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Juridical Study on Abuse of Authority in Corruption Crimes: Analysis of Law No. 19 of 2019 concerning the Corruption Eradication Commission

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Abstract

Eradication of Corruption Crimes is a series of activities to prevent and eradicate the occurrence of criminal acts of corruption through efforts to coordinate, supervise, monitor, investigate, investigate, prosecute, examine before courts, with community participation in accordance with statutory provisions. Corruption is a criminal act which if violated will be sanctioned, traced from the point of view of life and appears as a bad cultural image of the Indonesian nation. Corruption crimes are all negative activities related to embezzlement of funds, bribery and all forms of gratuities that are contrary to law, norms and customs. Traditionally, people can say that Indonesia's identity is corruption. This image is not completely wrong. Because the reality of the complexity of corruption is felt to be not merely a legal issue, but actually a violation of economic and social rights that has an impact on the life of the nation. Talking about corruption will indeed find the fact that corruption involves moral aspects, traits and circumstances that are not good, positions in government agencies or apparatus, misappropriation of power or authority in office due to gifts, economic and political factors, as well as placement of families or groups into officialdom under the authority of the position. In this research, the formulation of the problem is how the juridical review of the crime of abuse of authority in corruption is viewed from Law no. 19 of 2019 and what is the mechanism for filling the positions of the supervisory board of the Corruption Eradication Commission according to Law no. 19 of 2019 also has normative and juridical research methods that are associated with laws and all opinions of legal experts as well as the placement of families or groups into officialdom under the authority of his position. In this research, the formulation of the problem is how the juridical review of the crime of abuse of authority in corruption is viewed from Law no. 19 of 2019 and what is the mechanism for filling the positions of the supervisory board of the Corruption Eradication Commission according to Law no. 19 of 2019 also has normative and juridical research methods that are associated with laws

and all opinions of legal experts as well as the placement of families or groups into officialdom under the authority of his position. In this research, the formulation of the problem is how the juridical review of the crime of abuse of authority in corruption is viewed from Law no. 19 of 2019 and what is the mechanism for filling the positions of the supervisory board of the Corruption Eradication Commission according to Law no. 19 of 2019 also has normative and juridical research methods that are associated with laws and all opinions of legal experts.

Keywords: Juridical Study, Abuse of Authority, Corruption Crime, Corruption Eradication, Law No. 19 of 2019, KPK

Introduction

At this time, development in Indonesia is being improved, especially in the field of law. Law enforcement is one way to create order, security and peace, as an effort to prevent, eradicate or prosecute violations of the law. One of the criminal acts of the enemies of the entire nation is corruption so that the eradication of corruption is made a government priority to be tackled. Development in Indonesia is a national development that basically requires synergy between the community and the government. Community and government activities must support each other, complement each other, in advancing society and the nation in general. Indonesia as a developing country has a reputation for bad levels of corruption in the world.

In this country, corruption is deeply rooted in the administration of the state. This problem is very complex, systematic and very broad in scope from all social and governmental orders. Most acts of corruption are carried out by an official or regional head who uses the opportunity, authority or power or position given to him.

The rise of every official who stumbles on corruption cases is not only a quite worrying phenomenon, but also creates problems for the government administration process. Apart from allegations of self-enrichment, acceptance of gratuities and bribes, the determination of corruption suspect cases is also pinned on those whose policies are suspected of causing losses to the state. In the eyes of the public, the number of officials named as corruption suspects can be interpreted as the result of the success of the anti-riswah institution (KPK) in fighting corruption. Meanwhile for government administration apparatus it can be interpreted as a scourge because there is no guarantee that in turn they will experience the same thing, becoming KPK prisoners because they are included in the criminal law of corruption(Saragih & Sahlepi, 2019). This problem certainly does not only have an impact on disrupting the government administration process but also has the potential for stagnation in government administration. The actions and decisions of an official who are actually protected by the principle of freedom of action in providing services to the community are often overshadowed by concern and fear when policy regulations or decisions are suspected of having an impact on state losses and being disqualified as a crime, so that the creativity and innovation of government officials in administering government is increasing limited.(Mariyadi & Wahid, 2016)

In 2013, it was reported by a number of national media that there were at least 290 regional heads who had the status of suspects, defendants and convicts for being involved in cases, and as many as 251 regional heads or around 86.2 percent were caught in corruption

cases. Meanwhile throughout 2014, of the many names named as suspects by the Corruption Eradication Commission (KPK), most of them were government officials who were also politicians from major parties. Some of them have served as regents, mayors, or governors. Even ministerial-class assistants to the president have not been spared from criminal prosecution of corruption. Among the corruption cases that had dragged a number of high-profile officials, among others, the Hambalang case had dragged down the Minister of Youth and Sports.(Saputro & Pribadi, 2022)

The Bailout Bank Century case, the case where Bank Century's bailout fund swelled from Rp 632 billion to Rp 6.7 trillion, also dragged down the name of Boediono, who at that time served as Vice President. The reason that Indonesia's economic situation at that time was in a state of crisis prompted Boediono, who at that time served as governor of Bank Indonesia, to take swift steps to anticipate the worsening impact of the global crisis on the Indonesian economy. Boediono believed that if at that time a decision was not made on Bank Century, Indonesia would again be in a crisis situation like what had happened in 1998. The Minister of Youth and Sports, Andi Mallarangeng who was suspected of committing a violation and abuse of authority so that based on the results of the BPK audit it was found that state losses reached IDR 2.5 trillion. Andi Mallarangeng was suspected of letting Sesmenpora Wafid Muharam commit deviations and not carry out control and supervision as described in Government Regulation (PP) Number 60 of 2008.(Pujiyono & Riyanta, 2020)

In addition to dragging top ministerial-level officials, not a few regional heads have been caught up in the vortex of corruption cases because of policies issued. On the one hand government officials are representatives of the state whose every decision becomes part of the legal product that is protected, but on the other hand the absence or lack of administrative standardization in government actions or activities often makes them trapped when faced with policy areas that are still gray. The practice that has been carried out so far, allegations of abuse of authority by a government official are directly examined in the general court. This practice is based on the argument that the crime of abuse of authority is also the domain of criminal law so that the presence or absence of elements of abuse of authority can be examined in general courts. Other groups are of the opinion that abuse of authority is the domain of administrative law so that to test the presence or absence of allegations of abuse of authority is the absolute competence of the State Administrative Court.(Haq. M. & Ilyas, 2022)

The debate around the above issues has now been answered with the issuance of Law Number 30 of 2014 concerning Government Administration. This policy becomes an umbrella act or material law for the administration of government in which it regulates the legal relationship between government agencies and individuals or communities within the jurisdiction of state administration(Wahyunadi, 2016). This paper aims to describe the criminal act of corruption, alleged abuse of the authority of a government official in the perspective of Law Number 30 of 2014 concerning Government Administration, bearing in mind that after the regime of the law there has been a paradigm shift and fundamental changes related to efforts to examine whether or not there is an alleged abuse authority exercised by a public official/government.(Purnomo et al., 2020)

Authority is a person's power to govern other people, a person's ability to control other people or groups. However, this authority is widely misused to seek wealth. So that many rulers seek this wealth in various ways, including using the authority that has been entrusted by the people to him. Many authorities abuse their authority for personal gain so that people's human rights are willing to be sacrificed. The abuse of office authority that is usually carried out by government officials is corruption. Corruption is one of the many terms that are now familiar to the ears of the people of Indonesia, almost every day the mass media reports on various corruption committed by state apparatus, whether civil servants or government officials.(Zulkarnaen et al., 2020)

Abuse of authority is defined as an attitude or act against the law, exceeding authority, using authority for other purposes originating from the purpose of that authority, including negligence or perpetuating legal obligations in the administration of public services carried out by state administrators and government funds which causes material and immaterial losses to society and individual. The criminal act of corruption is a crime that has the aim of enriching oneself, other people or corporations so as to cause losses to the state. Corruption is a serious problem and is usually carried out by people who have positions.

According to Sudarto, elements that are categorized as criminal acts of corruption include:

1. Doing an act of enriching oneself, another person or an entity. Regarding the explanation "the act of enriching" means doing anything such as taking, transferring, signing a contract so as to make the act rich.
2. The act committed was against the law, this element must be proven explicitly in the formulation of the offense.
3. Actions committed either directly or indirectly can harm state finances and/or the country's economy.

According to the Corruption Eradication Commission (KPK), which has the task of carrying out a series of actions in preventing and eradicating criminal acts of corruption through various efforts such as coordination, supervision, monitoring, investigations, investigations, prosecutions and examinations in court hearings based on applicable laws and regulations, corruption itself has various forms, among others :(Yapanto, 2021)

1. Acts against the law with the aim of enriching oneself
2. Abusing authority because of position
3. Embezzlement in office
4. Extortion in the trap
5. Criminal acts related to contracting
6. Gratification crime

Currently abuse of authority often occurs and is in the public spotlight. According to the Indonesia Corruption Watch (ICW) which argued that the inauguration of several new officials within the scope of the Corruption Eradication Commission (KPK) was a form of abuse of authority by the leadership. The opinion of a researcher from ICW which became the basis for the inauguration had a problem, where the KPK structure should not have been changed because in the provisions of Article 26 of Law No. 19 of 2019 concerning the second amendment to Law no. 30 of 2002 concerning the Corruption Eradication Committee, there is no change regarding this matter.

KPK deputy chairman Lili Pintauli Siregar has collected complaints from the people of East Nusa Tenggara (NTT) Province regarding the abuse of authority which has caused losses to state finances. From 2018 to 2021, there have been 392 complaints from the people of NTT Province against the Corruption Eradication Committee, one of these complaints regarding abuse of authority has the highest number per 392 complaints.

Formulation of Problems

1. What is the mechanism for filling the positions of the supervisory board of the Corruption Eradication Commission according to Law no. 19 Year 2019?
2. What is the Juridical Study of the Crime of Abuse of Authority in Corruption Crimes (Analysis of Law NO. 19 of 2019 Concerning the Commission on Aggravation of Corruption Crimes)?

Literature Review

Authority is a person's power to govern other people, a person's ability to control other people or groups. However, this authority is widely misused to seek wealth. So that many rulers seek this wealth in various ways, including using the authority that has been entrusted by the people to him. Many authorities abuse their authority for personal gain so that people's human rights are willing to be sacrificed. The abuse of office authority that is usually carried out by government officials is corruption(Sukoco & Darwati, 2023). Corruption is one of the many terms that are now familiar to the ears of the people of Indonesia, almost every day the mass media reports on various corruption committed by state apparatus, whether civil servants or government officials.(Soldatenko, 2023)

Abuse of authority is defined as an attitude or act against the law, exceeding authority, using authority for other purposes originating from the purpose of that authority, including negligence or perpetuating legal obligations in the administration of public services carried out by state administrators and government funds which causes material and immaterial losses to society and individual(Pulungan et al., 2023). The criminal act of corruption is a crime that has the aim of enriching oneself, other people or corporations so as to cause losses to the state. Corruption is a serious problem and is usually carried out by people who have positions.(Mandasari, 2021)

Research Methods

This research is normative legal research (juridical research), namely legal research regarding the enactment and implementation of normative legal provisions such as codification, laws and contracts in action in every particular legal event that occurs in society. In this research method the writer will study the theories, principles and laws and regulations related to research. In this study one of the three Grand Methods was used, namely Library Research, which is scientific work based on literature or literature, Field Research, which is research based on field research and Bibliographic Research, namely research that focuses on the ideas contained in theory. The approach method used in this research is statutory approach (Statue Approach) and conceptual approach (conceptual approach). The legal materials used

consist of primary legal materials and secondary legal materials as well as legal materials and tertiary legal materials.

Results and Discussion

1. The mechanism for filling the positions of the supervisory board of the Corruption Eradication Commission according to Law no. 19 of 2019

The supervisory board for the commission for eradicating corruption is a new tool that has been present within the KPK after the passage of Law no. 19 of 2019 concerning the Corruption Eradication Commission, the reason for its formation is because constitutionally, the Corruption Eradication Committee, which was previously considered not to be under the control of any government authority or institution, is thus very much at odds with the government system in Indonesia.(Ariani & Prasetyoningsih, 2022)

The establishment of a KPK supervisory board that was directly elected by the President through a selection committee, required the KPK to report all its activities to the supervisory board, particularly in wiretapping, confiscating and searching. This results in impurity of the independence of the KPK because its independence is only legal or dogmatic, namely written and regulated by law, but technically in carrying out its duties and authorities the KPK is not free because it must rely on special permits to carry out acts in eradicating corruption. So the mechanism for the change is regulated again in Law no. 19 of 2019 which came after the renewal of the old amendments which were regulated in 2002 but in reality, the mechanism for appointing the KPK Supervisory Board is not in accordance with the concept and theory of an independent state commission, because there is a monopoly on executive power in the appointment mechanism, this can be seen from the number of members of the selection committee formed where 5 people come from elements of the central government and 4 people from elements of society. Coupled with the composition of the selection committee which requires the chairman of the selection committee to come from among the central government with the inclusion of regulations in Article 5 paragraph (3) letter a in government regulation number 4 of 2020.(Saputra, 2020)

This has resulted in the mechanism for appointing the KPK supervisory board still very vulnerable to the intervention of certain parties, very different from other supervisory institutions that were born earlier in the constitutional system in Indonesia which are transparent, accountable and contain good faith in the independence of the implementation of their supervision(Ramadani, 2021). This also contradicts one of the characteristics of independent state institutions conveyed by Zainal Arifin Mochtar which states that independent state institutions in the election process must start the selection and not through political appointees, or in special terms not through the monopoly of one particular branch of power, but involving other state institutions within the framework of the function of checks and balances, or it could also be left entirely up to certain segments of the public to choose their representatives, essentially not involving political power. So that the position of the supervisory board for the commission for the eradication of

criminal acts of corruption according to Law Number 19 of 2019 concerning the eradication of criminal acts of corruption is not in accordance with the concept of an independent state commission and has multiple interpretations.(Suastuti et al., 2020)

2. Juridical Study of the Crime of Abuse of Authority in Corruption Crimes (Analysis of Law NO. 19 of 2019 concerning the Commission on Aggravation of Corruption Crimes)

Based on Law no. 19 of 2019 abuse of authority in acts of corruption has two different perspectives, namely abuse of authority in criminal law and abuse of authority in state administrative law. The following is an explanation from these two different points of view.(Iskandar et al., 2023)

a. Abuse of authority in criminal law

An element is something that cannot be separated from its other parts. This means that something can consist of several parts, those parts that can be named elements. So that the concept of abuse of authority consists of several elements so that it can be categorized as abuse of authority.

The term abuse of authority in criminal law has actually been contained in Article 421 of the Criminal Code which reads:

"A civil servant who abuses his power to force someone to do or not do or allow something, is punishable by a maximum imprisonment of two years and eight months"

In addition, in general corruption is regulated in Article 423 of the Criminal Code, which reads as follows:

"A civil servant with the intention of unlawfully benefiting himself or others, by abusing his power, forcing someone to give something, to pay or receive payment at a discount, or to do something for himself, is punishable by a maximum imprisonment of six years".

Abuse of authority is very popular in the development of criminal law, especially in relation to cases of corruption committed by government officials. Along with its development, abuse of authority has become one of the most important elements in criminal acts of corruption, this is also reflected in the contents of Article 3 of the Law on the Eradication of Criminal Acts of Corruption.

When examined closely, the term abuse of authority is not much different from the concept of understanding abuse of authority which is well known in the concept of state administrative law. The abuse of authority that is in the spotlight in criminal law is the deviation of the purpose of granting this authority.

The term corruption refers to various hidden and illegal activities or actions to gain profit for personal or group interests. Corruption is often interpreted as a form of abuse of power for individual interests and benefits that

is rooted in problems of social injustice that affect all aspects of life. For village heads, officials at the sub-district level, even officials at the governor level, ministers and even heads of state, corruption is a moral issue.("Principles of Recognizing Service Users in Corruption Prevention, Money Laundering and Terrorism Financing," 2023)

Meanwhile, according to the authority contained in the formulation of the offense Article 3 of Law no. 31 of 1999 concerning Corruption Crimes in conjunction with Law No. 20 of 2001 concerning PTPK it is formulated that there is an element of abusing the authority of existing opportunities or facilities, because of the position or position.(Yulianto, 2019)

The authority that exists in the position or position of the perpetrators of corruption is a series of powers or rights attached to the position or position of the perpetrators of corruption to take the necessary actions so that their duties or work can be carried out properly. The authority referred to in Article 3 of the PTPK Law is of course the authority that exists in a position or position held by a civil servant based on statutory regulations.(Ardika, 2020)

If you pay attention to the formulation of the delict of Article 3 PTPK, there is the phrase "opportunity", namely opportunities that can be exploited by perpetrators of corruption, which opportunities are listed in the provisions regarding work procedures related to the position or position held or occupied by perpetrators of corruption. In general, this opportunity is obtained or obtained from the provisions regarding these work procedures or intentionally misinterpreting these provisions(Huda et al., 2020). The next phrase is "misusing existing facilities in the position or position of the perpetrators of corruption". Means can be interpreted as conditions, media or methods. In relation to the provisions on corruption. Position according to Utrecht is a permanent work environment held and carried out for the benefit of the state/public interest or associated with the highest social organization named the state(Banjo et al., 2022). As for position, according to Soedarto, "the term position beside the word position is very doubtful. If this position is interpreted as a function in general, then a director of a private bank also has a position. So the position in the formulation of the provisions on corruption in Article 3 is used for perpetrators of corruption for civil servants and not civil servants, namely civil servants as perpetrators of corruption who do not hold a particular position, both structural and functional positions.(Sumaryanto, 2020)

b. Abuse of authority in state administrative law

In Black's Law Dictionary, authority or authority is defined as legal power, the right to rule or act, the right or power of public

officials to obey the rule of law within the scope of carrying out public obligations(Black, 2021). When viewed from its nature, the nature of government authority can be distinguished as expressimplied, elective and vrij bestuur. Government authority that is expressive is authority that has clear aims and objectives, is bound to a certain time and is subject to written and unwritten legal restrictions. While the contents can be general (abstract) and concrete individual. Governmental authority is optional in nature, namely authority whose basic regulations determine when and under what conditions an authority can be used. Free authority *(discretionary or vrij bestuur)* is authority where the basic regulations provide a loose or free scope for state administrative bodies/officials to use the authority they have, can refuse or grant a request.(Black, 2021)

The abuse of authority/authority in acts of government according to the concept of Constitutional Law or State Administrative Law is always paralleled with the concept of *de'tornement de pouvoir*. In the *Verklarend Woordenboek Openbar Bestuur* it is formulated that the use of authority for other purposes deviates from the purpose given to that authority. Thus officials violate the specialist principle (principle of objective)(HR et al., 2018). The occurrence of abuse of authority is not due to negligence. Abuse of authority is done consciously, namely diverting the goals that have been given to that authority. The transfer of goals is carried out in personal interest, either for the benefit of himself or for others.(Puhi et al., 2020)

In line with that, Abdul Latif gave the view that the abuse of authority in administrative law can be interpreted in 3 (three) forms, namely:

1. Abuse of authority to take actions that are contrary to the public interest to benefit personal, group or class interests.
2. Abuse of authority in the sense that the official's actions are properly filed for the public interest, but deviate from the purpose for which the authority is granted by law or implementing regulations.
3. Abuse of authority in the sense of misusing procedures that should be used to achieve certain goals, but has used other procedures to carry them out.

Administrative law or *administratiefrecht* contains legal norms that apply in governance, which are then said to be benchmarks by the users of authority carried out by government agencies. This was stated by Tatiek Sri Djatmiati, that the use of authority can be in the form of compliance or non-compliance with the law itself so that if there is legal non-compliance then the government agency that has the authority can be held accountable.(Wicaksono & Saputra, 2021)

The abuse of authority in the State Administrative Law (HAN) is actually legally

regulated in Law no. 30 of 2014 concerning Government Administration. So that the abuse of authority referred to in the State Administrative Law which is contained in Article 17 is an excess of authority, mixing authority and acting arbitrarily.

Everyone who commits a criminal act of corruption is obliged to carry out criminal responsibility for his behavior. According to the law there is no mistake without breaking the law, this theory is then formulated as no crime without fault or green *starf zonder schuld*.

In Indonesia, criminal acts of corruption are increasing, so that this causes the economic system in Indonesia to get worse. Corruption related to state financial losses is contained in Articles 2 and Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption.(Saragih, 2017)

1. Abuse of authority of public government officials

The debate about which institution has the authority to examine whether or not there was an abuse of authority by a public official is indeed an old debate and has not even reached agreement among legal experts. However, the issuance of Law Number 30 of 2014 concerning Government Administration at least provides an answer to this debate. According to Supandi, abuse of authority *(detournement de pouvoir)* is a concept of state administration law which indeed causes many misunderstandings in interpreting it. In practice, *detournement de pouvoir* is often confused with acts of arbitrariness *(willekeur/abus de droit)*, abuse of facilities and opportunities, against the law *(wederrechtelijkheid, onrechmatige daad)*, or even expanding it with any action that violates any rules or policies and in any field. . The use of this broad and free concept will in the end easily become another weapon of abuse of authority and precisely the government's freedom of action in dealing with concrete situations *(freies ermessen)* is meaningless.(Puhi et al., 2020)

Abuse of authority can also occur both in the type of bound authority and in the type of free authority (discretion). The indicator or benchmark for the abuse of authority for the type of bound authority is the principle of legality (the objective set out in laws and regulations), while for the *typeFree* authority (discretion) is used as a parameter of the general principles of good governance, because the *"wetmatigheid"* principle is inadequate. In judicial practice, abuse of power and procedural defects are often interchanged/mixed up, as if procedural defects are inherent in abuse of authority.(Kumalaningdyah, 2019)

There are several characters or characteristics to indicate that there has been an abuse of authority, including: first, deviating from the purpose or intent of a grant of authority; secondly, deviating from the purpose or intent in relation to the principle of legality; third, deviating from the purpose or intent in relation to the general principles of good governance. In the perspective of state administration law, the parameters that limit the free movement of the authority of the state apparatus (discretionary power) are abuse of authority *(detournement de pouvoir)* and arbitrariness *(abus de droit)*. Meanwhile, in the context of criminal law, the criteria that limit the free movement of the authority of the state apparatus are referred to as being against the law *(wederechtelikheid)* and abusing authority. Meanwhile, in the context of civil law, unlawful acts are referred to as

onrechtmatigedaad and default. This last definition is often misunderstood by law enforcers because they consider the broad meaning of *onrechtmatige daad* in civil law to have the same meaning as criminal law's understanding of the term *materiels wederrechtelijkheid*. *Wederrechtel jkheid* in several terms of literature can be interpreted as without rights of its own, contrary to law in general, contrary to a person's personal rights, contrary to positive law including civil law, administrative law or abusing authority and so on. This last definition is often misunderstood by law enforcers because they consider the broad meaning of *onrechtmatige daad* in civil law to have the same meaning as criminal law's understanding of the term *materiels wederrechtelijkheid*. *Wederrechtel jkheid* in several terms of literature can be interpreted as without rights of its own, contrary to law in general, contrary to a person's personal rights, contrary to positive law including civil law, administrative law or abusing authority and so on. This last definition is often misunderstood by law enforcers because they consider the broad meaning of *onrechtmatige daad* in civil law to have the same meaning as criminal law's understanding of the term *materiels wederrechtelijkheid. Wederrechtel jkheid* in several terms of literature can be interpreted as without rights of its own, contrary to law in general, contrary to a person's personal rights, contrary to positive law including civil law, administrative law or abusing authority and so on.

According to Dian Puji N Simatupang, a policy maker as a product of state administration cannot be punished even if the policy is wrong. A policy maker is attached with attributive authority. The authority given by a regulation to a policy maker to make a policy. In making a policy, a policy maker must consider whether or not the policy is beneficial for the public interest it protects. In essence, the policy taken was the best choice under the circumstances at that time in order to safeguard the public interest. The jurisprudence of the Supreme Court of the Republic of Indonesia of 1966 at least became the legal basis that strengthens this opinion. This jurisprudence abolishes crimes that arise from policy actions as long as they fulfill three conditions, namely the state is not harmed, a person or legal entity is not unlawfully benefited, and for public services or protect the public interest.

Based on research conducted by Dian Puji N Simatupang, as many as 70 percent of legal cases involving public policy are in fact *dwaling*, (mistake). While only 30 percent contain purely criminal elements. Such *dwaling* can be in the form of misrepresentation of the intentions of the legislators *(zelfstandingheid der zaak)*; misjudging the rights of other people or legal entities *(dwaling in een subjetieve recht)*, misjudging the meaning of a provision *(in het een objectieve recht)*, and misjudging their own authority *(dwaling in eigen bevoegheid)*. According to Dian, the settlement of the *dwaling* problem is not through criminal sanctions but must be through administrative law. Dian also believes that not all policy makers cannot be punished for the policies they have taken. Policy makers can still be punished if when making policies containing elements of bribery, threats, and deception. As long as these elements can be proven during the decision-making process,

policy makers can be punished.(Hayati, 2019)

In line with Dian Puji N Simatupang, Hikmahanto Juwana also believes that a policy that is considered wrong does not necessarily give criminal sanctions. Not all mistakes are immediately punished. Mistakes in the realm of state administrative law must be distinguished from criminal law. Mistakes in making policies cannot be equated with evil deeds as stipulated in criminal law. Hikmahanto said that state administrative law does not recognize criminal sanctions. Known sanctions include verbal and written warnings, demotions, demotions, and dishonorable dismissals. Even though state administrative law does not recognize criminal sanctions, wrong policies can still be punished. There are at least three types of wrong policies, namely: namely policies and decisions made by officials that seriously violate human rights, such as crimes against humanity, genocide, war crimes, and wars of aggression; mistakes in policy makers who have clearly been prohibited and regulated by sanctions criminal acts as regulated in Article 165 of the Mineral and Coal Mining Law, and corrupt policies. Regarding this corrupt policy, Hikmahanto emphasized that what needs to be considered is not the wrong and harmful policies, but the evil intentions of policy makers when making policies.

The regime of Law Number 30 of 2014 concerning Government Administration emphasizes that the state administrative court is a judicial institution that has absolute competence to examine the presence or absence of allegations of abuse of power. If so far an official who has been named a corruption suspect is directly examined in a general court, now with this legal regime an official concerned can first submit an application to the State Administrative Court to examine and ensure whether or not there is an element of abuse of authority in decisions and and/or actions that have been taken. These provisions are contained in Article 21 of Law Number 30 of 204 concerning Government Administration:

(a) The court has the authority to receive, examine and decide whether or not there is an element of abuse of authority committed by a government official.

(b) Government bodies and/or officials can submit a request to the Court to assess whether or not there is an element of abuse of authority in the decision and/or action.

(c) The court is obliged to decide on the application as referred to in paragraph (2) no later than 21 (twenty one) working days after the application is filed.

(d) Against the Court's decision as referred to in paragraph (3) an appeal may be submitted to the State Administrative High Court.

(e) The State Administrative High Court is obliged to decide on the appeal as referred to in paragraph (4) no later than 21 (twenty one) working days after the appeal was filed.

(f) The decision of the State Administrative High Court as referred to in paragraph (5) is final and binding.

The provisions of the article above can be referred to as a legal umbrella for State Administrative officials in carrying out government administrative actions. These provisions also provide protection for the TUN Agency/Official in making a decision. This is of course in accordance with the principle of *pre sumptio iustae causa* or the principle of legal presumption *(rechmatig/vermoeden van rechtmatigheid praesumptio iustae causa)*, which in this principle implies that every action of the authorities must always be considered valid *(rechmatig)* until there is an annulment.(Fathudin, 2015)

Conclusion

Based on the description previously described, the writer can conclude that:

a. Juridical, Law no. 19 of 2019 related to abuse of authority for government officials has two points of view in terms of abuse of authority as a crime and abuse of authority legally in state administration, from these two perspectives there are differences in the concept of abuse committed and the object that is the goal or encourage themselves to commit an abuse of authority and criminal acts of corruption.
b. The mechanism for appointing the KPK Supervisory Board is not in accordance with the concept and theory of an independent state commission, because there is a monopoly on executive power in the appointment mechanism, this can be seen from the number of members of the selection committee formed where 5 people come from elements of the central government and 4 people from elements of society. Coupled with the composition of the selection committee which requires the chairman of the selection committee to come from among the central government with the inclusion of regulations in Article 5 paragraph (3) letter a in government regulation number 4 of 2020. This has resulted in the mechanism for appointing the KPK supervisory board still very vulnerable to party intervention. In particular, it is very different from other supervisory institutions which have already been born in the state administration system in Indonesia which is so transparent, accountable.

Suggestion

a. Criminal acts of corruption often occur among officials who have abused their authority for personal or group interests and their actions have violated norms and are against the law. In fact, the government provides an example in making the performance of the state apparatus much better than the previous performance. Abuse of authority is very fatal and is an inhuman act in the life of the state order. It is hoped that all enforcers will carry out more in accordance with applicable laws and regulations so that officials are not arbitrary in abusing their positions.
b. The Corruption Eradication Commission must pay more attention to and always supervise every performance of officials in carrying out their respective main tasks and functions and always pay attention to all their activities which are mixed with suspicious transactions and gratuities and always pay attention to all other activities.

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