

RECONSTRUCTION OF CORRUPTION CRIMINAL ACTS LAW CONNECTIVITY IN MILITARY JUSTICE: ANALYSIS OF CONSTITUTIONAL COURT DECISION NUMBER 87/PUU-XXI/2023 FROM THE PERSPECTIVE OF MASLAHAH MURSALAH

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Abstract. Legal uncertainty regarding jurisdiction in cases of corruption involving civilian and military actors, as well as its impact on the effectiveness of the Corruption Eradication Commission (KPK RI), has caused the KPK RI to hesitate in investigating cases of corruption, which could potentially hinder the optimal handling of cases and harm the constitutional rights of citizens to receive the benefits of development. This study aims to unravel how the military hierarchy structure, military court jurisdiction, and analyze the Constitutional Court (MK) Decision Number 87/PUU-XXI/2023 are carried out through the perspective of Maslahah Mursalah, an Islamic legal philosophy that focuses on public welfare and benefit. These research uses a qualitative method with a legal-normative approach. The research is conducted by reviewing and analyzing relevant literature related to the research topic being studied. The results of the study indicate that the military environment is classified as a social stratification when viewed from a legal sociology perspective, with one of its characteristics being the existence of differences in rank and position within the military hierarchy. Furthermore, progressive law advocates the need to revise the Military Court Act so that military personnel who commit general criminal offenses can be fully tried in civilian courts, which undoubtedly represents a significant step forward toward a more humane and just legal system. Furthermore, an analysis of the Maslahah Mursalah principle regarding the Constitutional Court's Decision No. 87/PUU-XXI/2023, using the criteria outlined by Asy-Syatibi, shows that the Court, in its decision, considered the principle of legal certainty as explained in its legal reasoning, as well as Islamic law governing the principle of legal certainty, thereby ensuring that this decision does not contradict Islamic law

Keywords: Jurisdiction, Corruption Connectivity, Maslahah Mursalah.

I. INTRODUCTION

Indonesia, as a country that adheres to the concept of a "rule of law" state based on Article 1 paragraph (3) of the 1945 Constitution, demonstrates its commitment to legal development. Within the complex framework of the national legal system, the judiciary plays a crucial role. (Adha, Harahap, and Lubis 2023). Indonesia has two types of criminal justice systems: one for civilians and one for the military. Both have different jurisdictions and absolute competencies that cannot be entered or interfered with by one court with the other. Due to the cultural differences between the military environment and society in general, the military has its own legal regulations in addition to general legal provisions. Historically, the provisions regarding judicial jurisdiction over TNI soldiers who commit criminal acts have undergone significant changes since the onset of reforms. This can be seen in the provisions of Article 3 paragraph (4) letter a of MPR Decree Number VII/MPR/2000 and is reaffirmed in Article 65 paragraph (2) of Law Number 34 of 2004 concerning the Indonesian National Army. These two articles essentially state that TNI soldiers are subject to the

authority of the Military Court when committing military offenses and are subject to the authority of the General Court when committing general offenses (Budi Utami and, 2014). However, the transitional provisions in Article 74 paragraphs (1) and (2) of Law No. 34 of 2004 state that the provisions of Article 65 paragraph (2) above shall apply when the new law on Military Justice comes into force. As a result, until the new Military Justice Act is established, the provisions of Law Number 31 of 1997 concerning Military Justice will remain in effect. On the other hand, in cases of corruption with connections, there is legal uncertainty for the Corruption Eradication Commission (KPK RI) in handling alleged corruption cases involving perpetrators from civilian and military backgrounds, known as "connected corruption." The Indonesian Corruption Eradication Commission's (KPK RI) hesitation in investigating these cases of connected corruption has the potential to cause these cases to fail to be handled or, at the very least, to not be handled optimally.

To address this jurisdictional complexity, an Indonesian citizen named Gugum Ridho Putra, who is a lawyer by profession, filed a petition with the Constitutional Court under

Number 87/PUU-XXI/2023. This decision by the Constitutional Court is a central point in the effort to seek legal certainty regarding the KPK's authority in handling corruption cases with connections. The research will analyze how the military's hierarchical structure, military court jurisdiction, and the Constitutional Court Decision (MK) Number 87/PUU-XXI/2023 are carried out thru the perspective of Maslahah Mursalah.

II. RESEACH METHODS

This research uses a Juridical-Normative approach with a derivative approach, namely the case and conceptual approach. This type of research refers to library data collection methods such as reading, taking notes, processing, and analyzing, and is presented in written form (Mahmud 2011). The data sources used are Constitutional Court Decision Number 87/PUU-XXI/2023 as the primary data source, and books, encyclopedias, scientific works, journals, and other materials related to the topic as secondary data sources. This research will use legal sociology theory, progressive law, and maslahah mursalah as tools for analysis. This research uses a qualitative method. Qualitative research focuses on emphasizing the understanding of problems in social life based on realistic or natural settings that are holistic, complex, and detailed (Creswell, 2017).

III. RESULT AND DISCUSSION

A. Military Hierarchy Structure.

The military, as an instrument of state power, has a fundamental characteristic that distinguishes it from civilian organizations: a strict and layered hierarchical structure. This structure is not merely an administrative formality, but an essential prerequisite for operational effectiveness, discipline, and military capability in carrying out its core duties, whether in the context of national defense, military operations other than war, or military law enforcement. Hierarchy in this context is not merely an administrative ranking system, but an essential prerequisite for effectiveness in carrying out the main duties of the Indonesian National Armed Forces (TNI), whether in the context of national defense, military operations other than war, or within the framework of military law enforcement (Law 43/2004). The Indonesian National Armed Forces (TNI) are directly under the President in terms of the deployment and use of military force. Meanwhile, in terms of defense policies and strategies, the Indonesian National Armed Forces (TNI) are under the coordination of the Ministry of Defense. The Indonesian National Armed Forces (TNI) are led by a Commander in their hierarchical structure, who is appointed and dismissed by the President with the approval of the House of Representatives (DPR). Then, the Indonesian National Armed Forces (TNI) consist of 3 (three) main components, also known as the Trimatra TNI. Each branch is led by the Chief of Staff of the Army, the Chief of Staff of the Navy, and the Chief of Staff of the Air Force. The Chief of Staff is subordinate to the Commander and reports to the Commander. The Chief of Staff

of the Armed Forces is appointed from active four-star General/Marshal/Admiral officers of the relevant service, taking into account rank and career progression (Law 34/2004). The military hierarchy in Indonesia is also permanently defined thru a rank system divided into three main categories:

1. Officer. Officers are the leaders and planners within a military organization. Officers are appointed by the President on the recommendation of the Commander-in-Chief. Officers are formed thru initial officer training for those coming directly from the community, namely thru the Indonesian Military Academy (with input from high schools) and the Officer School (with input from high schools or universities), or thru officer training for enlisted personnel.
2. Enlisted. Non-commissioned officers serve as a link between officers and enlisted personnel, and are directly responsible for the execution of tasks in the field. The non-commissioned officer was promoted by the Commander. NCOs are formed thru initial NCO training, either directly from the community or thru NCO formation training for enlisted personnel.
3. Tamtama. Enlisted personnel are responsible for performing technical and operational tasks at the basic level. The soldier was appointed by the commander. Enlisted personnel are formed thru initial enlisted training directly from the community. In the military justice environment, the rank and position system for permanent personnel still refers to the general TNI rank hierarchy. The Military Judge is the core of the Military Judiciary, responsible for deciding cases. They are active TNI officers assigned to the judicial environment. The rank levels of Military Judges generally correlate with court levels and experience (Judicial Commission, 2022), such as First Military Judges (Lieutenant Colonel or Major) at first-instance Military Courts (Dilmil), Intermediate Military Judges (Colonel) at High Military Courts (Dilmilti), and Supreme Military Judges (One or Two-Star General) at the Supreme Court. The appointment of Supreme Court Justices is made by the President upon the proposal of the Chief Justice of the Supreme Court (Law 31/1997).

The Military Auditor is the prosecutor within the Military Justice system, and is also an active TNI officer appointed based on the Decree of the Commander of the TNI. The rank structure of a Military Auditor is similar to that of a Military Judge, adjusted according to the level of the audit office. The Inspector General of the Indonesian National Armed Forces is the highest leader of the Military Audit, reporting to the Commander of the Indonesian National Armed Forces, with the rank of High-Ranking Officer (Two-Star General). Beside Judges and Prosecutors, other personnel such as Clerks and support staff in the Military Justice System are also TNI soldiers, with ranks varying from Enlisted, Non-Commissioned Officers, to Junior or Middle-Grade Officers, depending on their specific position and responsibilities. Supreme Court of the Republic of Indonesia, 2023). The military hierarchical structure according to the sociology of law is the differentiation of the population or society into tiered or hierarchical classes (social stratification). This can be seen from the existence of upper and lower classes. Soerjono Soekanto argues that social stratification is the differentiation of a person's or group's position into different

vertical statuses (Soekanto 1995). It can be concluded that social stratification is a group of people with the same status according to social assessment (by society), and the differentiation of individuals or groups within society, which places them in different social classes hierarchically, and grants different rights and obligations between individuals (Serlika Aprita 2021). According to Soerjono Soekanto, there are two types of hypotheses regarding law enforcement (Soekanto 2016):

1. The higher a person's position in the social stratification, the fewer laws govern them. For example, Superiors/Officers (higher ranks): supervision of Superiors/Senior Officers may be more internal, political, or based on professional reputation, although theoretically it is also bound by law.

2. The lower a person's position in the social stratification, the more laws govern them. For example, subordinates (those in lower positions) are more often the subject of formal supervision by their immediate superiors and military law enforcement units (MP). Even minor violations can sometimes lead to formal sanctions

B. Military Court Jurisdiction.

The Indonesian judicial system has two types of criminal justice systems: general courts and military courts, both of which have different jurisdictions. The military has its own legal provisions in addition to general legal provisions due to cultural differences between the military environment and the general public. As for the basis and position of the establishment of military courts in Indonesia before Law Number 34 of 2004 concerning the Indonesian National Army came into effect, it was Article 24 Paragraph (2) of the 1945 Constitution, which states that judicial power is exercised by a Supreme Court and judicial bodies under it within the general court system, the religious court system, the military court system, the state administrative court system, and by a Constitutional Court (Junaedi and Moeklas 2022). The provisions regarding judicial jurisdiction over TNI soldiers who commit such criminal acts are found in Article 9 Paragraph (1) of Law Number 31 of 1997, which essentially states that the court authorized to try TNI soldiers who commit criminal acts is the Military Court. The position of the Military Judiciary, which is one of the judicial bodies in exercising judicial power to uphold law and justice while considering the interests of national defense and security, whose structure, authority, and procedural law, including its specialization, are regulated in Law Number 31 of 1997 concerning Military Justice, is implemented as follows:

a. Courts within the Military Justice system, consisting of:

1. The Military Court, which is the court of first instance for criminal cases where the accused is ranked Captain or below;
2. The High Military Court, which is:

- a) The appellate court for criminal cases decided at first instance by the Military Court.

- b) First instance courts for:

- 1) Criminal cases where the defendant or one of the defendants holds the rank of Major or higher;
- 2) Lawsuit for Military Administrative Disputes;

- c) Deciding at first and last instance disputes over jurisdiction between Military Courts within their jurisdiction.

3. The Supreme Military Court is:

- a) The appellate court for criminal cases and military administrative disputes decided at first instance by the High Military Court.

- b) Deciding at first and last instance all disputes concerning jurisdiction:

- 1) Between Military Courts located within the jurisdiction of different High Military Courts;

- 2) Between the High Military Court; and

- 3) Between the High Military Court and the Military Court.

- 4) Disputes as referred to in points (1), (2), and (3) arise: (a) when two or more courts claim jurisdiction over the same case; and (b) when two or more courts claim they do not have jurisdiction over the same case.

- c) Resolving at the first and final level disagreements between the Officer Submitting the Case (Papera) and the Judge Advocate regarding whether a case should be brought before a court within the military justice system or a court within the general justice system.

- b. The Battle Military Court is the first and last instance for trying criminal cases committed by soldiers or those equated with them in the combat zone. It is mobile, following the movement of troops, and is located in the combat zone. This court functions when all or part of the territory of the Republic of Indonesia is in such a critical (dangerous/emergency) state that existing military courts, including other general courts, are no longer able to function.

The criminal acts referred to in Article 9 Paragraph (1) of Law Number 31 of 1997 include both military and general criminal acts. However, the provisions regarding judicial jurisdiction over TNI soldiers who commit criminal acts underwent significant changes after the reform process began. This can be seen in the provisions of Article 3 paragraph (4) letter a of MPR Decree Number VII/MPR/2000 and is reaffirmed in Article 65 paragraph (2) of Law Number 34 of 2004 concerning the Indonesian National Army. These two articles essentially state that TNI soldiers are subject to the authority of the Military Court when committing military offenses and are subject to the authority of the General Court when committing general offenses (Budi Utami and, 2014). Article 198 Paragraph (1) of Law No. 31 of 1997 concerning Military Courts states that criminal acts committed jointly by those who are subject to the jurisdiction of military courts and those who are subject to the jurisdiction of general courts shall be examined and tried by the Court within the general court system, unless the Minister decides, with the approval of the Minister of Justice, that the case must be examined and tried by the Court within the military court system. Then, regarding Article 65 paragraph (2) of Law 34 of 2004 concerning the Indonesian National Armed Forces, it states, "Soldiers are subject to the jurisdiction of military courts in cases of violations of military criminal law and are subject to the jurisdiction of general courts in cases of violations of general criminal law as regulated by law." Essentially, the article states that TNI soldiers are subject to the authority of the Military Court when

committing military crimes and are subject to the authority of the General Court when committing general crimes. The problem lies in the Transitional Provisions of Article 74, paragraphs (1) and (2) of Law No. 34 of 2004, which state that the provisions of Article 65, paragraph (2) above shall apply when the new law on Military Justice comes into effect. Therefore, until the new Military Justice Act is established, the provisions of Law Number 31 of 1997 concerning Military Justice will remain in effect. To date, there has been no revision of the law regarding military justice, so the implementation of judicial jurisdiction for TNI soldiers who commit general crimes still uses and is based on Law Number 31 of 1997. This is a consequence of the provisions of Article 65 paragraph (3) of Law Number 34 of 2004, which essentially states that if the jurisdiction of the General Courts is not functioning, then TNI soldiers who commit criminal acts are tried in Military Courts, regardless of whether the criminal acts are military or general. In the context of connectivity cases, beside the complexity of procedures involving cross-ministerial coordination and lengthy decision-making, Article 74 paragraphs (1) and (2) of Law 34 of 2004 mandates that the provisions of Article 65 paragraph (2) will only apply when the new Military Justice Law is enacted. This is one of the reasons why the splitting method is used in cases of connectivity. The existing Military Justice Law still grants broad jurisdiction to military courts over common crimes committed by soldiers, leading to frequent resolution of this normative conflict by allowing military courts to try TNI soldiers while civilians are tried in general courts.

From the perspective of progressive law, the arguments of progressive law are based on several paradigms within the framework of the concept of progressive law (Rahardjo 2010). In this case, the researcher attempts to analyze the subject of military jurisdiction mentioned above. Here are some of the points:

1. Law is for humans. In this context, progressive law will encourage a paradigm shift from the thinking that "the military is exclusive or special" to "the military is part of society" and subject to the same laws for common crimes.
2. In legal reasoning, progressive law rejects maintaining the status quo. Progressive law will view the revision of military justice laws as a justification for legal change, where laws must be responsive to developments and the aspirations for justice that exist in society. Therefore, maintaining absolute military jurisdiction over common crimes can be considered an unresponsive and static action.
3. When it is recognized that written legal civilization will present the risk of the emergence of criminogenic regulations. In this case, if the rules regarding general crimes for military personnel remain under military jurisdiction (not in civil courts), resulting in a lack of transparency or public distrust, then this is not in line with the spirit of progressive law. Conversely, if transferring common crimes committed by military personnel to the general court system can guaranty greater accountability, equal treatment before the law, and redress for victims, then such a step would more accurately reflect the spirit of progressive law.
4. Attention to human behavior and institutions. Until the new law comes into effect, the behavior of military personnel

committing common crimes will continue to be scrutinized. The gap between public expectations and current legal practices will continue to cause dissatisfaction. Progressive law encourages all parties involved in this transition process to demonstrate behavior oriented toward justice and reform, accelerate the legislative process, and prepare for the transition of the judicial system maturely.

C. Analysis of Constitutional Court Decision Number 87/PUU-XXI/2023 from the Perspective of Maslahah Mursalah. After the third amendment to the 1945 Constitution of the Republic of Indonesia, the Constitutional Court (MK) was established as a new institution that is part of the judiciary, alongside the Supreme Court, one of whose authorities is judicial review or material testing. Testing laws against the Constitution is stipulated in Article 24C of the 1945 Constitution of the Republic of Indonesia (Third Amendment) as one of the Constitutional Court's authorities (Marzuki 2004). Mahfud MD believes that judicial review is necessary because, in his opinion, laws are political products, and as political products, it is very likely that the content of the laws contradicts the Constitution (Moh. Mahfud MD 2007).

On August 2, 2023, an Indonesian citizen who is a lawyer named Gugum Ridho Putra, thru his legal counsel, filed a petition with the Constitutional Court under Number 87/PUU-XXI/2023. In summary, it is as follows: 1. Sitting Matter: The applicant argues that the application of the tested articles has caused constitutional harm to him because it creates legal ambiguity and uncertainty for the Corruption Eradication Commission (KPK RI). This uncertainty specifically relates to the KPK's authority in handling alleged corruption cases involving perpetrators from civilian and military backgrounds, known as "connected corruption." The KPK RI's hesitation in investigating these connected corruption cases has the potential to cause these cases to fail to be handled or at least not be handled optimally. According to the Petitioner, the failure or suboptimality of this handling directly harms their constitutional right to receive the benefits of development that they are entitled to as a tax-paying citizen. These development benefits are funded by the State Budget (APBN), one source of which comes from taxes paid by the Petitioner. The applicant asserts that they are entitled to fair recognition, guaranties, protection, and legal certainty, as guarantyd in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

The applicant also highlighted the lack of professionalism of the Indonesian Corruption Eradication Commission (KPK RI) in handling the corruption cases with connections that have been reported in the media. The applicant refers to the alleged corruption case of the Head of Basarnas, which resulted in an apology and the handover of the case to the Military Police Center (Puspom) of the Indonesian National Armed Forces Headquarters. Previous cases, such as the alleged corruption of the AW 101 helicopter (2016-2017) and the Bakamla case in 2017, were also reportedly not handled by the Indonesian Corruption Eradication Commission (KPK RI) using the connectivity scheme. The Indonesian Corruption Eradication Commission (KPK RI) in these cases tends to focus on

prosecuting civilian perpetrators only, while military perpetrators are handed over to their respective institutions. The applicant argues that the provisions of Article 42 of Law Number 30 of 2002 concerning the Corruption Eradication Commission, as well as the articles governing connected crimes in the Criminal Procedure Code (Articles 89 to 94) and Law Number 31 of 1997 concerning Military Courts (Articles 198 to 203), collectively create legal uncertainty for the Corruption Eradication Commission of the Republic of Indonesia. This uncertainty arises because the procedural criminal law provisions for connected crimes regulated in the Criminal Procedure Code and the Military Court Law do not explicitly state that these provisions also apply to the Corruption Eradication Commission of the Republic of Indonesia.

D. The core of the Petitioner's argument is not that the law explicitly prohibits the KPK from handling cases of connectivity, but rather that the law explicitly fails to include the KPK within the framework of connectivity. This creates critical ambiguity, making the Indonesian Corruption Eradication Commission (KPK RI) hesitant and uncertain about investigating the alleged corruption case involving connected crimes, as there is no certainty whether they can use the procedural criminal law provisions for connected crimes or not. This situation highlights the existence of legislative negligence or ambiguity that requires legal clarification. The applicant also believes that this could hinder the goal of comprehensive anti-corruption efforts, especially when corruption involves perpetrators from diverse backgrounds.

The procedural law provisions for the court of connection can be found in two main laws. First, in Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), specifically Chapter XI, Connection, Articles 89 to 94. Second, in Law Number 31 of 1997 concerning Military Courts, in Part Five, Connection Procedure, Articles 198 to 203. Both laws have detailed the procedures for investigation, research, prosecution, and trial of interconnected cases for the Attorney General's Office of the Republic of Indonesia and the Indonesian National Army (TNI). However, the Applicant argues that this procedural law provision on connectedness cannot be definitively applied to the Indonesian Corruption Eradication Commission (KPK RI). This is where the issue of the norm requested to be examined and decided by the Constitutional Court in this review lies. Both the Criminal Procedure Code (KUHP) and the Military Justice Act regarding procedural law of connection emphasize that the General Court has a more prioritized position compared to the Military Court for trying cases of connection. The new military courts are only authorized to try such cases if there is a decision from the Minister of Defense accompanied by the approval of the Minister of Justice (Minister of Law and Human Rights) that the case be tried in a military court. This can be seen from the provisions of Article 89 paragraph (1) of the Criminal Procedure Code and Article 198 paragraph (1) of the Military Justice Act. The clear comparison between the connectivity provisions for the Attorney General's Office and the Indonesian National Army (TNI) versus the ambiguity for the Corruption Eradication Commission (KPK) highlights a critical disparity in the legal framework. This disparity suggests an incomplete or

inconsistent legislative design, which is a significant issue for an institution specifically tasked with eradicating corruption.

2. Legal Considerations. In the case at hand, the Petitioner claims to have constitutional rights as stipulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which relates to the right to legal certainty, equal treatment before the law, and the right to work and receive fair compensation. The alleged losses stem from the articles whose review is requested (Article 26 paragraph (4) and Article 42 of Law 30/2002; Articles 89-94 of the Criminal Procedure Code; and Articles 198-203 of Law 31/1997) which create legal uncertainty for the Corruption Eradication Commission (KPK) in handling "connected" corruption cases. The court found that the Petitioner had adequately explained their constitutional rights and the alleged harm, considering the harm to be "specific and actual" with a clear "causal link" to the application of the norm being tested. The court also acknowledged that if the application were granted, the alleged losses could be addressed by providing legal certainty for the KPK and optimizing the handling of corruption cases. The court acknowledged the Applicant's role as a member of society in preventing and eradicating corruption, referring to Article 41 of Law Number 31 of 1999 concerning the Eradication of Corruption (Law 31/1999), and declared that the Applicant had legal standing. In its application, this petition centers on four main arguments: 1) Ambiguity in KPK's Authority: The applicant argues that Article 42 of Law 30/2002 creates ambiguity regarding whether the KPK can apply the procedural criminal law provisions of the Criminal Procedure Code (KUHP) or the Military Justice Act when exercising its authority to investigate, prosecute, and indict cases of connected corruption. This ambiguity, according to the Petitioner, contradicts Article 28D paragraph (1) of the 1945 Indonesian Constitution because it still leaves legal uncertainty for the KPK.

2) Violation of the Principle of Legality and Potential for Suboptimal Handling: The applicant asserts that this legal uncertainty contradicts the principle of legality and weakens the legal basis for the KPK to investigate corruption cases with connections. This legal uncertainty also has the potential to be used as justification by the KPK to choose to relinquish its obligation to handle cases of connected corruption or to handle them suboptimally.

3) The Need for a Dominant Position for the Corruption Eradication Commission (KPK): The applicant argues that in addition to the legal need for legal certainty in handling cases of interconnectedness, as a special institution for eradicating corruption, there is an equal legal need for the KPK to be given a dominant position similar to the Attorney General's Office in determining decisions when there are disagreements with the Military Auditor General regarding the handling of interconnectedness cases.

4) Interpretation of Article 42 of Law 30/2002 as an Obligation: The Petitioner believes there are sufficient legal grounds and reasons for the Court to interpret Article 42 of Law 30/2002 as an obligation for the KPK to coordinate and control the handling of interconnected corruption cases in accordance with the provisions of Chapter XI on Interconnectedness in Articles 89 to

94 of the Criminal Procedure Code, as well as Part Five on Interconnected Examination Procedures in Articles 198 to 203 of Law 31/1997. The Applicant's request to grant the KPK a "dominant position," equivalent to that of the Prosecutor in resolving jurisdictional disputes in cases of connectivity, is a strategic effort to use constitutional review to enhance the KPK's institutional power and efficiency. The Court understands that the Applicant's petition essentially stems from concerns that the current regulation of the connectivity of corruption crimes could result in the KPK losing its independence and authority when dealing with corruption cases committed jointly by individuals subject to general courts and those subject to military courts. This is because there is a perception that the KPK should hand over the investigation, prosecution, and indictment process to military auditors or senior military auditors for subsequent transfer to military courts. Meanwhile, according to Article 42 of Law 30/2002, the KPK has full authority to coordinate and control the investigation, prosecution, and prosecution of corruption crimes committed jointly by individuals subject to military and general courts. The addressees of the norm in Articles 89 to 94 of the Criminal Procedure Code (Chapter on Connection) are the Indonesian National Police investigators and certain Civil Servant Officials, public prosecutors, as well as military police and auditors. The Criminal Procedure Code (KUHP) does not yet regulate investigators, prosecutors, and the Corruption Eradication Commission (KPK) as the addressees of the KUHP norms regarding the issue of interconnectedness in corruption crimes, the law enforcement process of which (investigation, prosecution, and indictment) is coordinated and controlled by the KPK based on Article 42 of Law 30/2002. Because the KPK was formed after the Criminal Procedure Code came into effect and has not yet been amended. The court deems it necessary to emphasize the norm of the provisions of Article 42 of Law 30/2002. Therefore, for legal certainty, according to the Court, Article 42 of Law 30/2002 must be understood as a provision granting the KPK the authority to investigate, prosecute, and indict corruption cases, as long as the cases in question are discovered/initiated by the KPK. The Court also emphasized that the legislature needs to immediately amend the Criminal Procedure Code (KUHP), the laws governing the KPK, and the laws governing military courts. Regarding the Petitioner's argument concerning the constitutionality of Article 26 Paragraph (4) of the KPK Law and other articles, the Court found that it did not create legal certainty and therefore did not consider it further because it was deemed irrelevant.

1. To amend the decision.

The court in this case decided to grant the application in part. The court stated that Article 42 of Law Number 30 of 2002 concerning the Corruption Eradication Commission (State Gazette of the Republic of Indonesia 2002 Number 137, Supplement to the State Gazette of the Republic of Indonesia Number 4250), which states "The Corruption Eradication Commission has the authority to coordinate and control the investigation, prosecution, and prosecution of corruption crimes committed jointly by persons subject to military and general courts," is contrary to the 1945 Constitution of the Republic of

Indonesia and has no binding legal force conditionally, as long as it is not interpreted as "The Corruption Eradication Commission has the authority to coordinate and control the investigation, prosecution, and prosecution of corruption crimes committed jointly by persons subject to military and general courts, as long as the legal enforcement process of the case in question is handled from the beginning or initiated/discovered by the Corruption Eradication Commission."

2. Analysis of the Constitutional Court Decision Number 87/PUU-XXI/2023 from the Perspective of Maslahah Mursalah. In the treasury of Islamic legal scholarship, *maslahah* (public interest) and benefit are one of the main topics studied. Based on this, the concept of *maslahah mursalah* emerged as a method of public interest. The Quran and hadith clearly state that the purpose of Islamic law is to bring about benefit and prevent evil (Noorwahidah 2014). This decision fundamentally aims to achieve essential benefits when viewed from the perspective of *maslahah mursalah*, particularly in terms of protecting property (*hifzh al-maal*) and protecting life (*hifzh an-nafs*), or maintaining public order in a broad sense.

a. Protecting Property (Hifzh al-Maal).

Corruption poses a very serious threat to state finances and public welfare. Corruption can cause significant losses to state finances, thereby hindering development, leading to weak economic growth, and even failing to fulfill the constitutional mandate of poverty alleviation. Before this Constitutional Court decision, the ambiguity of the KPK's authority in handling cases of connection could be a loophole for perpetrators of corruption involving military elements to avoid effective legal proceedings. With the affirmation that the KPK is authorized to coordinate and control investigations as long as the case was initiated by the KPK, the protection of state assets is more guaranteed, which is a benefit. This affirmation strengthens the KPK's capacity to recover state financial losses and prosecute corrupt actors without being hindered by overlapping jurisdictions. This is a matter of essential interest because it is directly related to the welfare of the nation and the sustainability of the country's economy.

b. Protecting Life (Hifzh an-Nafs) or Maintaining Public Order. Primarily, the meaning of *hifzh an-nafs* refers to protecting life from physical threats. However, in a modern context, *hifzh an-nafs* also includes protecting the social and legal systems that ensure security and justice for every citizen. Corruption leads to public distrust of state institutions, damages national morality, and results in injustice. The Constitutional Court's decision clarifies the KPK's authority in cases of interconnectedness, thus contributing to the enforcement of justice and public order. Prior to this decision, the unclear legal certainty in handling interconnectedness cases led to jurisdictional confusion, potential failure to bring perpetrators to court, and the possibility of avoiding prosecution altogether, ultimately undermining the foundations of justice. With this decision, the legal mechanism for prosecuting perpetrators of corruption committed jointly by civilians and the military becomes more certain and transparent, thus reducing uncertainty that could disrupt public order and the community's sense of justice. This is a matter of essential interests in the broad sense, because maintaining the integrity of

law and justice is essential for preserving the life and well-being of society. In establishing *maslahah mursalah* as a legal basis, several conditions must be met as stated by Asy-Syatibi (Fadilah and Tanjung 2024), namely: a. The *maslahah* must be logical (reasonable) and in accordance with the current legal issue. This point requires that when considering benefits or advantages, the resulting harm must also be taken into account. Ignoring the harm means that benefits and advantages are built on prediction. The Constitutional Court's decision Number 87/PUU-XXI/2023 is a much-needed policy, considering that the article being tested creates legal ambiguity and uncertainty for the Corruption Eradication Commission (KPK RI). This makes the KPK hesitant in investigating corruption cases with connections, potentially leading to the failure of these cases to be handled or at least not being handled optimally. The suboptimality of this handling directly harms his constitutional rights as a citizen to receive the benefits of development that he should have received as a taxpayer. This is because the benefits of development are funded by the state budget, one source of which comes from taxes paid by the Applicant. With the Constitutional Court Decision Number 87/PUU-XXI/2023, the Court provides clarity on the limits of the KPK's authority in handling cases of interconnectedness so that it does not overlap absolutely with other law enforcement agencies, while still strengthening the KPK's role in eradicating corruption involving the military and civilians. This means that the decision has provided clearer legal certainty and legal justice regarding the authority of the Corruption Eradication Commission (KPK) in handling corruption cases involving elements of military courts and general courts.

b. The common good should be the foundation or guide in life, not making things difficult for society or removing obstacles. *Maslahah* must be intended for all segments of society universally, not just for specific individuals or groups. This means that *maslahah* is used to benefit the interests of the majority of society (Basri 2020). In the context of Constitutional Court Decision Number 87/PUU-XXI/2023, the court provided clarification regarding Article 42 of the KPK Law, making it clear about the KPK's authority in handling cases of interconnected corruption. This is a benefit that should be the focus and guidance regarding the authority of the KPK in handling cases of connectivity and eliminating harm caused by legal uncertainty before the article was challenged.

c. The benefit must align with Sharia; it cannot contradict Islamic law and must be in accordance with the spirit of Sharia. In Constitutional Court Decision Number 87/PUU-XXI/2023, the Court, in its legal considerations, focused its decision on the principle of legal certainty. This can be seen in the legal consideration: "for the sake of legal certainty, according to the Court, Article 42 of Law 30/2002 must be understood as a provision that grants the KPK the authority to conduct investigations, prosecutions, and indictments in corruption cases, as long as the cases in question are discovered/initiated by the KPK." The regulation regarding legal certainty in Islam is found in Surah Al-Isra' verse 15: "Whoever is guided, he is guided for himself; and whoever goes astray, he goes astray for himself. And no bearer of burdens bears the burden of another, and We

were not to punish until We sent a messenger." (Kemenag 2019). Additionally, there is also evidence of legal certainty in the same Surah, namely Surah Al-Isra' verse 35: "And fill the measure when you measure, and weigh with the straight balance. That is best and most excellent in interpretation. That is more important (for you) and better in consequence" (Ministry of Religious Affairs 2019). From the two arguments above, the principle of legal certainty allows us to conclude that no act can be punished except based on the provisions of the law applicable to that act. Considering the principle of legal certainty as explained in the legal considerations, and also that Islamic law regulates the principle of legal certainty, this decision does not contradict Islamic law.

IV. CONCLUSION

To understand the reconstruction of the law on interconnected corruption crimes, it is first necessary to understand the military hierarchical structure, so as to be able to comprehend the decision-making mechanisms, the implementation of defense policies, and the legal accountability system within the armed forces. This shows that the military environment is a form of social stratification when viewed from the perspective of legal sociology, with one of its characteristics being the presence of rank and position differences. In the context of legal issues, in accordance with Article 9 Paragraph (1) of the Military Court Law, the court authorized to try TNI soldiers who commit criminal acts is the Military Court. However, for general criminal acts committed by soldiers, they will still be tried in the military court system, even tho Article 65 Paragraph (2) of the TNI Law has stipulated that they should be tried in the general court system because Article 74 Paragraph (1) and (2) state that Article 65 Paragraph (2) only applies after the new Military Court Law has been enacted. In this regard, progressive law views the need for a revision of the Military Justice Act so that military personnel who commit common crimes can be fully tried in civilian courts, and this certainly demonstrates a significant step forward toward a more humanistic and just legal system. Then, an analysis of *maslahah mursalah* regarding Constitutional Court Decision Number 87/PUU-XXI/2023 was conducted using the conditions presented by Asy-Syatibi, namely: *Maslahah* must be logical (reasonable) and in accordance with the current legal issues; *maslahah* must be used as a foundation or guide in life and not complicate society; and *maslahah* must be in line with sharia and cannot contradict Islamic law. The Court, in its decision, considered the principle of legal certainty as explained in the legal considerations, as well as Islamic law which regulates the principle of legal certainty, so this decision does not contradict Islamic law.

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