Reconstruction of the Harmonization of Investigative Authority in Corruption Criminal Cases to Overcome Institutional Pluralism and Achieve Legal Certainty in Indonesia

Yemima Br Ginting, Henry Aspan, T. Riza Zarzani

Abstract

Corruption as an extraordinary crime demands an effective law enforcement system that guarantees legal certainty, particularly at the investigative stage. In the Indonesian legal system, the authority to investigate corruption offenses is pluralistic in nature, as it is distributed among more than one law enforcement institution. While this arrangement is intended to strengthen anti-corruption efforts, it simultaneously gives rise to disharmony of authority and legal uncertainty due to the absence of integrated and comprehensive regulation. This study aims to analyze the construction of investigative authority in corruption cases within Indonesia's pluralistic legal system and to formulate an ideal model for the reconstruction of authority harmonization in order to achieve legal certainty. The research method employed is normative juridical, utilizing statutory and conceptual approaches, along with descriptive-qualitative and prescriptive analysis. The findings indicate that the pluralism of investigative authority generates potential overlaps, divergent interpretations, and conflicts of authority among law enforcement institutions, which in turn weakens legal certainty. Accordingly, a reconstruction of authority harmonization is required through the normative affirmation of authority boundaries, the strengthening of binding coordination mechanisms, and the integration of the criminal justice system. Such reconstruction is expected to create a law enforcement system that is more effective, coordinated, and oriented toward legal certainty in combating corruption in Indonesia.

Keywords: *Investigative Authority, Corruption Criminal Offenses, Institutional Pluralism, Legal Harmonization, Legal Certainty*

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Introduction

Corruption constitutes one form of extraordinary crime (extraordinary crime) that has a systemic impact on economic stability, governance, and public trust in the rule of law. The complex, organized, and often cross-sectoral nature of corruption demands a law enforcement system that is not only institutionally robust but also normatively clear. In this context, the investigative stage occupies a strategic role as the entry point of the criminal justice system, as the quality and legitimacy of the investigation will substantially determine the success of the prosecution process through to the court's verdict.

In the Indonesian legal system, investigative authority in corruption cases is not vested in a single body but is instead distributed among several law enforcement institutions, namely the Indonesian National Police, the Attorney General's Office, and the Corruption Eradication Commission. This pluralistic model of authority is fundamentally designed to strengthen the effectiveness of anti-corruption efforts through a division of roles and functions among institutions. However, from a juridical perspective, this pluralism of authority also gives rise to fundamental issues relating to the boundaries of authority, inter-institutional relations, and coordination mechanisms that have not yet been comprehensively and explicitly regulated in legislation.

The ambiguity of jurisdictional boundaries among law enforcement institutions may give rise to disharmony in the conduct of investigations, manifesting as overlapping case handling, divergent interpretations of authority, and conflicts of authority that adversely affect legal proceedings. This situation has implications not only for the technical aspects of law enforcement but also touches upon a fundamental principle of the rule of law, namely legal certainty (legal certainty). When authority is not regulated in a clear and harmonious manner, the law enforcement process risks becoming inconsistent, creates opportunities for abuse of authority, and undermines the legitimacy of the criminal justice system as a whole.

On the other hand, the regulation of investigative authority in corruption cases across various pieces of legislation tends to be partial and sectoral in nature, and therefore does not yet fully reflect an integrated system. This situation reveals a gap between legal norms (das sollen) and implementation practice (das sein), which ultimately necessitates efforts to reconstruct the regulation of investigative authority. Such reconstruction is not merely intended to simplify authority but also to create harmonization capable of accommodating institutional pluralism without sacrificing the principle of legal certainty.

From an academic perspective, scholarly inquiry into investigative authority in corruption cases has thus far tended to focus on normative-descriptive analysis of individual law enforcement institutions, without comprehensively examining the need for authority harmonization within a multi-institutional system framework. A more progressive approach is therefore required through conceptual reconstruction that not only identifies the problems of authority disharmony but also offers an ideal and applicable harmonization model within Indonesia's criminal justice system.

Based on the foregoing, this study is relevant for examining in depth how the pluralism of investigative authority in corruption cases gives rise to disharmony and legal uncertainty, and how an ideal model of authority harmonization reconstruction can be formulated to strengthen legal certainty and the effectiveness of law enforcement. The research questions of this study are as follows: (1) How does the investigative authority over corruption offenses in Indonesia's pluralistic legal system give rise to authority disharmony and legal uncertainty among law enforcement institutions? (2) What constitutes the ideal model for the reconstruction of investigative authority harmonization in corruption cases within a multi-institutional system, in order to overcome institutional pluralism and achieve effective legal certainty in Indonesia?

Literature Review

The Concept of Authority in the Perspective of Public Law

Authority (authority) is a fundamental concept in public law that determines the legitimacy of state organ actions. From an administrative law perspective, authority is understood as the legal power conferred by legislation upon state officials or institutions to act within a defined scope. Such authority may derive from attribution, delegation, or mandate, each carrying different legal consequences for its exercise. In the context of criminal law enforcement, investigative authority constitutes attributive authority directly conferred by statute upon law enforcement officers. Theoretically, authority must be exercised in accordance with the principles of legality, accountability, and proportionality. The exercise of authority that exceeds prescribed limits or is not grounded in legal norms may give rise to an abuse of power (abuse of power) and juridical defects in the law enforcement process. Accordingly, the clarity of authority boundaries constitutes a primary prerequisite for guaranteeing legal certainty and the protection of human rights within the criminal justice system.

Investigation in the Criminal Justice System

Investigation constitutes a crucial stage in the criminal justice system, the function of which is to seek and gather evidence in order to illuminate a criminal offense and identify the suspect. Within the framework of the integrated criminal justice system, investigation is closely linked to the stages of prosecution and examination at trial. Consequently, the quality of investigation substantially determines the effectiveness of the overall law enforcement process. In practice, investigation must be conducted in strict adherence to the principle of due process of law, which holds that every law enforcement action must be carried out in accordance with procedures prescribed by law. Deficiencies in the investigative process may result in the invalidation of evidence, the dismissal of cases, or even violations of human rights. Accordingly, clarity of investigative authority and consistent application of criminal procedural law constitute important factors in guaranteeing the legitimacy of the criminal justice process.

Investigative Authority in Corruption Cases Within a Multi-Institutional System

Corruption as a special category of crime has given rise to pluralistic regulation of investigative authority. In Indonesia, investigative authority is not vested in a single institution but is instead distributed among the National Police, the Attorney General's Office, and the Corruption Eradication Commission. This model is known as a multi-institutional system (multi-agency system) aimed at strengthening the state's capacity to combat corruption. However, from a juridical perspective, this pluralism of authority generates a number of problems, particularly relating to authority boundaries, potential overlaps, and divergent legal interpretations among institutions. The absence of comprehensive regulation concerning authority delimitation and coordination mechanisms results in disharmony in the conduct of investigations. This situation indicates that the multi-institutional system has not yet been fully matched by an integrated regulatory framework.

Institutional Pluralism and the Problematic Disharmony of Authority

Institutional pluralism in law enforcement is fundamentally a consequence of efforts to strengthen the oversight and enforcement functions in combating corruption. However, in the absence of regulatory harmonization, such pluralism may conversely give rise to a conflict of authority (conflict of authority) and competition among law enforcement institutions. Theoretically, authority disharmony may occur as a result of unsynchronized legal norms, an unclear division of roles, and weak inter-institutional coordination mechanisms. The impact of such disharmony is not merely administrative in nature but also substantive, as it may affect the validity of legal proceedings and the ultimate outcomes of law enforcement. Accordingly, a systemic approach is required to integrate authority among institutions within a harmonious legal framework.

The Principle of Legal Certainty in a State Governed by Law

Legal certainty (legal certainty) constitutes one of the primary principles of a state governed by law, demanding legal rules that are clear, consistent, and predictable. In the context of criminal law enforcement, legal certainty is closely associated with the clarity of authority, procedure, and legal consequences of every law enforcement action. The ambiguity of investigative authority within a multi-institutional system may give rise to legal uncertainty, both for law enforcement officers and for parties subject to legal proceedings. This may result in a decline in public trust in the criminal justice system and a weakening of the effectiveness of anti-corruption efforts. Accordingly, authority harmonization constitutes an urgent necessity in order to achieve equitable legal certainty.

Theory of Legal Harmonization and Authority Reconstruction

Legal harmonization constitutes an effort to align divergent legal norms so that they do not conflict with one another and can operate systematically within a unified legal framework. In the context of investigative authority in corruption cases, harmonization aims to create clarity in authority boundaries, reduce the potential for inter-institutional conflict, and enhance the effectiveness of law enforcement. Authority reconstruction is an approach that not only improves existing norms but also reformulates the structure of authority to be more adaptive to the needs of a modern legal system. This approach emphasizes integration, coordination, and the affirmation of the role of each institution within the criminal justice system. Accordingly, the reconstruction of authority harmonization is expected to serve as a solution to the problem of institutional pluralism that has long generated disharmony and legal uncertainty.

Research Methodology

This study employs a normative juridical legal approach that treats law as a normative system to be examined systematically in assessing the conformity between the regulation of investigative authority in corruption cases and the principle of legal certainty within the framework of Indonesia's criminal justice system. This approach was selected because the primary focus of the research lies in analyzing the normative construction of investigative authority of a pluralistic nature and the need for reconstruction of authority harmonization among law enforcement institutions. The study is conducted by examining legal norms as das sollen, which are then argumentatively connected to the reality of their implementation as das sein, without rendering this study a purely empirical inquiry.

The approaches employed encompass the statutory approach and the conceptual approach. The statutory approach is applied through the examination of various regulations governing investigative authority in corruption cases, both of a general nature under criminal procedural law and of a specific nature within the anti-corruption regime. The conceptual approach, meanwhile, is employed to examine and develop relevant legal concepts, such as authority, integrated criminal justice system, institutional pluralism, legal harmonization, and legal certainty, as the basis for constructing scholarly arguments and formulating the reconstruction model proposed.

The sources of legal materials in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials encompass legislation directly related to investigative authority in corruption cases. Secondary legal materials comprise scientific literature, books, journal articles, and prior research findings relevant to the research topic, which serve to reinforce the theoretical analysis and provide an academic perspective. Tertiary legal materials are employed as supporting references to clarify legal terminology and concepts utilized in the study.

The technique for collecting legal materials is conducted through a literature study by systematically tracing, inventorying, and examining various relevant legal sources. All legal materials obtained are subsequently analyzed using a qualitative analysis method with a descriptive-analytical approach, involving the logical and systematic elaboration of legal norms and their interpretation to identify their meaning, consistency, and interrelationship within the framework of an integrated legal system. The analysis is also conducted prescriptively with the aim of formulating conceptual recommendations in the form of an ideal model for the reconstruction of investigative authority harmonization.

Through this method, the study not only seeks to explain the problems of authority disharmony in the investigation of corruption offenses within a multi-institutional system but also makes a scholarly contribution in the form of a reconstruction concept oriented toward strengthening legal certainty and the effectiveness of law enforcement in Indonesia.

Results

Disharmony of Investigative Authority in the Pluralistic System and Its Implications for Legal Certainty

Normatively, investigative authority in corruption cases within the Indonesian legal system is distributed among several law enforcement institutions, namely the National Police, the Attorney General's Office, and the Corruption Eradication Commission. This construction of authority constitutes a form of attribution conferred by legislation in order to strengthen anti-corruption efforts. From a theoretical perspective, this model is consistent with the concept of the multi-agency system aimed at enhancing the effectiveness of law enforcement through a division of roles among institutions. Nevertheless, the findings of normative analysis indicate that this regulation of authority has not yet been fully accompanied by a clear delimitation of the jurisdictional boundaries of each institution. Existing legal norms tend to emphasize the grant of authority without being followed by comprehensive regulation concerning coordination, authority hierarchy, or mechanisms for the resolution of authority conflicts. This condition gives rise to a broad space for interpretation in practice, which ultimately has the potential to generate authority disharmony.

Such disharmony may manifest in several forms. First, the occurrence of overlapping case handling, wherein more than one institution possesses a legal basis to handle the same case. Second, divergent interpretations regarding the scope of authority, particularly in determining the criteria for cases falling within the domain of each respective institution. Third, the potential for uncoordinated institutional competition, which may affect the independence and objectivity of law enforcement. From the perspective of legal certainty, these conditions indicate a discrepancy between the principle of legality and the practice of authority implementation. Legal certainty demands rules that are clear, consistent, and predictable. However, within a system that has not yet been harmonized, such clarity becomes relative, potentially giving rise to uncertainty for law enforcement officers as well as for legal subjects involved in criminal justice proceedings.

Furthermore, authority disharmony also has an impact on the aspect of legal process legitimacy. When authority is not exercised within clearly defined boundaries, every investigative action may be challenged juridically, whether through the pre-trial mechanism or in the evidentiary process at trial. This indicates that the primary problem does not lie in the existence of authority pluralism per se, but rather in the suboptimal state of regulation that is capable of integrating such authority within a single harmonious legal system framework. It may therefore be concluded that the pluralism of investigative authority in corruption cases within the Indonesian legal system, although intended to strengthen law enforcement, has in practice given rise to authority disharmony and legal uncertainty due to the absence of clear normative regulation concerning authority boundaries and coordination mechanisms among law enforcement institutions.

Reconstruction of Investigative Authority Harmonization as a Solution to Institutional Pluralism

Based on these findings, a reconstruction effort is required with respect to the regulation of investigative authority in corruption cases, one that is not merely normative-descriptive in character but also prescriptive and solution-oriented. The intended reconstruction is not aimed at eliminating institutional pluralism but rather at harmonizing existing authority so that it may operate in an integrated manner within the criminal justice system framework. From the perspective of legal harmonization theory, reconstruction efforts must be directed at aligning the legal norms governing investigative authority, so that conflicts or overlaps do not occur in their implementation. This reconstruction may be formulated through several conceptual models.

First, the normative affirmation of authority delimitation. This is achieved by formulating clear boundaries regarding the scope of authority of each law enforcement institution based on specific criteria, such as the type of case, the level of state financial loss, the complexity of the case, or the actors involved. This affirmation aims to reduce the space for interpretation that may give rise to authority conflicts. Second, the strengthening of binding coordination mechanisms. Within a multi-institutional system, coordination cannot be merely administrative in nature but must be regulated normatively with clear procedures and firm legal consequences. Such mechanisms may take the form of mandatory consultation systems, permanent coordination forums, or provisions governing the determination of the competent institution in cases of authority overlap. Third, the development of an institutional integration system within the framework of the integrated criminal justice system. Such integration does not mean merging authority, but rather creating coherence in the exercise of law enforcement functions through uniform operational standards, effective information exchange, and consistent interpretation of legal norms.

Fourth, the strengthening of the principle of legal certainty through regulatory reformulation. The reconstruction of authority harmonization must be accompanied by regulatory reform capable of accommodating the dynamics of a modern law enforcement system. Such reformulation is important to ensure that legal norms not only confer authority but also clearly regulate the boundaries and mechanisms of its exercise. With this approach, the ideal model for the reconstruction of investigative authority harmonization in corruption cases is one that is capable of integrating institutional pluralism within a legal framework that is clear, coordinated, and predictable. This model is oriented not only toward the effectiveness of law enforcement but also toward the strengthening of the principle of legal certainty as the primary pillar of the rule of law.

Conclusion

Based on the research findings and discussion, it may be concluded that the investigative authority in corruption cases within Indonesia's pluralistic legal system is normatively possessed of legitimate legal standing as part of the design of a multi-institutional law enforcement system. Nevertheless, this construction of authority has not yet been accompanied by comprehensive regulation concerning authority boundaries, inter-institutional relations, and binding coordination mechanisms, such that in practice it gives rise to authority disharmony in the form of overlapping case handling, divergent legal interpretations, and the potential for conflict among law enforcement institutions. This condition has a direct implication for the weakening of the principle of legal certainty, as normative ambiguity causes the law enforcement process to become less consistent, difficult to predict, and potentially gives rise to juridical problems at subsequent stages.

Accordingly, the ideal model for the reconstruction of investigative authority harmonization in corruption cases must be directed toward integrating institutional pluralism within a systematic and coordinated legal framework. Such reconstruction is to be achieved through the normative affirmation of authority delimitation, the strengthening of binding inter-institutional coordination mechanisms, and the development of an integrated criminal justice system capable of aligning the exercise of authority without eliminating the independence of each institution. In doing so, authority harmonization functions not only as a solution to institutional disharmony but also as a strategic instrument in achieving effective legal certainty, enhancing the legitimacy of law enforcement, and strengthening efforts to combat corruption in Indonesia.

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