the people in the framework of maintaining the state's security,

the holding of state defense and security functions, the achievement of national objectives by upholding the function of human rights is carried out (Utomo, 2005). Momo Kelana explains that the police have two meanings: the police in a formal sense include the organization's description and position of a police institution, and in a material sense, provide answers to the task and authority issues in order to deal with the dangers or disturbances of security and order arranged in legislation.

The identity of the police as a legal servant should be the case, the Police who provide devotion, protection, public lighting and struggle to name and defend freedom and bring about a just and prosperous society with the spirit of tri brata and great soul, Police who have a clean conscience, calm, steady and unshakeable in any situation and condition and always right in making decisions (Utomo, 2005).

Police area is divided in stages, starting at the central level which can be called the National Police Headquarters, whose working area covers the entire territory of the Republic of Indonesia which is led by a Chief of Police who is responsible to the President. Then the provincial level is called regional police, commonly referred to as the regional police, led by a "local police chief", who is in charge of the "police chief". The district level is called the Resort Police or also called "resort police" led by a "resort police chief" who is in charge of the regional police chief. The district level is a police force, commonly called a Sector Police headed by a Chief of Police Sector who is in charge of the Resort Police Chief. And the Village or Village level is

a police officer led by a Brigadier of Police or according to the needs according to the circumstances and conditions of the area (Husin, 2014).

### **1. Functions, Duties, and Police Authorities**

The function of the police as stipulated in Article 2 of Law Number 2 Year 2002 is as one of the functions of state government in the field of maintaining security and public order, law enforcement, protection, shelter and service to the community. While the main task of the police is regulated in Article 13 is to maintain public order and security; enforce the law; and provide protection, shelter, and service to the community. Then the elaboration of the basic duties of police is stated in Article 14 of Law Number 2 Year 2002 namely:

- a) Implementing arrangements, guarding and patrolling community and government activities as required.
- b) Conduct all activities in ensuring security, order and smooth traffic on the road.
- c) Fostering the community to increase community participation, legal awareness and legislation
- d) Participate in the development of national law.
- e) Maintain order and ensure public safety.
- f) Coordinate, supervise and technical guidance on special police, civil servant investigators and other forms of safety safeguards.

- g) Conduct inquiry and investigation of all crimes in accordance with criminal procedure law and other laws and regulations.
- h) Conducting police identification, police medicine, forensic laboratory, and psychological police for the sake of police duty.
- i) Protecting the safety of the physical and social life of the people, and the environment from disturbances of order and or disasters including providing assistance and help by upholding human rights.
- j) Serve the community's interests temporarily before being served by the agency and or authorities.
- k) provide services to the public in accordance with the interests within the scope of police duties, as well as
- l) Carry out other duties in accordance with legislation.

In the field of public law enforcement especially related to the handling of criminal acts as set out in the Criminal Procedure Code, the Police as the main investigator handling any crimes in general in order to create internal security, in the process of handling criminal cases Article 16 of Law Number 2 Year 2002 regarding Police, has established the following authorities:

1. Make arrests, detentions, searches, and seizures
2. Prohibits any person from leaving or entering a crime scene for the purpose of investigation

3. Bringing and confronting the person to the investigator in the framework of the investigation
4. Have the suspect stop and ask for and check the identification
5. Conduct inspection and confiscation of mail
6. Calling people to be heard and checked as suspects or witnesses
7. Bring in the necessary expert in relation to the examination of the case
8. Conducting termination of investigation
9. Submit case to prosecutor
10. Request a request directly to the Immigration Officer at the Immigration Checkpoint in an urgent or abrupt manner to prevent or deter a person suspected of committing a criminal offense
11. Provide guidance and investigation assistance to civil servant investigators and receive the results of investigations by civil servant investigators to be submitted to the public prosecutor; and
12. Carry out other actions according to the law responsible for the investigator's actions and the investigator being executed under the following conditions:
  - a. Not contrary to a rule of law
  - b. In harmony with the legal obligations that require such action to take place
  - c. Should be reasonable, reasonable, and included in the office environment
  - d. Decent considerations based on coercive circumstances, and

e. Respect for human rights.

In addition to Law No. 2 of 2002 on the National Police of the Republic of Indonesia, there is also a legal basis for the police act as investigators and inquiry in carrying out their duties and authorities, namely Law No. 8 of 1981 on the Book of Criminal Procedure Code (KUHAP). The police are required to enforce the law and keep the people at peace, to carry out their duties the police are authorized.

## **2. Corruption case that handled by Police of the Republic of Indonesia**

The role of the Police in the law enforcement of Corruption Act, in Law No. 2 of 2002 on the Police of the Republic of Indonesia in article 14 letter g mentioned above. And in accordance with Article 25 of Law No. 31/1999 on the Eradication of Corruption, "Investigation, prosecution and examination in court in corruption cases must take precedence over other matters for immediate settlement".

Examples of cases of corruption committed by police officers are as follows: Police Commissioner General Suyitno Landung, former head of the detectives and criminal police headquarters of the Republic of Indonesia, is designated as a bribery suspect when investigating the burglary case of BNI bank. A spokesman for the National Police Headquarters, Brigadier Sukarno, said yesterday that the status was already in the summons. Suyitno Landung's status was in accordance with the

summons, as a suspect. Suyitno was questioned in a criminal investigation room. He said when investigating the case of BNI break-ins that cost the country 1.7 trillion with Andrian Waworuntu as a suspect. A BNI case investigator revealed, his side found evidence that Suyitno Landman got a Toyota Nissan X-trail and money in the form of a dollar of Rp 300 million. The car was taken from a showroom in Sunter, north Jakarta. The car letter was signed by Suyitno. "Letters and evidence have been confiscated by the authorities". Suyitno was the 3rd officer police assigned as a suspect in the same case, on 17 September 2005 the police set the former head of the special economic unit II of the investigative body and criminal commissioner Irman Santoso as a suspect who received money from Adrian Waworuntu while investigating the case of BNI, money spread not only enjoyed alone, but delivered and forwarded to its border. And on 27 October 2005 the headquarters of the Indonesian National Police arrested the file of the director II of the economy and specifically the detective and criminal body of National Police HQ Brigadier General Samuel Ismoko underwent disciplinary hearing for allegedly receiving US \$ 20,000 and Rp.500 million from Adrian on his way to Bangkok Thailand , Ismoko also allegedly received a number of goods such as mobile phones, laptop computers, and television screens from the suspects in the case of burglary BNI.<sup>2</sup>

From the facts above we can know that people in police agencies in their duties related to such things as inquiry and investigations are very vulnerable to

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<sup>2</sup> Tempo, edition number 1650 / TH. V, Tuesday 27 December 2005



bribery, which is a form of collusion between big businessmen and high officials of the country, this act is usually done to obscure or escaped from the crime of punishment for the crime that has been committed, which causes the country suffered losses to trillions of dollars.

Actually, illegal levies in the police are not just this time revealed by the Police Headquarters. In 2016, for example, during October to November, at least 101 police officers were arrested for illegal charges. The police officers are serving in 8 Police and most of those who do extortion work in traffic units until the service of making a Driver License. Here is a corruption case that makes polri a public spotlight:

1. Fat account belonging to One Superintendent of Police, Labora Sitorus, worth 1.2 Trillion
2. The case of SIM simulator procurement involving Inspector General Djoko Susilo
3. The case of paddy field printing of the Ministry of State-Owned Enterprises involving Adjunct Senior Commissioner of Police Brotoseno (Arbi Sumandoyo, Reja Hidayat, 2017).

#### **D. Corruption Investigation in Indonesia**

According to the guidelines of the implementation of the Criminal Procedure Code 1 point 5, investigation is a series of investigative actions to search for and find an alleged criminal incident to determine whether or not an investigation is conducted in accordance with the manner laid down in this law. Whereas according to Article 1 point 2 of the Criminal Procedure Code, investigation is a series of investigative actions in respect of and according to the manner stipulated in this law to seek and collect evidence which with such evidence makes light of the criminal acts committed to find the suspect. If it is observed from the procedural law before the Criminal Procedure Code (KUHAP), an investigation is the first action or action of the law enforcement authority authorized to do so, which shall be done after it is noticed there will be or suspected the occurrence of a crime (Prakoso, 1987).

As described briefly between the prosecution and investigation, the second is a tangible action stage one, so between the two must be interrelated in order to completion of the examination of a criminal event. Referring to Law no. 8 of 1981 on the Criminal Procedure Code ("KUHAP"), the state police officer is acting as criminal investigator and investigator (see article 4 and article 6 of the Criminal Procedure Code). Thus, the police are authorized to be investigators and investigators for any criminal offense.

As for the Corruption Eradication Commission ("KPK"), the authority is granted by the KPK Law. Based on Article 6 of the Corruption Eradication Commission Law, it is tasked to conduct inquiry, investigations and prosecutions of corruption. Article 11 of the Corruption Eradication Commission Law further limits that the KPK's authority to conduct inquiry, investigations and prosecutions is limited to the criminal acts of corruption:

1. Involve law enforcement officers, state administrators, and others who are related to corruption committed by law enforcement officers or state administrators;
2. Attention concerning the public; and
3. With regard to state losses of at least Rp 1,000,000,000.00 (one billion rupiah)

The case category as mentioned above is also reinforced in the General Elucidation of the Corruption Eradication Commission Law. Thus, not all corruption cases are under the jurisdiction of the KPK, but are limited to corruption cases that meet the above requirements. According to Indonesian Corruption Watch, here is the step of investigation for corruption in Indonesia:

#### A. First Phase

1. First lead: sources from anywhere that can provide information on corruption. The first indication is usually of:

- a. Whistleblower: The person who wants to divulge the information. Usually comes from management conflicts, among others: union workers, government supervisory apparatus (BPK, BPKP, Inspectorate General, Regional Inspectorate, and SPI)<sup>3</sup>, contractors/suppliers losing tenders, political opponents, etc.
  - b. Learn the weaknesses of the system and the internal control of an object: projects with large funds, procurement of goods and services, workflows, etc.
2. Initial investigation: check if the initial clue has indeed been a corruption of a particular object or not. Intended primarily to find:
    - a. Unlawful / illegal elements
    - b. Elements misuse the authority / opportunity / means available to him / her because of his / her position / position (abuse of power)
    - c. The financial / wealth / economic element of the country
    - d. Elements enrich themselves
  3. Forming on investigation hypothesis: form a hypothesis based on preliminary investigations that have been conducted in the form of:
    - a. Make case of position and modus operandi (M.O)<sup>4</sup> explaining 5W 1H (what, who, where, how, when, how) the case occurs.

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<sup>3</sup> Finance and Development Supervisory Agency (BPKP), Internal Control Unit (SPI)

<sup>4</sup> An action done with consciousness and done in a planned manner by individuals or groups.

- b. Case scheme / flowchart: includes the parties allegedly involved to facilitate understanding
  - c. Planning of evidence to prove corruption
  - d. Testimony (difficult, usually anonymous interview)
  - e. Documents / letters
  - f. Description of the suspect
  - g. Evidence
  - h. Expert description
4. Literature search & interviewing experts: expert interviews and deepening of the literature to broaden understanding and test hypotheses.
5. Finding a paper trail: the difficulties of public investigation which is obtaining sufficient evidence (testimony, documents, information of suspects, evidence). So reliable only documents and informants
- a. Paper trail: any documents relating to cases (letters, tender documents, money transfers, contracts, etc.)
  - b. Key Informants: to gain understanding and chronology of the first hand
6. Interviewing key informants & sources

## B. Second phase

1. Organizing & analyzing data

Organizing data are classifying the documents obtained. Case analyses are benchmarking, examination of written evidence, reconciliation, recounting, etc., to be compared with information from sources. The objective is to find in detail the elements of corruption, modus operandi<sup>5</sup> & the parties involved (5W 1H), state losses.

2. Writing
3. Internal expose

#### C. Third Phase

1. Reporting Stage: reporting of investigative audit results must meet the elements of accurate, clear, balanced, relevant, and on time.

The audit report is a formal tool of auditors to communicate the conclusions obtained about the audit results to interested parties. To date there is no specific standard for investigative audit or special audit reports. The general standard that the report should be made in writing immediately after the end of the audit and the report submitted to the competent authority and the report is confidential. In practice, an investigative audit report is provided to the party providing instructions (police, prosecutors, courts).

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<sup>5</sup> a distinct pattern or method of operation that indicates or suggests the work of a single criminal in more than one crime

Afterwards, explaining Audit of Investigation into Legal Language. Corruption eradication efforts do not merely involve relevant law enforcement officers such as police, prosecutors and judges. The eradication of corruption in a private company or government must involve an accountant who will conduct an investigative audit. The investigative auditor is required not only to investigate, but also to explain the results to the legal language. Thus, an accountant prior to carrying out its activities is obliged to carry out the examination of various laws and regulations, including holding up its independence to refuse to receive tribute.

The results of reports approved by the supervisory organization will be submitted to the highest authority of a region. If the Result of the Investigation Audit proves that there is a crime, the Investigative Audit Report will be submitted to the prosecutor's office to be followed up and processed by law. Based on the audit investigation result, the audit team leader is asked to provide information based on his expertise in the court.