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Legal Reform against the Conflict of Norms in The Corruption Eradication Commission Law

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Abstract

This research aims to address and propose solutions to the issue of conflicting norms within Indonesian Anti-Corruption Act (Act 19/2019). It is a normative study conducted through a statutory and conceptual approach. Primary and secondary legal materials were collected and analyzed prescriptively. The study suggests resolving the conflict between Article 69D and Article 70B-70C by applying the principle of *Lex Posterior Derogat Legi Priori*. As a result of this conflict, there are ongoing corruption cases that must now follow the legal process outlined in Act 19/2019, even if the alleged offenses took place prior to its enactment. This situation creates a loophole for objections to the legal process, raising concerns regarding justice, benefits, and legal certainty. Consequently, legal reforms are necessary to address these concerns and improve Act 19/2019. Based on these findings, this research asserts that regulations pertaining to corruption eradication should ensure the

integrity of the rules by eliminating conflicts of norms and conflicts of interest. In cases where the process of updating regulations faces challenges, the government can establish derivative regulations or implement conflicting norms to achieve the legal objectives of justice, certainty, and benefit within Act 19/2019.

Keywords
Conflict of Norm, Corruption, Corruption Eradication Commission, Legal Reform

Introduction

Corruption, commonly known as a white-collar crime,[1] involves the misuse of authority and power by individuals or parties who hold positions of control within a country. In the Indonesian context, corruption is a grave and insidious offense that often involves substantial financial gains.[2] It is carried out by individuals who are typically respected and maintain an outward appearance of politeness and dignity.[3] To address corruption committed by individuals in positions of authority, Indonesia has established regulations outlined in Act 31 of 1999 (Indonesian Anti-Corruption Act, hereinafter as Act 31/1999) concerning the Eradication of Corruption Crimes. Article 3 of this Act defines the offense as follows: "Anyone who, for personal gain or for the benefit of another person or corporation, abuses their position, authority, opportunities, or available resources to the detriment of the state's finances or the country's economy, shall be subject to a minimum imprisonment of 1 (one) year and a maximum of 20 (twenty) years, and/or a fine ranging from at least Rp. 50,000,000 (fifty million rupiahs) to a maximum of Rp. 1,000,000,000.00 (one billion rupiah)." This provision emphasizes the seriousness of corruption and outlines the punitive measures imposed on

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1 Petter Gottschalk, "Convenience in White-Collar Crime: A Case Study of Corruption among Friends in Norway," *Criminal Justice Studies* 33, no. 4 (October 1, 2020): 413–424, https://doi.org/10.1080/1478601X.2020.1723084.

2 Elwi Danil and Iwan Kurniawan, "Optimizing Confiscation of Assets in Accelerating the Eradication of Corruption," *Hasanuddin Law Review* 3, no. 1 (March 30, 2017): 67–76, https://doi.org/10.20956/halrev.v3i1.717.

3 J. Tankebe, "Public Confidence in the Police: Testing the Effects of Public Experiences of Police Corruption in Ghana," *British Journal of Criminology* 50, no. 2 (March 1, 2010): 296–319, https://doi.org/10.1093/bjc/azq001.

offenders. It serves as a legal deterrent, aiming to curb corruption and protect the nation's financial well-being.

Corruption is a distinct form of crime that is classified as an exceptional offense.[4] It entails the manipulation and abuse of power for personal gain. The legal framework pertaining to corruption includes specific provisions and the establishment of a specialized court, as outlined in Act 46 of 2009 concerning the Corruption Court. Article 2 of this Act states that the Corruption Court is a dedicated court operating within the general court system.

In the era of reform, various entities were established to combat corruption, including the Police and Prosecutors' Office, as well as specialized agencies such as the Corruption Eradication Commission (KPK), the Financial Transaction Reports and Analysis Centre (PPATK), and the Witness and Victim Protection Agency (LPSK). Additionally, a specialized court for corruption was formed. These measures were implemented to optimize efforts in eradicating corruption and addressing its detrimental impact. Through the creation of these specialized institutions and the establishment of the Corruption Court, the government aims to enhance the effectiveness of anti-corruption endeavors. This comprehensive approach signifies the commitment to combating corruption and promoting transparency and accountability in the public sphere.[5]

Act 19 of 2019 concerning the Second Amendment to Act 30 of 2002 concerning the Corruption Eradication Commission in Article 69D states that: "Before the Supervisory Board was formed, the implementation of the duties and powers of the Corruption Eradication Commission was carried out based on the provisions before the Law it changed". Article 69D reads that it is clear that the implementation of the duties and powers of the KPK against suspects in corruption cases is carried out based on the provisions before this law was changed, namely still referring to Act 30/2002 as a guideline in dealing with corruption cases in Indonesia.

However, if look at the regulations below, namely Articles 70B and 70C of the law *a quo*, Article 70B states: "When this Law comes into effect, all laws and regulations that are contrary to this Law are repealed and declared not applicable". Then, Article 70C states: "At the time this Law came into effect, all acts of investigation, investigation and prosecution of Corruption Crimes

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4 Gabriel Kuris, "Watchdogs or Guard Dogs: Do Anti-Corruption Agencies Need Strong Teeth?," *Policy and Society* 34, no. 2 (June 1, 2015): 125–135, https://doi.org/10.1016/j.polsoc.2015.04.003.

5 Corina Joseph et al., "A Comparative Study of Anti-Corruption Practice Disclosure among Malaysian and Indonesian Corporate Social Responsibility (CSR) Best Practice Companies," *Journal of Cleaner Production* 112, no. 4 (January 2016): 2896–2906, https://doi.org/10.1016/j.jclepro.2015.10.091.

where the legal process had not been completed must be carried out based on the provisions stipulated in this Law".

The readings of Articles 70B and 70C of the *a quo law* are contrary to the articles above, namely Article 69D, where the meaning of the words of this article explains that the implementation of the duties and powers of the KPK against suspects in corruption cases is carried out based on the provisions stipulated by law. This is to refer to the Act 19/2019 as a guide in dealing with corruption cases in Indonesia. Their status was revoked and declared no longer valid for regulations that previously existed and contradicted this law.

A conflict of norms in one law causes legal uncertainty[6] in eradicating corruption cases in Indonesia, which must be resolved immediately by the authorities in making rules. Because with this complicated new rule will result in the position of the suspect and the impact on the suspect who is undergoing a legal process to not have guaranteed legal certainty. The KPK itself is a corruption eradication institution at the forefront of eradicating the problem of criminal acts of corruption.

The legal problem arising from the new regulation is related to the guarantee of legal certainty for suspects in corruption cases who had already undergone criminal proceedings before the Act 19/2019 enacted, whether those currently undergoing the process of investigation, investigation, and prosecution. Regarding the regulations used, whether by referring to the old rules, namely Act 30/2002, or using new rules, namely Act 19/2019. Thus, legal uncertainty will arise regarding the position and impact of suspects in corruption that have not been decided and determined regarding the cases allegedly committed by them.[7]

There are several other studies on regulatory conflicts in eradicating corruption that has distinguished this research, including the first study conducted by Tomy Tri Atmojo and Pudji Astuti concerning the inconsistency of regulatory norms for the independence of police investigators at the corruption eradication commission[8], which states that definitively and conceptually it has been proven that there is a norm conflict between article 3 and article 45 paragraph (1) of Act 19/2019, the settlement carried out is using

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[6] Muhammad Siddiq Armia, "Democracy through Election," *Journal of Southeast Asian Human Rights* 2, no. 1 (June 30, 2018): 323–335, https://doi.org/10.19184/jseahr.v2i1.5333.

[7] Suswantoro Suswantoro, Slamet Suhartono, and Fajar Sugianto, "Perlindungan Hukum Bagi Tersangka Dalam Batas Waktu Penyidikan Tindak Pidana Umum Menurut Hak Asasi Manusia," *Jurnal Hukum Magnum Opus* 1, no. 1 (August 1, 2018): 43–52, https://doi.org/10.30996/jhmo.v0i0.1768.

[8] Tomy Tri Atmojo and Pudji Astuti, "Inkonsistensi Norma Pengaturan Independensi Penyidik Polri Pada Komisi Pemberantasan Korupsi," *Novum : Jurnal Hukum* 10, no. 1 (2022): 1–10, https://doi.org/https://doi.org/10.2674/novum.v0i0.45272.

systematic reinterpretation, after reinterpretation, it is known that article 3 is of a principle nature and article 45 paragraph (1) is technical, thus if viewed from a positional perspective, Article 45 paragraph (1) should be adjusted to Article 3. The corrective option that can be made to Article 45 paragraph (1) is to change its substance by stipulating that KPK investigators are independent investigators who come from, are appointed, dismissed from, and by the KPK. The difference with the author's research is that the author examines the norms in Act 19/2019 Article 69D and Articles 70B-70C and does not discuss investigators in this study.

The second research conducted by Bagoes Sudrajad concerning the conflict of authority between the National Police and the KPK in the investigation of sim simulator corruption cases in terms of the principle of enactment of laws and regulations[9], which state that between the National Police and the KPK have the same authority they can carry out investigations in the SIM Simulator corruption case, but if in terms of the principle of the application of laws and regulations relevant to this case, theoretically and juridically it strengthens the KPK's authority in investigating the SIM Simulator corruption case so that the National Police must hand over this case to the KPK. In conclusion, the KPK has strong jurisdictional authority in investigating this case, and the dossier on the results of the Polri examination was declared null and void or deemed to have never existed. The difference with the author's research is that the author examines the Act 19/2019 only and is not associated with other agencies, and the focus of the norms studied is the authority of the KPK since the publication of the new KPK regulations.

The third research by Dalinama Telaumbanua regarding the restrictive status of the KPK supervisory board[10], stated that the supervisory board was not the KPK supervisory board but the supervisory board for KPK leaders and employees because of the revision of the Act 19/2019. However, it was not clearly explained; it should be interpreted narrowly that what is overseen by the supervisory board is only the KPK leadership and KPK employees. The difference with the author's research is that the focus of the author's research is related to the KPK in its authority to handle corruption cases on the latest revision of corruption regulations and does not examine the structure of the KPK's organs.

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[9] Bagoes Sudrajad, "Konflik Kewenangan Antara Polri Dan Kpk Dalam Penyidikan Kasus Korupsi Simulator SIM Ditinjau Dari Prinsip Berlakunya Peraturan Perundang-Undangan" (Universitas Muhammadiyah Malang, 2013), h

[10] Dalinama Telaumbanua, "Reskritif Status Dewan Pengawas KPK," *Jurnal Education And Development* 8, no. 1 (2020): 258–261, https://journal.ipts.ac.id/index.php/ed/article/view/1545.

The difference between the author's research and other research is essential to study because this problem is something that must be overcome, considering that Indonesia itself is a country that upholds the values of human rights for its people, as contained in Article 3 paragraph (2) of Act 39 of 1999 (Act 39/1999) concerning Human Rights which states: "Every person has the right to recognition, guarantees, protection, and fair legal treatment and to receive legal certainty and equal treatment before the law." The article clearly states that Indonesian citizens are entitled to recognition, guarantees, protection, fair treatment, legal certainty, and equal treatment before the law. This legal certainty must be addressed in this matter because the position of suspects in corruption cases that have not been decided or determined (still in process) regarding cases committed by these parties violates human rights which the Indonesian people have upheld. Novelty of this research that makes it different from other research is to provide a solution to the conflict of norms that occurs between Article 69D and Article 70B-70C of Act 19/2019.

Method

This research is normative legal research, that is, research that provides a systematic exposition of the rules governing specific legal categories analyzes the relationships between rules, describes areas of difficulty, and predicts future developments.[11] The approach used is the statutory approach, namely by examining all regulations related to corruption based on the statutory hierarchy. This study also uses a conceptual approach by referring to and applying legal concepts, theories and doctrines because there is no legal rule for the problem at hand in this study. This research was conducted by collecting primary and secondary legal materials, which would then be analyzed using a prescriptive method to obtain suggestions to resolve the issues under study.[12]

Conflict of Norms in the Act of 19 of 2019

The loopholes in existing regulations in Indonesia seem unavoidable. Problems with legal norms are actually not limited to mere norm conflicts.

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[11] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (October 1, 2012): 83–119, https://doi.org/10.21153/dlr2012vol17no1art70.

[12] Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Kencana, 2016).

According to Rifai in his book, there are at least three problems with legal norms: 1) conflicts between legal norms (*legal antinomy*); 2) legal vacuum (*leemten in het recht*); 3) ambiguity or unclear legal norms (*vage norms*).[13] According to the writer's opinion, the reason for the existence of problems with legal norms is solely an unintentional mistake by the regulators. This is because Indonesia has a lot of laws and regulations from various legal focuses. If indeed an element of intent is found in a norm issue after going through an investigation process, then legal remedies can be taken: 1) for the maker to be processed based on the law and the applicable code of ethics; 2) for the regulations a judicial review can be carried out.

This discussion will focus on discussing the conflict of norms clearly explained in the various backgrounds contained in the Act 19/2019. Norm conflicts are characterized by the existence of rules that govern something, while the second rule also applies and regulates otherwise. Thus, antinomic norms undermine the belief in the logical unity of the legal order. Norm conflict is often seen as a failure in the norm production process. This conflict of norms is treated as a pathological phenomenon that we must try to avoid at its source or interpret logically.[14]

Quoting from Irfani[15], Hans Kelsen, through his book Allgemeine der Normen, defines what is called norm conflict. Kelsen in his book explains: "*Ein Televisit zwischen zwei Normen liegt vor, wenn das, was die eine als gesollt setzt, mit dem, was die andere als gesollt setzt, unvereinbar ist, und daher die Befolgung oder Anwendung der einen Norm notwendiger oder moeglicherweise die Verletzung der anderen involviert*" which in its translation: There is a conflict between two legal norms, namely because of a difference in the provisions of a norm regarding what is ordered and in depth with other norms which also order the same order, giving rise to a discrepancy that when you have to obey orders from These two different norms will lead to conflict and result in violating other norms beyond the two conflicting norms.

To overcome problematic legal norms, including norms conflicts, the law has a solution using the principle of preference. The principle of preference is

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[13] Sudarsono et al., "Legal Dualism Norm Administrative Decision," *Journal of Law, Policy and Globalization* 60 (2017): 130–134, https://www.iiste.org/Journals/index.php/JLPG/article/view/36651/37665.

[14] Sandrine Chassagnard, "Conflict of Norms and Conflict of Values in Law," in *Past and Present Interactions in Legal Reasoning and Logic*, ed. Shahid Rahman, 7th ed. (London: Springer International Publishing Switzerland, 2015), 235, https://doi.org/10.1007/978-3-319-16021-4_11.

[15] Nurfaqih Irfani, "Asas Lex Superior, Lex Specialis, Dan Lex Pesterior: Pemaknaan, Problematika, Dan Penggunaannya Dalam Penalaran Dan Argumentasi Hukum," *Jurnal Legislasi Indonesia* 17, no. 3 (September 29, 2020): 305–325, https://doi.org/10.54629/jli.v17i3.711.

a legal principle that functions to resolve issues of legal norms by determining which rules will take precedence so that these rules can be implemented about the problematic legal norms.[16] At least three kinds of preference principles can be used to solve problems in legal norms: 1) The principle of *Lex Specialis Derogat Legi Generalis* (a specific rule of law overrides a general rule of law); 2) The principle of *Lex Superior Derogat Legi Inferiori* (a higher legal rule overrides a lower legal rule); 3) The principle of *Lex Posterior Derogat Legi Priori* (the new rule of law will override the previous rule of law).[17]

The legal principle applies to address problems with the norms of the *a quo law* is the *Lex Posterior Derogat Legi Priori* principle applies. According to Wendi and Firman Wijaya, quoting from Hartono Hadisoeprapto, this principle is used for 2 (two) regulations that are in the same hierarchy and regulate the same issues. Thus, if there is a problem that was previously regulated in the previous regulation, then the problem is regulated again by the new regulation and even though the new regulation does not explain in substance if this regulation abolishes and/or revokes the previous regulation, then the old regulation will automatically which regulates problems such as the new regulations, the old regulations no longer apply.[18]

Based on the above legal principles and their explanations, according to Shidarta that the legal principle is a legal ratio of the relevant legal regulations, and even though new legal regulations are born, the legal principles will not run out of power so that it can be said that the legal principle is a vehicle for the law to live on, develop and grow.[19] According to the author, the provisions of Article 69D are not valid when this is related to the problems discussed in this paper. In total, activities related to exercising the KPK's powers and duties against suspects in corruption cases are still to be carried out entirely based on the provisions of the current Act 19/2019.

Applying this principle to dealing with issues of norms creates new questions regarding how the condition of corruption suspects occurred and

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16 Ronald M. Dworkin, "The Model of Rules," *The University of Chicago Law Review* 35, no. 1 (1967): 14–46, https://doi.org/10.2307/1598947.

17 Jean-Louis Halpérin, "Lex Posterior Derogat Priori, Lex Specialis Derogat Generali Jalons Pour Une Histoire Des Conflits de Normes Centrée Sur Ces Deux Solutions Concurrentes," *The Legal History Review* 80, no. 3–4 (2012): 353–397, https://doi.org/10.1163/15718190-000A1212.

18 Wendi and Firman Wijaya, "Penerapan Asas Lex Posteriori Derogat Legi Priori Terhadap Anak Korban Pencabulan (Studi Kasus Pengadilan Negeri Jakarta Utara Nomor 195/Pid.Sus/2015/PN.Jkt.Utr)," *Jurnal Hukum Adigama* 1, no. 1 (July 20, 2018): 1–27, https://doi.org/10.24912/adigama.v1i1.2172.

19 Ahmad Zaeni, "Asas Lex Posteriori Derogat Legi Priori Dalam Penemuan Hukum (Rechtsvinding) Oleh Hakim: Studi Atas Pasal 20 A.B. Dan Pasal 4 (1) UU No. 48 Tahun 2009 Tentang Kekuasaan Kehakiman" (Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2012), http://etheses.uin-malang.ac.id/7151/.

was still ongoing prior to Act 19/2019. It was legalized, and what were the consequences for the suspect. Regarding suspects in corruption cases whose processes are still ongoing and have not yet been clarified by the KPK agency, starting before 2019 until after 2019, more precisely when the latest revision of the Act 19/2019 was passed, it shows that the status of this suspect will be clarified. The case is still floating without any legal certainty. Even though revising the Act 19/2019 addressed several problems that had yet to be regulated by the Act 30/2002, this revision provided additional ambiguity in handling corruption eradication that occurred in Indonesia.

The issuance of the latest KPK regulations, Act 19/2019, especially those contained in Articles 69D and Articles 70B-70C which provide conflicting norms regarding the settlement of criminal acts corruption regarding which rules are used to deal with corruption cases which shows that there are contradictions in the enactment of the old rules and with the enactment of the new rules in the KPK this causes severe matters in the handling of corruption because it causes uncertainty of the applicable law in handling it even though the law What is good is the law that provides certainty in it, especially in relation to this case, it concerns a criminal case in which it is full of clear legality and certainty in it, such as the principle conveyed by Von Feuerbach, namely *nullum crimen, nulla poena sine praevia lege poenali*, the point of which is that law Its form is legal certainty and guaranteed human freedom.[20]

The position of suspects in corruption cases who enter the KPK agency about eradicating criminal acts of corruption also has criteria, namely as explained in Article 11 paragraph (1) of Act 19/2019, namely "In carrying out the tasks referred to in Article 6 letter e, the Corruption Eradication Commission has the authority to conduct investigations, investigations, and prosecutions of Corruption Crimes that: a. involve law enforcement officials, state administrators, and other people who are related to corruption crimes committed by law enforcement officials or state administrators; and/or b. concerning state losses of at least IDR 1,000,000,000.00 (one billion rupiahs)". Therefore, the conditions for corruption cases involving the Corruption Eradication Committee are large and complex cases, and the rules that govern them should also provide clarity and certainty in them.

One of the cases that have attracted attention to date is the corruption case committed by the former Main Director of PT Pelindo II, Richard Joost Lino, or RJ Lino, where the KPK has named him a suspect since 2015. Until now, the status of the suspect is still attached to RJ Lino without legal certainty regarding his status. Even though, of course, this violates human rights as

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[20] Beni Puspito and Ali Masyhar, "Dynamics of Legality Principles in Indonesian National Criminal Law Reform," *Journal of Law and Legal Reform* 4, no. 1 (January 22, 2023): 129–148, https://doi.org/10.15294/jllr.v4i1.64078.

explained in Article 3 paragraph (2) of Act 39/1999, which reads, "Every person has the right to recognition, guarantees, protection, and fair legal treatment and to receive legal certainty and equal treatment before the law".

The hanging status of a suspect in a particular criminal case, especially in this case, a corruption case that entered the Corruption Eradication Commission, has caused several things, one of which is the impact on the state, namely the high costs in handling corruption cases to be multiplied. For handling corruption at the KPK itself, the system uses a ceiling system; namely, at the investigation stage, a budget of 11 billion rupiahs is prepared for a projected 90 cases. In contrast, a budget of 12 billion rupiahs for the investigation stage is prepared for a projected 85 cases. Furthermore, for the prosecution and execution stages, 14.329 billion were allocated for 85 cases. In addition, there are still costs for the execution of corporate crimes of 45 billion rupiahs.[21] Therefore delaying clarification of the status of corruption cases committed by suspects will also result in more significant losses for the state.

The KPK Institute must immediately decide another reason regarding the status of a corruption suspect is regarding a form of corruption crime itself where in terms of evidence, a corruption crime concerns evidence which is easily lost, and several factors of evidence are easily lost, namely as follows: Caused by a natural disaster, deliberately removed, Impaired by law, Burned and Incorrect storage.[22] It is clear for cases of criminal acts of corruption because it is usually carried out by someone who is smart and has power; in terms of evidence, if security is not carried out quickly, it will quickly disappear, and if it is lost, the track record cannot be traced anymore. There is no reason to waste time clarifying suspects in corruption cases because it also involves losses to the state that will get bigger if they are continued.

Furthermore, regarding the impact of hanging corruption cases for suspects, one of them is the occurrence of human rights violations in it because the rights of suspects as Indonesian people are violated. A simple violation is a label that someone with the status of a criminal suspect is the wrong person. The status of a suspect is someone who is suspected of having committed a crime without a precise time limit so that inevitably this person is forced by the state to accept the status of a suspect without the availability of an

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[21] MYS, "Mau Tahu Biaya Penanganan Perkara Korupsi? Simak Angka Dan Masalahnya," Hukum Online, 2016, https://www.hukumonline.com/berita/a/mau-tahu-biaya-penanganan-perkara-korupsi-simak-angka-dan-masalahnya-lt5733f0ea01aea.

[22] Afi Ikhsan Maulana, "Akibat Hukum Terhadap Barang Bukti Yang Hilang Sebelum Diajukan Sebagai Alat Bukti Dalam Proses Perkara Pidana Dipersidangan," *Dinamika: Jurnal Ilmiah Ilmu Hukum* 26, no. 6 (2020): 704–713, http://www.riset.unisma.ac.id/index.php/jdh/article/view/5523.

opportunity to take legal action to test the quality, legality, and purity of the purpose of the determination of the suspect.[23]

Another reason regarding the impact of hanging corruption cases for suspects is that there is no legal protection for suspects in corruption cases because, at this stage, there are already legal remedies that can be used against suspects in their cases, as stipulated in Article 12 paragraph (2) of Act 19/2019, which reads: "In carrying out investigative duties as referred to in paragraph (1), the Corruption Eradication Commission has the authority to: a. order the relevant agencies to prohibit a person from traveling abroad; b. ask for information from banks or other financial institutions about the financial condition of the suspect or defendant who is being investigated; c. order banks or other financial institutions to block accounts allegedly resulting from corruption belonging to suspects, defendants, or other related parties; d. order the leadership or superiors of the suspect to temporarily suspend the suspect from his position; e. request wealth data and taxation data of the suspect or defendant from the relevant agency; f. suspend a financial transaction, trade transaction, and other agreements or temporarily revoke permits, licenses and concessions made or owned by a suspect or defendant who is suspected based on sufficient preliminary evidence to have something to do with the Corruption Crime being investigated; g. request assistance from Interpol Indonesia or law enforcement agencies of other countries to conduct searches, arrests and confiscation of evidence abroad; and h. request assistance from the police or other relevant agencies to carry out arrests, detentions, searches, and confiscations in cases of Corruption Eradication that are being handled". Therefore, a suspect in a corruption case who has been hanging for several years has reduced his rights as an Indonesian citizen. This matter must be addressed immediately to provide legal certainty.

Regarding the issue of conflicting norms in Act 19/2019, specifically concerning the status of a suspect under investigation, Act 30/2002 provides relevant insights. Article 40 of Act 30/2002 states that "The Corruption Eradication Commission is not authorized to issue warrants to stop investigations and prosecutions in cases of criminal acts of corruption." Examining these older regulations reveals a lack of clarity and legal certainty, as they do not specify a time limit for the investigations conducted by the Corruption Eradication Commission (KPK) in corruption cases.

Suppose look at the Act 19/2019 in Article 40, paragraph (1). In that case, it reads, "The Corruption Eradication Commission can stop investigating and prosecuting cases of Corruption Crimes where investigations and prosecutions

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[23] Bahran Baseri, "Penetapan Tersangka Menurut Hukum Acara Pidana Dalam Perspektif Hak Asasi Manusia," *Syariah Jurnal Hukum Dan Pemikiran* 17, no. 2 (February 1, 2018): 220–239, https://doi.org/10.18592/sy.v17i2.1972.

are not completed within a maximum period of 2 (two) years. It is clear that if the wording of this latest regulation guides the KPK, it will guarantee legal certainty, legal protection, the principle of a quick, simple, and low-cost trial, guarantee certainty of human rights, and prevent significant losses for the state.[24]

To anticipate other ways besides those regulated by law that have conflicting norms above to overcome if there are suspects who feel aggrieved because of the determination of the suspect's status, the only effort that can be made is to prove it at trial in a court that the suspect did not commit a crime and asked for revocation regarding the status of the suspect and not at the pretrial hearing as we know about the pretrial case of Irman Gusman who wanted to submit a pretrial determination of the suspect by examining the Hand Catch Operation (OTT) procedure carried out by the KPK. Moreover, in another case, Nur Alam submitted a pretrial determination of the suspect by saying that the evidence owned by the KPK was weak.[25] Even if you look at it normatively, pretrial cannot cancel the status of a suspect attached to the suspect because pretrial cannot eliminate mistakes and sufficient evidence for determining a suspect but only examines formal procedures.[26]

Conclusion

In conclusion, the presence of a conflict within Act 19/2019 creates a state of uncertainty regarding the status of suspects currently undergoing legal proceedings. The absence of clear provisions regarding the resolution of conflicts within the law complicates the situation further. This poses a challenge when suspects attempt pre-trial actions based on the conflicting norms present in Act 19/2019, as it may not be legally permissible. To address this issue and ensure legal certainty, it becomes crucial to establish technical regulations that specifically deal with conflicting norms. These regulations would serve to provide clarity and guidance for corruption suspects involved in ongoing legal processes. By closing the gap that currently exists, it becomes possible to prevent suspects from escaping punishment due to problematic or

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[24] Reza Pahlevi, "Batas Waktu Penetapan SP3 (Surat Perintah Penghentian Penyidikan) Terkait Kewenangan Kepolisian Pada Perkara Tindak Pidana Korupsi," *Novum : Jurnal Hukum* 8, no. 3 (2021): 1–19, https://doi.org/https://doi.org/10.2674/novum.v0i0.37910.

[25] Heber Anggara Pandapotan, "Praperadilan Status Tersangka, Bukti Rusaknya Integrated Criminal Justice System Di Indonesia," BPKP, 2020.

[26] Wajihatut Dzikriyah and I Ketut Suardita, "Tinjauan Yuridis Terhadap Pembatalan Status Tersangka Dalam Putusan Praperadilan," *Kertha Wicara : Journal Ilmu Hukum* 4, no. 3 (2015): 1–5, https://ojs.unud.ac.id/index.php/kerthawicara/article/view/15366.

contradictory norms. Establishing these technical regulations would contribute to a more effective and equitable legal system in the fight against corruption.

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