RECONSTRUCTING THE AUTHORITIES OF INVESTIGATORS OF THE FINANCIAL SERVICE AUTHORITY

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ABSTRACT

Objective: Reconstruction of the authorities of investigators of the Financial Service Authority (FSA) as special investigators is needed to shed light on special cases of economic crimes in the financial services sector.

Method: For investigators in general, it is difficult to handle such cases which have so far been assigned to the Police institution which basically has the main task of protecting society and maintaining public order. This has affected the powerless image of the criminal justice system in Indonesia in meeting the expectations of consumers and justice seekers as well as supporting national economic growth in a sustainable and stable manner, as defined to be the objective of the FSA establishment. This research method is empirical.

Result: The results of the study show that the KSP Indosurya case worth IDR 106 trillion ended in the imprisonment of the plaintiff's lawyer while the defendant was declared acquitted because the criminal case was decided to be addressed as a civil case. Of course, this problem was rooted in a misdiagnosis at the stage of investigation and prosecution.

Conclusion: For this reason, there must be a special investigative institution to handle special cases that will screen economic crimes in the financial services sector before they are forwarded to the courtroom.

Keywords: reconstruction, authorities, FSA investigators, economic crimes, consumers, financial services sector.

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RECONSTRUÇÃO DAS AUTORIDADES DOS INVESTIGADORES DA AUTORIDADE DOS SERVIÇOS FINANCEIROS

RESUMO

Objetivo: É necessário reconstruir as autoridades dos investigadores da Autoridade dos Serviços Financeiros (FSA) como investigadores especiais para esclarecer casos especiais de crimes económicos no sector dos serviços financeiros.

Método: Para os investigadores em geral, é difícil lidar com os casos que até agora foram atribuídos à instituição policial, que basicamente tem a tarefa principal de proteger a sociedade e manter a ordem pública. Esta situação afetou a imagem impotente do sistema de justiça penal indonésio ao responder às expetativas dos consumidores e dos requerentes de justiça, bem como ao apoiar o crescimento económico nacional de uma forma sustentável e estável, tal como definido como sendo o objetivo da criação da FSA. Este método de pesquisa é empírico.

Resultado: Os resultados do estudo mostram que o caso KSP Indosurya no valor de IDR 106 trilhões terminou na prisão do advogado do queixoso, enquanto o réu foi declarado absolvido porque o processo criminal foi decidido para ser tratado como um processo civil. É claro que este problema se baseou num diagnóstico errado na fase de investigação e de acusação.

Conclusão: Por essa razão, deve haver uma instituição de investigação especial para lidar com casos especiais que analisarão crimes económicos no sector de serviços financeiros antes de serem encaminhados ao tribunal.

Palavras-chave: reconstrução, autoridades, investigadores da FSA, crimes económicos, consumidores, sector de serviços financeiros.

1 INTRODUCTION

FSA, which was founded as a reaction to the 1997 monetary crisis and the 2008 financial crisis, philosophically aims to create a national economy with sustainable and stable growth, requiring regular, fair, transparent and accountable activities in all financial service sectors that can protect the interests of consumers and society. However it is not supported by the articles therein, regarding both functions and organizational structure, and it does not explain civil investigators who deviate from the Criminal Code (KUHAP). This brought broad consequences, not only to the people directly but also to state revenues indirectly.

In the Indosurya case, the plaintiff's attorney was sent to prison, while the defendant was declared acquitted. A fund that amounted to IDR 106 trillion should be the accumulative figure and the defendants did not enjoy it themselves. The big and super tasty cake like that was love to slice and share. Meanwhile, in other major cases that are not that big, many get bogged down by the general investigators or stopped by the public prosecutor. Regarding this case, the Coordinating Minister for Politics, Law and Security
stated that the government and the Attorney General's Office would appeal the acquittal issued by the panel of judges at the West Jakarta District Court against the two leaders of the Indosurya Savings and Credit Cooperative (KSP), namely Henry Surya and June Indria (Kompas.com).

Long before that, the Cipaganti Cooperative case had caused the elimination of a listed issuer on the IDX, namely PT Citra Mahardhika Tbk (formerly Cipaganti Citra Graha), even though it was no longer part of the Cipaganti business group. However, what makes this case interesting is that the issuer was said to have been used as the underlying asset of a mutual fund by a foreign investment manager, issued and marketed abroad. The fund was then dissolved due to underlying asset issues and became a hung case but the funds had been pocketed by the related investment managers. It turned out that the participants who became victims of this scheme were not only the public and individual investors abroad, but there were also Indonesian citizens at home and abroad.

To prevent the transmission of parasites from one sub-sector to another integrated sub-sector, FSA must improve competence to avoid eradicating all forms of new business growth, just because they are not known or there are no rules, as happened to commodity exchanges in the past and crypto exchanges recently, despite the potential of both to boost the national economy and increase state revenue from taxes. This is the risk of dealing with economic crimes if it is carried out only by general investigators, who tend to look at each case based on the perspective of security and public order only.

This paper deals with the urgency of reconstructing the FSA authority to become a part of and at the same time contribute to improving the criminal system in Indonesia. Meanwhile, the theories used include the theory of authority, the theory of dignified justice and the theory of management. The research method that will be used is empirical, with data obtained in the form of laws and regulations supplemented by a historical approach and a comparative juridical approach.

2 METHODS

This research method is empirical, that focused on problems gathered from observations (Pujiyono, et al, 2017). The data were collected using the triangulation (combined) technique. This method was employed to illustrate, describe, study, and answer the research problems in more detail.
A qualitative approach was selected due to the specifications of the research subject (Suwadi, et al, 2022). In addition, the method is useful for obtaining in-depth information and uncovering social realities. This approach relies on the reality in the field as well as the respondents' experience associated with the theoretical reference.

The data analyzed were collected from mass media information from FSA and Banking in Indonesia. Documents, particularly regulations related to commodity investment issues and institutions controlled by laws and regulations, were examined.

3 RESULT AND DISCUSSION

The large number of cases bogged down by the general investigators and stalled by the public prosecutor or the back and forth of case filing between the Police and the Prosecutor's Office will always repeat, as long as the special cases are generally handled. Special crime rules are part or complement of general crime, with the postulates quando lex est specialis, ratio autem generalis, generalis lexest intelligenda, then the context must be understood in general (Satria, 2022:1).

The Criminal Code (KUHP) as Article 103 of the Criminal Code, reads: The provisions in Chapters I to Chapter VIII of this book also apply to acts which are punishable by other statutory provisions unless the law determines otherwise. Also, since the beginning, it has provided an opportunity to impose criminal sanctions on perpetrators of crimes not regulated in many articles or deviate from general rules, called special crimes, for example, the administrative criminal law.

The background for criminal aspects in administrative legislation has to do with the realisation of a just and prosperous society (social welfare policy) as mandated by the Preamble to the 1945 Constitution that a policy of social protection (social defence policy) is needed. For this reason, it is necessary to have a regulatory policy for all community life activities, especially those related to the state's duty to improve social welfare based on the provisions of state administrative law. For the effective application of all state administration provisions, a law enforcement policy has been developed by functionalising criminal law aspects in administrative regulations to give rise to administrative penal law. This is related to one of the functions of legislation, which is to regulate social life (social control) and control society (social engineering) in a beneficial-considered direction. In criminal law regulations such as the Criminal Code (KUHP), this function can be found (Sudarto, 1987:40).
As part of public law, criminal law is a legal norm that can strengthen state administrative law enforcement based on statutory regulations with the authority to define prohibited behaviour since it threatens and harms public security and welfare. Therefore, W.F. Prins as quoted by Riawan Tjandra that administrative law generally is a toxic tail (in cauda venenum) for criminal provisions (incauda) (Tjandra Riawan, 2015:20).

Administrative criminal law has progressed in pursuit of following the flow of business and the modus operandi of crimes supported by information and communication technology. This makes most legislative products employ criminal sanctions, as if the legislators are only satisfied by imposing criminal sanctions. Whether we realise it or not, criminal law which was originally ultimum remidium has shifted to primum remidium. However, these substantial changes were not accompanied by structural changes like the Commercial Court formed at the insistence of the IMF which should have become the Economic Court, a term we have heard since 1955. That is why the Commercial Court seemed deserted after foreign investment was affected by the 1997 crisis as it was only concerned with delaying debt payment obligations and bankruptcy. Recently, businessmen have been using this facility to deliberately go bankrupt or insolvent themselves for certain purposes, such as to get the money that is actually counter-productive to legal purposes.

In theory, special arrangements can take the form of criminal acts and violations, expansion of territorial principles, legal subjects, or crimes based on losses, state finances and the economy. Seeing the broad scope of this special regulation, special criminal acts of corruption must then be separate from special economic crimes. If examined further, corruption-specific crimes are generally temporary and only a small part of economic crimes or economic-specific crimes. Kadish reinforced this view that economic crime is a property that includes personal assets and state assets (acts that threaten property held by private or by the state (Kadish, 1983). Therefore, the Corruption Eradication Commission could expand its authority to cover economic crimes, or as another option, form a new investigative agency and strengthen the authority of the Commercial Court, which only deals with corporate bankruptcy, to become the Economic Court with the authority to try all economic crimes in the financial services sector.

Three principles can be used to explain the existence of the Corruption Eradication Commission. First, salus populi supreme lex, which means the safety of the people (nation and state) is the highest law. If the safety of the people, nation and state has been
threatened due to extraordinary circumstances, then any emergency or special measures can be taken to save them. In this case, the presence of the Corruption Eradication Commission is seen as an emergency to resolve extraordinary corruption cases.

Second, general (lex generalis) and specific (lex specialis) laws. It is known as the principle of lex specialis derogate legi generali, which means that special laws take precedence over general laws. Generality and specificity can be determined by legislators based on needs unless the Constitution clearly determines which one is general and which one is specific. In this context, the Corruption Eradication Commission is a special law whose authority is granted by law in addition to the general authority given to the Attorney General's Office and the Police.

As a result of the reconstruction, the Corruption Eradication Commission is a new building set up on top of the supervisory functions of the capital market sector, banking and other non-bank financial industries under the control of members of the board of commissioners on the 2nd floor (second floor) referred to as regulator or authority above the supervisor being on the 1st floor (ground floor). Meanwhile, the "objects" regulated and monitored are in the basement, which is basically dark and where the embezzlement is if sufficient lighting and information are absent. For this reason, FSA protection is not limited to customers or depositors in the banking sub-sector, investors in the capital market, or participants in other financial institutions, but covers all financial services sub-sectors, so it is called consumers, or consumer protection. In such a way a domain must be regulated and supervised along with its investigative authority. It is then appropriate for the FSA to act as the gatekeeper to the criminal justice system in Indonesia.

Amid the boisterous process of the conception of Law Number 21 of 2011 concerning FSA, the Ministry of Finance has merged the Directorate General of Financial Institutions (DJLK) and the Capital Market Supervisory Agency (Bepapam) by issuing KMK No. 606/KMK.01/2005 dated December 30, 2005, concerning the Organization and Work Procedure of the Capital Market and Financial Institution Supervisory Agency (Bapepam-LK).

The merger of DJLK at the level of echelon Ia and Bapepam echelon Ib turned out to be Bepapam and financial institutions, which should have been DJLK-PM. No party disputed this since everyone thought it was only temporary until the complete formation of FSA. However, the author feels that something has been forgotten, namely synergy. Working Capital Loan (KMK) has no clauses on synergy, for example,
requirements to go public, issuers or public changes are required to take part in pension programs and various insurance programs.

Likewise, the investigative authority is still focused on the capital market. In fact, the Bapepam's investigators mandated under the Capital Markets Law are on a par with Tax Investigators and Customs Investigators. The normative enforcement of the FSA Law in a juridical manner has transferred the functions, duties and regulatory and supervisory authorities from Bapepam-LK to the FSA so that all authority of Bapepam-LK has been transferred to the authority of the FSA. This includes inspection and/or investigation authorities that are being carried out by Bank Indonesia and Bapepam-LK which must be continued by the FSA for resolution. This means that the position of the Bapepam's Investigators is shifted up following the position of the institution.

One of the interesting cases of expanding or to be precise, strengthening the investigative authority from Bapepam-LK to FSA is on the handling of cases (delisting). For example, the issuer PT Cipaganti Citra Graha Tbk (CPGT) was involved in the Koperasi Cipaganti Karya Guna Persada (KCKGP) case. The issuer, which was founded in 1985, was listed on the Indonesia Stock Exchange (IDX) on July 9, 2013, to develop a business and pay debts. However, in October 2014, it gained as many as 1.93 billion (53.43 per cent) of shares by Terra Investment Holding Ltd, through Argentum Assets Pte Ltd, which is owned by a Hong Kong-based Filipino businessman. The acquisition is carried out through a crossing mechanism in a negotiated market facilitated by the IDX. On April 7, 2015, the issuer changed its name to PT Citra Maharlika Nusantara Corpora Tbk. (CMNC) at the request of the new controlling shareholder and improved its profile.

After the Decision on Postponement of Debt Payment Obligations (PKPU) on October 31, 2016, on May 2, 2017, the Commercial Court declared bankruptcy at the District Court of Jakarta Pusat, after coordinating with the tax authority. Based on the Commercial Court Decision, IDX delisted CMNC's shares from the trading board on October 19, 2017. This means that the rights are fully owned by the top management of the stock exchange, in this case, the Indonesia Stock Exchange (IDX).

3.1 FSA INVESTIGATORS IN THE FUTURE

According to Article 72 FSA Regulation Number 3/POJK.04/2021 concerning the Implementation of Activities in the Capital Market Sector replacing Government Regulation (PP) Number 45 of 1995, the FSA can apply for dissolution or declaration of
bankruptcy for public companies (Tbk) that do not comply with FSA orders to change their status to closed, including a change in status as a follow-up to the delisting process by the stock exchange.

In continuation of this delisting process, the Consumer Protection in the Financial Services Sector declares that issuers are required to make a voluntary offer (tender offer) to carry out buybacks after delisting until there are fewer than 50 shareholders left. These actions must be performed at a reasonable fair price. If this is not possible, then the controlling shareholder is obliged to do so with criminal consequences. Thus, the FSA can order issuers and public companies listed on the stock exchange to delist and change the status of a public company to a private company. Besides, FSA must also apply the know your customer principle. This means that the authorities must also know who is the controlling shareholder of the issuer, and all actors/players in the capital market, especially the controllers and 5% shareholders of issuers and public companies in Indonesia. So far, there has been no provision stating that requests for bankruptcy statements against issuers and public companies are in the public interest. With this Consumer Protection in the Financial Services Sector (POJK), cases such as PT Citra Maharlika Nusantara Corpora Tbk. (CMNC) will not repeat in the future.

Based on observations, the travel business is still running as usual, even though the logo, brand and ownership have changed. This means that other parties benefited from the incident. FSA as a consumer and public protector, should be given greater authority in the context of criminal justice system reform in Indonesia. If Article 5 of the FSA Law must be reconstructed, then the FSA function must also promote synergy aside from the integration of all activities in the financial services sector.

Reform is grammatically defined as forming, compiling, and reuniting (Cunningham, 1982). In simpler terms, reform means a change in format, both in the structure and rules of the game for the better with the aim that all play fairly (fair play). The word reform also contains a dynamic dimension in the form of efforts to reform and organise, namely the reform of the old, corrupt and inefficient regime (dismantling the old regime) with a new arrangement that is more democratic, efficient and socially just (reconstructing the new regime). In addition, the word reform contains the main values that form the basis and process of society and the state. (Franco de Lima, 2021).

Related to law enforcement, which according to Black's Law Dictionary is defined as the act of putting something such as a law into effect; the execution of law; the carrying
out of a mandate or command, which Muladi simplifies into an effort to uphold legal norms and at the same time capture the values that lie behind these norms. Thus, law enforcers must understand the true spirit of law (legal spirit) that underlies legal regulations to be upheld and in this case will be related to various dynamics occurring in the law-making process (Henry Campbell Black, 1990).

Regarding law enforcers, Soerjono Soekanto limited the scope to parties who are directly involved in the field of law enforcement which includes not only law enforcement but also peace maintenance. To be concrete, those in the fields of justice, prosecutors, police, attorneys, and correctional institutions (Soeryono Soekanto, 2007).

As the winds of reform in all fields blew, law enforcement reforms were carried out through a legal system approach. Sudikno Mertokusomo interprets the legal system as a unit consisting of elements that interact with each other and work together to achieve the goals of the unit (Sudikno, 1991).

To create legal unity and meet the need for new laws that can further spur national growth and guarantee legal certainty and enforcement, legal reform should not stop there. Because the problem is not there, the problem is in the early stages of entering the criminal justice system, that is the inspection and investigation stages.

The FSA, which oversees all financial services sectors, according to the author, is very likely to contribute to the early stages of the system. Apart from functioning as an integrated regulatory and supervisory organiser for all financial sectors, it is also an independent state institution that was born after the reform, so it is very appropriate to become a partner in the criminal justice system in Indonesia, with the task of assisting the settlement of all cases in the financial services sector by independent resolution or submitted to the court (Riyanto, 2020).

With the formation of the FSA and inspired by the desire to expand the authority of the commercial courts, it seems more appropriate to change the commercial court nomenclature to the Economic Court (Pujiyono, et al, 2021), while at the same time strengthening the FSA as a coordinator of investigators with the authority to select cases worthy of a trial. That way, the courtroom will not become a gold-gaining area for mischievous lawyers by suing here and there. The consideration of effectiveness and efficiency is what is more important. (Pauzin, 2022).

So far, the FSA has only filed for bankruptcy against insurance companies, as regulated by Article 50 of Law Number 40 of 2014 concerning Insurance, which states
that "The application for a declaration of bankruptcy against an Insurance Company, Sharia Insurance Company, reinsurance company, or sharia reinsurance company is contrary to Article 2 Number (5) of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations which declares that if the Debtor is an Insurance Company, Reinsurance Company, Pension Fund, or a State-Owned Enterprise (BUMN) operating in the field of public interest, the application for a declaration of bankruptcy can only be submitted by the Minister of Finance. In this case, the lex posterior derogate legi priority principle applies (Susanti, 2018).

In line with Article 50 of the FSA Law, FSA investigators can submit the results of investigations to the prosecutor for prosecution, which must be decided no later than 90 days after receiving the results of the investigation. If it passes the time norm, FSA can make its own decision so as not to harm the throbbing market.

FSA (formerly Bapepam) may request assistance from other law enforcement officials, including the Directorate General of Immigration and the Attorney General's Office. During the Bepapam period, it seemed that this article was too heavy to implement, in terms of banning suspects or in intelligence activities usually only owned by law enforcement agencies such as the Police and the Attorney General's Office.

The position of the prosecutor in the governance system can affect the independence and professionalism in carrying out all duties and authorities. Therefore, it is necessary to pay attention to the placement of the prosecutor's office to support the creation of an honest trial without intervention from any party (Ahmad, 2012).

Attorney General's Intelligence is generally tasked with carrying out judicial intelligence activities in the ideological, political, economic and financial fields. After the reformation, the Attorney General's Office as an important element in law enforcement also improved. The Attorney General's Office is trying to improve to become an institution more independent and free from interference. To strengthen this transformation, Law Number 5 of 1991 was updated to become Law Number 16 of 2004, at the same time confirming an autonomous and independent Attorney General's Office. As the controller of the case process (dominus litis), the Attorney General's Office determines whether a case can be submitted to the Court and executes criminal decisions (executive ambtenaar).

If we relate the position of the prosecutor's office as a government institution to the authority of the prosecutor's office in exercising state power in independent
prosecution, then a contradiction occurs (dual obligation) (Susanto, 2014), and as a state functional officer, the prosecutor will always be close to the governmental bureaucracy. Meanwhile, the regulatory and supervisory functions of the FSA are the main functions of the government, both in the main institution and in the auxiliary organs. To understand the relationship between law and transformation, the dynamic function of law is emphasised as a means of social renewal (transformation) without having to abandon the function of law which is conventionally referred to as regulating.

The regulation of special criminal acts in the economic field appears to improve the regulation of general criminal acts. Guided by Regulation of the Chief of Police Number 14 of 2012 concerning Management of Criminal Investigation, the investigation of special crimes can be regulated as follows:

a. Each Investigation Warrant consists of investigators and assistant investigators.
1) Investigators consist of FSA employees, and investigators from the Police and the Attorney General's Office can be involved, along with a civil servant investigator and certain civilian parties who have entered into a memorandum of understanding with FSA.
2) Assistant Investigators are FSA employees.

b. Assistant Investigators are administrators who assist Investigators in making investigation plans as required in the Regulation of the Chief of Police.

c. Investigators have conducted pre-trial to determine the target time for the investigation,

d. There is an obligation to investigator superiors to organise all available resources to support the well-running of the investigation;

e. Assistant investigators have the authority as stated in Article 7 paragraph (1), except regarding detention which must be granted with the delegation of authority from the investigator.

f. The supporting investigator prepares the official report, and submits the case files to the investigator, with a copy to the Board of Commissioners of the Financial Services Authority to handle the investigation.

g. Assistant Investigators can assist the Board of Commissioners of the FSA in supervising investigations by creating an Investigator Performance Monitoring and Assessment System (SPPKP) and Letter of Progress of Investigation Results.
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(SP2HP) to make it easier for the public to obtain information about the status of the investigation.

In accordance with the words of Article 1 number 17, Article 4 letter d, Article 10 paragraph (1), Article 15 and Article 25 of Regulation of the Chief of Police Number 14 of 2012 concerning Investigation Management, after the issuance of Investigation Warrant, a Notice of Commencement of Investigation (SPDP) will also be issued containing at least:

1) Basis of investigation in the form of a police report and an investigation order;
2) Time of commencement of the investigation;
3) Types of case, article suspected and a brief description of the crime being investigated.

Considering that FSA employees are not civil servants, automatically investigators from the Capital Market and Financial Institution Supervisory Agency who work at FSA are not Civil Servant Investigators (PPNS) or FSA Investigators. However, the author argues that in the Investigation Warrant issued by the FSA, Assistant Investigators are (main) assistants to Investigators. They can come from the FSA itself, Police Investigators, and others according to the needs of the case. Mandated to protect consumers and the public. The idea of expanding the absolute authority of the Commercial Court would be welcomed positively by the FSA.

3.2 SUPPORTING UNIT

The fraudulent investment case hasn't finished yet. We are again presented with news of police shooting and online gambling related to the Red-White Special Task Force, led by Ferdy Sambo. "There is no reason for the National Police's Special Team or Criminal Investigation Agency of the National Police (Bareshkim Polri) not to proceed with the law on the online gambling Consortium 303 for a transaction of IDR 155 trillion tracked by the Financial Transaction Reports and Analysis Center," said Indonesian Police Watch (IPW) chairman Sugeng Teguh Santoso (inilahkendari.com). This is interesting as it is logically not easy to hide funds of that amount without involving the financial services sector. This indicated a great amount of funds circulating in Indonesia. But why are some people still poor? This case should be considered a wake-up call, that Indonesia must keep the integrated criminal justice system model updated to be able to
soon realise the goals of the state as set out in the constitution. The renewal must start from the upstream (initial stage), that is the Police.

The crucial point of a crime is when funding something illegal becomes legal, and that means not limited to online gambling, but all activities that require permission or approval. Permit, which in the Netherlands is called vergunning, is defined as an agreement from the authorities based on laws or government regulations to under certain circumstances deviate from a prohibition, either in the form of a dispensation or release from a prohibition.

In the sense that it serves as the implementation of the controlling regulatory function and looking at the potential for state revenue, for example, the tax aspect, it is time for all the prohibitions in the financial services sector to be reviewed based on the benefits and harms aspects. Don't let it just be ignorance or misunderstanding of the authorities, everything is prohibited by the credo of obscurity. Do not see negative aspects only without seeing the positive ones.

The understanding of the system is not only limited to the concept of "integration", but also includes the substantial meaning of the symbolic urgency of the procedure which touches on the philosophical aspects regarding the meaning of justice and benefits in an integrated manner. Thus, material criminal law enforcement, as framed and guarded by the norms of legislation becoming the area of procedural criminal law, can be closer to the principles and substance of law enforcement which simultaneously upholds justice and law enforcement with dignity (Edi Setiadi, 2017). Teguh Prasetyo introduced the theory of dignified justice, built by prioritising Indonesian legal materials, especially Pancasila (Five Principles) as the soul of the nation or Indonesian volkgeist. This theory is not allergic or antipathetic to the comparative law approach and does not simply reject it as it takes into account the experiences that have occurred in other countries, including the West (Teguh Prasetyo, 2017).

In contrast to gambling and prostitution cases which would be very troubling if not handled by professionals, the author argues that the Indosurya Savings and Loans Cooperative (KSP) case should not be handled directly by the police. This is not only based on the argument that the investigators at the Directorate for Special Economic Crimes of the Criminal Investigation Agency of National Police have released suspects HS and JI due to the expiration of the maximum term of detention, but rather because this
case is fundamentally technical so that it requires experts to see more context in this field. Do not do a useless job.

"The detention period at the Police has ended for 120 days, and the case files have not been returned from the Prosecutor to the National Police, so investigators must release the suspect who is being detained for the sake of law," said the Directorate for Economic and Special Crimes, Police Brigadier General Whisnu Hermawan. However, the suspect is still subject to the obligation to report twice a week.

Meanwhile, the Head of the Legal Information Center (Kapuspenkum), the Attorney General's Office, Ketut Sumedana, stated that the file was incomplete so it was not forwarded to the Public Prosecutor. There is no news about this case and several similar cases, or they have stopped in the middle of the road.

The case uncovered that cost IDR 15 trillion of public funds belonging to 5,700 members began in February 2020, when a member failed to cash out a deposit that had matured in the cooperative. The nominal will continue to increase, since the cooperative promises high-interest returns, around 9% -12%, while bank deposit rates are only around 5% -7% a year. With such a large liability, the business should have been bankrupt and legally processed. However, since the investigators are militarised police, many cases are not resolved legally, but for the sake of security and public order (kamtibmas). According to the lawyers, the files of complaint were passed back and forth between the Police and the Attorney General's Office. Understanding this problem can be started with its history first, then followed by the structure, substance, and legal culture in Indonesia.

The integrated criminal justice system was born from the disappointment of the people of the United States of America with law enforcement agencies that operate independently according to their respective authorities. As a result of interaction, this system must be understood as a working mechanism for overcoming crime based on a system with all its limitations (Anon F, 2004). However, these limitations are not to be understood but must be sought to overcome including efforts to prevent them, starting from the upstream or what is commonly called (legislative policy formulation, the application stage (judicative policy) to the execution stage (executive policy).

The integrated criminal justice system, as Barda Nawawi Arief (2007) explained, is synonymous with the criminal law enforcement system or the judicial power system, where investigative powers by investigative agencies are currently generally carried out by the Police. Institutionally, the police are part of the judiciary, even though the police
officers are state civil servants in the sense that they are not employees of the executive power or government apparatus. According to the author, not all members of police officers are investigators, but certain police officers have certain criteria, such as civil servant investigators (PPNS) in certain ministries. So far, civil servant investigators have been companions to Police Investigators deployed by a particular ministry that is being hit by cases.

The meaning and nature of criminal law reform are essentially related to the background and urgency of criminal law reform as an effort to reorient and reform laws in line with the sociopolitical, socio-philosophical, and socio-cultural values of our society, both through a policy approach and a values approach.

The policy approach is essentially updating the substance of the law to make law enforcement more effective as an effort to overcome social problems while at the same time supporting national goals (community welfare). Meanwhile, by the value approach, reforming criminal law is basically part of an effort to review and re-evaluate the sociopolitical, socio-philosophical and socio-cultural values that underlie and provide normative and substantive content of the aspired criminal law that is not may be separated from Pancasila and the 1945 Constitution of the Republic of Indonesia.

Muladi bases his views on the dual purposes or functions of criminal law, namely (a) primarily functions as a means of rational crime prevention; and (b) secondly, as a means of regulating social control, either implemented spontaneously or made by the state with its equipment. In this secondary function, modern criminal law aims to policing the police, namely protecting citizens from authorities using crime as a tool in an unfair way.

The assertion of the authority of special investigators seems so urgent when many cases in the financial services sector have stopped on the way, without being tried. Many perpetrators were punished which reached its peak during the Covid-19 pandemic. The need for special investigators is intended to assist general investigators in the preliminary investigation and full-investigation process as a follow-up to public complaints. Having a special investigator as part of the criminal justice system will be useful in resolving cases of economic crimes in the financial services sector and immediately increase the trust of foreign investors and the general public in Indonesian law enforcement.

In carrying out interrogations, investigators must create a situation free from fear, fear due to intimidation and harsh treatment. Therefore, coercion or pressure must be prevented against suspects or defendants. In the latest development, the National Police
as the coordinator of general investigators has tried to apply restorative justice, which applies the theory of dignified justice with the mantra nguwonke uwong.

The application of the theory of dignified justice does not have to come from the highest level, namely philosophy of law, but can also from law and legal practice (Lubis, 2010), because basically these values are embedded in the heart of the Indonesian nation, even though the level of understanding varies because of family background, environment and education. Therefore, it seems that there must be a requirement to become an investigator, and not all members of the police should be investigators.

As specified in Article 6 paragraph (1) of the Criminal Procedure Code, investigators are police officers and certain civil servant officials (PPNS) whose ranks will be further regulated in government regulations. An investigator according to Article 6 paragraph (2) of the Criminal Procedure Code and Government Regulation (PP) Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code, is required at least a Second Lieutenant Assistant Police, while civil servants who are given investigative authority is required at least a Junior Administrator Level I/Group II/b and equivalent.

This requirement is important because the police are often seen as the walking law. That's the picture of the real police officers, not the ones on the highway. To improve their image, they must have professional skills. In carrying out their duties and functions, investigators often carry out discretionary actions in the field for certain cases. That there is a term later shifted from fostering law to destroying the law, that's nothing but the result of some individuals who were keen to see the opportunity of the semi-military condition for personal gain. Regarding the problem of abuse of authority, pre-emptive efforts have been made (Sadjijono, 2008) in the form of the Regulation of Chief of Police Pol. Number 7 of 2006 concerning the Professional Code of Ethics National Police.

In the financial services sector, the problem is different. Apart from being very technical, the regulations often change to keep up with progress (marker driven). Therefore, investigators must have a minimum education equivalent to a bachelor's degree (S1) and preferably have a legal education. The decision of the Constitutional Court (MK) Number 102/PUU/XVI/2018 regarding the authority of FSA investigators, the Constitutional Court continues to adhere to the rules, that investigations in the financial sector remain a shared responsibility between National Police and FSA. As Chief Commissioner Warsan Marbun responded to the Constitutional Court's
Decision, the police continued to investigate criminal cases based on reports. Public reports and complaints can be addressed to the FSA or the Police. This indicates the police as a supporting unit so that the FSA can freely determine persons or parties who will conduct an investigation.

In comparison, investigators in Australia are also examined and investigated by police investigators. That they are not members of the police is the difference but they are permanent employees at ASIC (Australian Securities and Investments Commission in Australia), an institution whose function is to regulate all matters relating to business entities and securities. Apart from that, from the establishment to the revocation of a business entity is also recorded in ASIC. Thus, there will be no company that gets in the process of submitting an initial public offering but not getting approval from the FSA (formerly Bepepam) has already changed the open budget (Tbk) at the Ministry. It seems for Australian regulators, established business entities will eventually go public. Business founders do not always manage to realise their wishes. Under certain circumstances or for certain reasons the liability company is no longer able to continue its activities and must be dissolved (Binoto, 2013).

4 CONCLUSION

Reconstruction of the authority of FSA investigators is urgent to allow FSA, as an independent state institution born after the reform become a partner of the Supreme Court in perfecting the integrated criminal justice system by opening alternative entry points other than the police institution. The community then has the option to get justice. Every report and complaint submitted to the institution to the police must be received, and if an economic crime is found, it will be forwarded to another institution, that is FSA. For this reason, it is suggested that the bargaining position of the work unit in charge of the investigation be side by side with the audit board, or level it up to the FSA commissioner's board, that is "a member in charge of Investigation and Consumer Protection."

COMPETING INTERESTS

The authors declare not to have any kind of conflict of interest in any of the stages of execution of the research.
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