THE CONCEPT OF MALADMINISTRATION IN CORRUPTION

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Abstract: The main legal instrument for the realization of a clean government is administrative law. Thus administrative law is expected to prevent corruption, since corruption is broadly and broadly related to the use of authority. The absence of clarity regarding the limitations of abuse of authority contained in Law No. 30 of 1999 jo. Law No. 20 of 2001 on combating corruption makes it difficult for law enforcement to know the meaning of the abuse of authority itself and its limitations. So with the issuance of law number 30 of 2014 about the administration of the government provides clarity about the abuse of authority itself in particular and administrative law in general. The method used in this research is with the approach of law and conceptual approach. The legal materials used are primary legal materials and secondary legal materials. The analysis is legal analysis (Legal Analysis). Based on the research obtained is the concept of abuse of authority in the criminal act of corruption is basically in the law of corruption but the concept presented there is vagueness and lack of clarity of meaning, so it needs to be explored further in various laws and regulations, in the administrative law of the concept of misuse authority is found, in general. Still in the administrative law further abuse of authority is set forth in the legislation, namely law number 30 of 2014 on government administration. The law states that what is meant by the abuse of authority is a). Beyond authority, b). Mix up the authority, c). Acting arbitrarily. From the concept of abuse of authority is then further comparable with the criminal act of corruption, and then in the core of this research is the concept of abuse of authority in the criminal act of corruption.

Keywords: maladministration, corruption

I. INTRODUCTION

Crimes are committed by humans with various motivations, not all crime driven by poverty because the corrupt are not the poor.1 Similarly; the methods are done in a wide range.

In government, the administrative process or administrative work is common, inherent and identical to government work. In performing such administrative work, government officials or Civil Servants are required to do the job well and perfectly without any errors, but not infrequently also every job must have errors that are administrative.

Such administrative errors in a narrow sense are referred to as maladministration. Maladministration is an act that should not be done, either in low risk or high risk, because it

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1 Muhammad Yamin, Tindak Pidana Khusus, Cv Pustaka Setia, Bandung, 2012, p. 9
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Concerns about the professionalism of employees. But today, maladministration is often seen as a power-holder with bad faith as an opportunity to commit crimes to benefit himself and others. The crime in question is certainly a crime of corruption.

Maladministration is a popular means of committing criminal acts of corruption. Because, administrative errors are generally seen as a “common or trivial” mistake happened in the name of humanity that can be wrong and forget. So the sanction of maladministration is generally only mild in the given to the perpetrators of crime using maladministration means.

The lack of understanding of the concept of maladministration either within the community or at the level of legislation leads to maladministration as a means to be regarded as a “scapegoat” that can be blamed at any time, and makes offenders free from criminal charges. Generally, maladministration is related to public services conducted by the Ombudsman of the Republic of Indonesia, but the concept can be deeply linked with any criminal act, as long as in the process it involves an administrative concept which is certainly not a manifestation of good and desirable administrative concepts.

Corruption begins with the process of habituation, which eventually becomes a habit and culminates in something that is already accustomed to be done by state officials. In many countries, especially third world countries, which set their bureaucracies on a predetermined structure rather than functionally and in the absence of work, the “sluggish”, “long-winded”, “inefficient” stamps are always attached to the appearance of employees in bureaucracy. The more reluctant the society deals with the bureaucracy; instead the people take advantage of the presence of “insiders”. Employed-for-work employees who feel that their salary is insufficient, no position, which is not adequately supervised, is too powerful or almost retired but lacks in old age stocks are the types of “insiders” in the bureaucracy who are willing at all times “Accelerate” the bureaucratic work pattern for the benefit of the special requesting member.

This situation resulted in the community preferring a shortcut to commit unlawful acts because it does not want to bother in getting services in government offices and other public service agencies. State organizers take advantage of this situation to benefit and personal interests are reflected in the act of corruption.

As with corruption, basically corruption is also one form of maladministration, such as demand for compensation in the form of money, goods or services, levies exceeding official rates set by regulations, illegal levies or levies without a legal basis when the public take care of administration in government offices. So that at this time known as the term “lubricant money” or called by giving a gift to someone who to achieve goals that want to achieve what is called gratuities, “administrative money” is a familiar corruption practices in the hearing.

Based on the above explanation it is clear that combating corruption is not an easy and immediately resolvable matter because of the governmental system that abuses transparency and promotes secrecy and closure by diluting public accountability. Then, against the background of the lack of understanding of Indonesian society over maladministration, especially maladministration related to corruption crime, as well as efforts to prevent and eradicate maladministration actions that could harm society and state, lack of understanding about maladministration related also with the understanding contained in terms of maladministration itself, namely in the provisions of article 1 point 3 (three) stating maladministration is a behavior

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2 Ibid, p. 193
3 Adrianus Meliala, Menyingkap Kejahatan Krah Putih, Pustaka Sinar Harapan, Jakarta, 1995, p. 31
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or act unlawful, transcending authority or misusing authority for other purposes than it should. The meaning of the phrase “acts against the law” is the obscurity of the norm that needs to be interpreted in relation to maladministration criminal acts of corruption.

The writer is interested to write a scientific paper which means to understand the concept of maladministration, especially maladministration in corruption crime, in order to know the event of maladministration in terms of regulations, punishment and sanctions, for which the author wrote a scientific paper entitled: The Concept of Maladministration in Corruption.

II. RESULT AND DISCUSSION

Administrative law, many parties do not understand administrative law, that administrative law is the same as studying the arguments of public administration or public administration, and equating administrative law with the law of correspondence or administration. The object of administrative law is likewise equated with the object of the study of administrative sciences which examines how various governing bodies are organized, equipped with their labor, driven and led.5

This understanding is very wrong, because the meaning of administration in administrative law is not the same as the general administration which is essentially related to correspondence, public administration or administrative sciences. Administrative law is a law related to certain laws and regulations, which are closely related to the function of government and its relation to society, therefore administrative law enters the group of public law rather than public administration. Administrative law governs the relationship between government and society, which also serves as a control of government action.

The term “administration” of administrative law has a fundamental nature of the difference with the term “administration” in terms of administrative science in administrative law has the connotation of “state” or “government” or “public”, while in administration science means administration that does not contain the connotation of state or government, so the need for state or public attribution.

In the Dutch language libraries the word administration is written in terms of administrative recht as defined by “administrare, besturen”, the word besturen contains functional and institutional or structural meaning. Functional bestuur means government function, while Bestuur's institutional or structural means the whole organ of government.6 Administrative law is said “het administrative recht of bestuursrecht behelst het regelen die betrekking hebben op het openbaar bestuur.” (“Administratiefrecht “or” bestuursrecht “includes rules relating to the government, but not all government-related regulations, including the field of law, administration).7

According to Ten Berge, administrative law as a secondary law concerning the diversity of public legal order more deeply as a result of the execution of the duties of the ruler. The administrative legal relationship is closely linked to government power and activity. When power (duty and authority) is exercised, administrative law provides guidelines to the authorities. Therefore, the administrative law has an important role and as the main instrument in carrying

5 Sadjijono, Bab-Bab Pokok Hukum Administrasi, Laksbang Pressindo, Yogyakarta, 2011, p.1
6 Philipus M. Hadjon, dkk, Pengantar Hukum Administrasi Indonesia (introduction to the indonesian administrative law), gajahmada university press, yogyakarta, 2005, p.3
7 Ibid, p.3
out the functions of government, especially for the state which states as a state law. Although the rule of law with each other has a different concept that is influenced by social issues, political system, state form, legal system and law of a country this is used as the rest of administrative law.

In the early stages of administrative law grow as a sectorial law. Sectorial administrative law is difficult to codify. Through administrative justice, administrative law is developed through court decisions, so that administrative law is more of a jurisprudential law. Administrative law has an object of study that includes:

8. Government positions;
9. The nature of government office;
10. Due to official action;
11. Legal position of office;
12. The legal power (duty and authority) of office;
13. Charge of position;
14. Position limitation;
15. Positioning instrument;
16. The juridical basis of office authority.

To better understand the concept of administration, there is another opinion that defines the administrative law, namely to study the legal aspects of administration. Specifically administrative law is a law that regulates legal relations between institutional so-called heteronomous state administrative law and rule of law necessary for outside himself as administrator. A self-governing law in the sense of being committed by an administrator to an administrator's environment in an administrative work environment.

**Rechtmatig Bestuur** is the principle of government based on the principle of the rule of law, namely the principle of legality. Based on the principle of legality, every act of government should be based on authority, legitimate, proper procedures and appropriate substance. It is hard to find our exact term for Rechtmatig Bestuur, but Rechtmatig Bestuur means legality or validity.

### 2.1 Maladministration

No one can define Maladministration properly, as Sir Edmun Compton states, the first British Parliamentary commissioner for administration or ombudsman. Nobody can define maladministration in plain terms. It may be difficult to define, but most of us believe that we could recognise an example of it, if we saw it. We can describe it by examples. We know what it is, but we are quite ready to admit that we might find ourselves in disagreement with other people about whether or not a particular case was an example of maladministration. We would admit also that there might be a vague and uncertain boundary surrounding the areas of maladministration.

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10 [http://appehutauruk.blogspot.co.id/2017/11/konsep-maladministrasi.html](http://appehutauruk.blogspot.co.id/2017/11/konsep-maladministrasi.html), di sadur dari Disadur dari buku berjudul “HUKUM ADMINISTRASI DAN GOOD GOVERNANCE”, karangan Philipus M. Hadjon, dkk.) accessed on 1 May 2018, at 08.00 WITA.
No one can clearly define maladministration. It is very difficult; we can admit it to a visible example. We know what maladministration is, but also recognize that it may find differences with other people about the presence or absence of maladministration. The scope of maladministration is very vague and uncertain).

The concept of maladministration was first introduced in 1967, when the British government established the Parliamentary Commission for Administration (the Ombudsman). Maladministration is associated with the deviant act of the apparatus; that disregard or follow good behaviour norms. The Commission states: bad decisions are bad administration and bad administration is maladministration.... bad decision goes the bad rule, fallacy statutory regulation.

Very interesting cases of maladministration are found, for example, about the revocation of television licenses in 1975. The Department of Home Affairs revoked them before their current licenses expired so as to renew the licenses, and they call that done is legally, and previously raised the money to be paid. Many complaints were filed about it and after a serious examination, the local government office did not provide a public proper warning, even saying it was illogically, and repeated the same thing by depriving 36,000 licenses.11

To examine the meaning of maladministration derived from the Latin “malum” which means evil (ugly). The term administrative itself from the Latin “administrare” which means serving. When combined these two terms mean “bad service”, while the service is done by public officials 12 (Whereas K.C. Where suggests maladministration as follows: “Maladministration may be described as, administrative action (or inaction) based on or influenced by improper considerations or conduct.” 13

Maladministration is one of the very words attached to the duties and functions of the ombudsman. Maladministration is also an interlocked sequence between one rule and another, in which maladministration is part of administrative law, because the administrative law is the rule that adheres to other rules.

This administrative maladministration has become a daily conversation with news of the performance of the Ombudsman of the Republic of Indonesia (ORI) in guarding reform and bureaucracy. In general, people understand “maladministration” as a trivial matter.14 Yet according to Article 1 number 3 of Law No. 37 of 2008 on the Ombudsman of the Republic of Indonesia, the notion of maladministration is very broad and includes many things that can cause material and immaterial losses and situations of injustice that harm the rights of citizens.

According to Article 1 number 1 of Law Number 37 Year 2008 regarding the Ombudsman of the Republic of Indonesia, the meaning of maladministration is:

“Behavior or act against the law transcends authority, uses” authority for any other purpose of the purpose of such authority, including negligence or neglect of legal obligations in the administration of public services carried out by the State Organizer and

11 http://appehutauruk.blogspot.co.id/2017/11/konsep-maladministrasi.html accessed on 1 May 2018, at 08.00 WITA.
13 http://appehutauruk.blogspot.co.id/2017/11/konsep-maladministrasi.html accessed on 1 May 2018, at 08.00 WITA.
14 Taufiqukohman, Optimalisasi Investigasi Maladministrasi Ombudsman Guna Meningkatkan Kualitas Pelayanan Publik, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Prof. Dr. Moestopo Beragama, Jakarta, 2015, p. 125
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the government which creates material and / or immaterial damages to the public and natural persons “.

The notion of maladministration in general is unusual behavior (including postponement of service providers), disrespectful and less concerned about the problems that befall a person caused by abuse of power, including the arbitrary use of power or power used for unnatural acts, fair, intimidating or discriminatory and inappropriate based partly or wholly on the provisions of the law or facts, and unreasonable.\[15\]

Maladministration is a practice that deviates from administrative ethics, or an administrative practice that distances from the achievement of administrative purposes. The terminology of maladministration is understood to be broader than merely aberrant deviation. Even so, maladministration should also be understood not just as a deviation from writing, bookkeeping, and so on, but more broadly including deviations from the public service functions that every state administrator (including MPs) has to the public.

More generally maladministration is interpreted as a deviation, violation or neglect of the legal obligation and decency of the community so that actions taken are not in accordance with the general principle of good governance (good governance). Thus it can be concluded that the parameters that are made as the size of maladministration is the rule of law and the decency of society and the general principle of good governance.

In the book Budhi Masthuri, Crossman classifies forms of action that can be categorized as maladministration, namely: prejudice, neglect, and lack of care, delay, not authority, unworthy, malicious, cruel, and arbitrary action.\[16\]

In general maladministration can also be interpreted as a behavior or act against the law and ethics in a process of public service administration, which includes abuse of authority / position, negligence in action and decision making, neglect of legal obligations, undertake postponement, discriminatory acts, demand rewards, and others that can be judged to be of equal quality with the error.\[17\]

The forms of maladministration that can be assessed with the same qualities as those in the most general form are protracted delays, abuse of authority, procedural deviations, neglect of legal obligations, non-transparency, negligence, discrimination, unprofessional, obscure information, , legal uncertainty, mismanagement.\[18\]

Syntactically \[19\], the substance of article 1 point 3 of law number 37 of 2008 on the ombudsman of RI which provides the definition of maladministration can be parsed as follows:

Maladministration is:

a. Behavior and action against the law;
b. Behavior and deed transcend the authority;

\[16\] Ibid.
\[17\] Hendra nurtjahjo, Buku saku memahami maladministrasi, Ombudsman Republik Indonesia, First edition, agustus 2013. p. 4.
\[18\] Ibid p. 5
\[19\] Big Indonesian Dictionary (KBBI), syntax is 1. Setting and relation of word with word or with other bigger unit; 2. The linguistic branch of the sentence structure and its parts; sentence science; 3 sub-system languages covering it.
c. Use of authority for any other purpose of the purpose of that authority;
d. Negligence;
e. Waiver of legal obligations;
f. In the provision of public services;
g. Performed by state and government officials;
h. To cause material and / or immaterial losses;
i. For communities and individuals.

Including maladministration actions are acts committed by the government apparatus due to:

1. Misconduct is doing something in the office that is against the interests of the office.
2. Deceitful practice is the practice of lying, dishonest to the public. Communities are treated to information that traps information that is not actual, for the benefit of bureaucrats.
3. Corruption caused by the misuse of authority it possesses, including using it for other purposes of the purpose of granting authority, and by such acts in the interest of enriching itself, others groups and corporations that harm the state finances.
4. Defective Policy implementation is a policy that does not end with implementation. Political decisions or commitments only cease until the deliberations of legislation or ratification of the law, but not until followed up become a reality.
5. Bureaupathologis are bureaucratic diseases such as:
   a. Indecision is the absence of a clear decision on a case. So an ever-present case is left halfway, or left to float, with no clear final decision. Usually cases such as when it comes to a number of high officials. Many in the practice of appearing cases those are in icecaps.
   b. Red Tape is a bureaucratic disease associated with the convoluted service, takes a long time, although actually can be completed briefly.
   c. Cicumloution is a disease of bureaucrats who used to use too many words. Many promises but not kept. Many sweet words to calm the turmoil of the times. Sometimes many words of inter-elite controversy can confuse the public.
   d. Rigidity is a rigid bureaucratic disease. This is the effect of the separation and impersonality model of the bureaucratic character itself. This illness appears, in a rigid, inflexible bureaucratic service, which is principally standardized according to the rules, regardless of cases.
   e. Psychopathy is the tendency of bureaucratic disease to lick on his superiors. There are symptoms of origin you are happy. The tendency of bureaucrats to serve their superiors instead of serving the public and conscience. These symptoms can also be said to be loyalty to the individual, not loyalty to the public.
   f. Over staffing is a symptom of disease in the bureaucracy in the form of staff swelling. Too many staff thereby reducing efficiency.
   g. Paperasserie is a bureaucratic tendency to use a lot of paper, lots of forms, lots of reports, but never used properly.
   h. Defective accounting is a defective financial check. This means that financial reporting is not as appropriate, there is multiple financial reporting for the purpose of fooling. Usually a mistake in this finance is the mark up of a financial project.

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There are other opinions about the form of maladministration committed by bureaucrats namely:\(^{21}\)

1. Dishonesty, various acts of dishonesty include: using public goods for personal gain, receiving money etc.
2. Unethical behavior (unethical behavior), this unethical act is an act that may not be legally innocent, but violates the ethics as an administrator.
3. Disregarding the law (disregard of law), the act of ignoring the law includes also the act of undermining the law for its own sake, or the interests of the group.
4. Favorism in interpreting the law, the act of interpreting the law for the benefit of the group, and tend to choose the application of laws that benefit the group.
5. Unfair treatment of employees, this action tends to the treatment of leadership to subordinates based on factors like and dislike. That is the person who liked to tend to get more facilities, although his performance is not so good. Conversely for people who do not like the tend to be treated limited.
6. Gross Inefficiency (Gross Inefficiency), is the tendency of a public institution to waste state finances.
7. Covering errors, tendency to cover his mistakes, his subordinate mistakes, his instinct errors and refused to cover his mistakes.
8. Failed to show initiative, inclination not to take the initiative but to wait for orders from above, even though legally enabling him to act or take policy initiatives.

Other forms of maladministration.\(^{22}\)

Maladministration forms can also be divided into 6 sections related to:

a. The forms of maladministration related to timeliness in the process of public service delivery, consisting of delays in solving, non-handling and neglect of obligations.
   1) Delayed Delays: in the process of public service delivery to a public, a public official repeatedly delaying or stalling the time that the administrative process being worked out is not timely as prescribed (reasonably) resulting in uncertain public services.
   2) Not Handling: a public official does not take any action that should be done in order to provide public services to the public.
   3) Neglect of Obligation: in the process of public service delivery, a public official acts inadvertently and ignores what should be his responsibility.

b. The forms of maladministration that reflect the alignments that leads to a sense of injustice and discrimination. This group consists of conspiracy, collusion and nepotism, acting unfairly, and obviously taking sides.\(^{23}\)
   1) Conspiracy: some public officials who are allied and participate in committing a crime, cheating, against the law so that people feel not getting good service.
   2) Collusion and Nepotism: in the process of public service delivery to the public, a public official takes certain actions to prioritize family / relatives, friends and colleagues themselves without objective and unaccountable criteria, both in terms of public service

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\(^{21}\) Ibid, p. 13
\(^{22}\) Ibid, p.14
\(^{23}\) Ibid, p.15
delivery and to be able to sitting in office or position within the governmental environment.

3) Acting Unlawful: in the process of public service delivery, a public official takes action in favor of, exceeds or subtracts from the reasonable so that the public gets public services is not as it should be.

4) Real Siding: in the process of public service delivery, a public official acts biased and prioritizes one party regardless of the prevailing provisions so that decisions are taken to the detriment of the other.

c. Forms of maladministration that more reflect as a form of violation of laws and regulations. This group consists of forgery, violation of the law, and unlawful acts.  
   1) Falsification: the act of imitating something illegitimate or unlawful for the benefit of self, others and / or group causing the public not to get the public services properly.
   2) Violation of the Law: in the process of public service delivery, a public official deliberately commits an act of abusing or disobeying the prevailing laws and regulations so that the public does not get the services properly.
   3) Acts of Against the Law: in the process of public service delivery, a public official commits an act contrary to the prevailing and proper provisions to the detriment of a society which should obtain public services.

d. Any forms of maladministration related to authority / competence or provisions affecting the quality of public services to public officials. This group consists of actions beyond competence, incompetent officials performing duties, interventions that affect the process of public service delivery, and actions that deviate from the procedure remain.  
   1) Beyond Competence: in the process of public service delivery, a public official decides something that is not in his power so that people do not get good service.
   2) Not Competent: in the process of public service delivery, a public official is incapable or incompetent in deciding something so that the services provided to the community are inadequate (not good enough).
   3) Intervention: a public official interferes with activities that are not his duties and authorities affecting the process of public service delivery to the public.
   4) Deviation of Procedure: in the process of providing public services, a public official does not comply with the stages of activities that have been determined and appropriately so that people do not get good public services.

e. Maladministration forms that reflect the arrogant attitude of a public official in the process of providing public services to the public. This group consists of arbitrary acts, abuse of authority, and inappropriate action.  
   1) Acting arbitrarily: a public official exercises his authority (the right and power to act) beyond what is duly done so that such action is contrary to prevailing provisions, making public services unacceptable to the public.
   2) Abuse of Authority: a public official uses his or her authority (right and power to act) for improper purposes so that the public services provided are not as they should be.

24 Ibid
25 Ibid, p. 15
26 Ibid, p. 17
3) Inappropriate / Inappropriate Actions: In the process of public service delivery, a public official does something unnatural, inappropriate, and inappropriate so that the public does not get the service properly.

f. Maladministration forms that reflect as an active form of corruption. This group consists of extortion measures or demand for monetary rewards (corruption), the act of controlling the goods of others without rights, and embezzlement of evidence.\footnote{Ibid.}

1) Request for Money Rewards / Corruption: a. In the process of public service delivery to the public, a public official asks for remuneration and so on for work which he should have done (free of charge) because it is his responsibility; b. A public official embezzles state money, corporations (state), etc. for the benefit of private or others so as to cause public services cannot be given to the community as well.

2) Non-Right Mastery: a public official controls something that does not belong to his or her own in opposition to rights, whereas it should be part of a public service obligation that must be given to society.

3) Evidence Evacuation: a public official related to the law enforcement process has unlawfully used goods, money and so forth, which is evidence of a case. Consequently, when the litigant party requests the evidence (e.g. after the allegation is not proven) the relevant public official cannot fulfill its obligations.

The form of maladministration is also regulated in the Regulation of Ombudsman of the Republic of Indonesia Number 26 of 2017 on the Procedure of Receipt, Inspection and Completion of Reports, in Article 11, which mentions maladministration forms according to this rule including:

a. Prolonged postponement is an act of stalling the service completion time or providing services beyond the time quality standard of the service pledge;

b. Not providing services is a disregard for partial or total service duties to the public who is entitled to the service;

c. Incompetent, is a service provider providing services not competent;

d. Abuse of authority is an act of exceeding authority, against the law, and / or the use of authority for any other purpose of the purpose of such authority in the public service process;

e. Procedural deviations are providers of public services that are inconsistent with the flow / procedure of the service;

f. Reward request is an unlawful application of remuneration in money, services or goods for services rendered to a user of the service;

g. Inappropriate, improper and appropriate behavior undertaken by public service providers in providing good service to the service user community;

h. To take sides, it is aligned in the provision of a public service that provides any benefit to one party and harms the other or protects the interests of either party without regard to the interests of the other;

i. Discrimination, is a distinct service delivery, special or unfair treatment among service users; and
j. Conflict of interest is the implementation of public services that are influenced because of the relationship of groups, groups, tribes or kinship relationships both in blood relations and because of marital relationships so that the services provided are not as it should be.

2.2 Maladministration is categorized as a Crime of Corruption

Known with Maladministration is a behavior or act against the law, unlawful acts in legal terms, some define as an act against the law (onrechtmatige daad), then there is also interpreted as an act against the law (wederrechtelijk). The concept of unlawfulness (onrechtmatige daad) develops in the discipline of civil law, which has considerable scope, related to the living laws of society. Meanwhile, unlawful acts (wederrechtelijk) are in the realm of criminal law, which has a narrow or limited scope or scope, i.e. on actions that violate laws that function negatively.28

Maladministration act has a plural aspect in its capacity; maladministration can be seen in terms of administration, civil or criminal. Unlawful deeds (onrechtmatige daad and wederrechtelijk), both have a strong legal basis, onrechtmatige daad starting on the provisions of article 1365 law of civil law which states:

“Any act that violates the law, which carries harm to another person, obliges the person who because of the wrong to issue the loss, compensate for the loss”.

It is said with a clear meaning in the provisions of the above article “any act of unlawfulness” if it causes harm to others then that causes the loss to be responsible. This shows how wide the scope of meaning in the above article, does not specify the limitative actions of what are categorized as unlawful acts. If a person's conduct, carries harm to another person, then surely the person who causes it has violated the law and must replace all the damages it caused.

Unlike the unlawful act (wederrechtelijk) in criminal law, wederrechtelijk comes from the provisions of article 1 verse 1 of the Criminal Code (Criminal Code) which states:

“There can be no criminal act except on the strength of the criminal code in existing legislation, before the deed is done”.

In the above sense, it can be seen so narrowly the scope of Wederrechtelijk which rests on existing or existing rules.

Based on Law no. 31 of 1999 jo Law no. 20 In 2001, corruption was formulated into 30 (Thirty) forms / types of corruption. The articles describe in detail the actions which can be imposed of imprisonment Because of corruption. Thirty forms/types of criminal acts of corruption can basically be grouped as follows:

a. State Financial Losses
b. Bribery-Bribery
c. Embezzlement In Position
d. Extortion
e. Fraud
f. Form of Interest in Procurement
g. Gratuities

As for Maladministration, it has been described as an unlawful act, against the law that belongs to a criminal act (wederrechtelijk) criminal, because criminal law is a “public law”, that is general law.

Clear boundaries are absolutely necessary to limit law enforcers to more clearly distinguish pure maladministration actions and where maladministration measures lead to corruption.

Maladministration and Corruption Acts will be described, the similarities and differences through the following table:

<table>
<thead>
<tr>
<th>Table 1. Maladministration Equation</th>
<th>Corruption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maladministration</td>
<td></td>
</tr>
<tr>
<td>Performed by state or government organizers.</td>
<td>Performed by public servants or state or government officials.</td>
</tr>
<tr>
<td>Unlawful conduct or behavior (meaning it can be done in any way).</td>
<td>Any person who is unlawfully (meaning can be done in any way).</td>
</tr>
<tr>
<td>Adverse society or individual.</td>
<td>Adverse society or individual.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2. Maladministration Differences</th>
<th>Corruption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maladministration</td>
<td></td>
</tr>
<tr>
<td>Not necessarily benefit from any of his deeds</td>
<td>Must benefit (enrich yourself or others)</td>
</tr>
<tr>
<td>With regards to authority</td>
<td>Not necessarily related to authority (can be a bribe, gratification, etc.)</td>
</tr>
<tr>
<td>Can harm the state finances</td>
<td>Adverse financial state or state economy</td>
</tr>
<tr>
<td>Rechtmatige bestuur oriented: legitimate authority, proper procedures, and appropriate substance.</td>
<td>Oriented on the principle of legality</td>
</tr>
</tbody>
</table>

From the above table it can be understood maladministration is basically a unity that is bound to corruption crime, where corruption is a further development of a process that stems from the act of maladministration. However, on the one hand the maladministration act does not merely breed corruption; the maladministration act can affect the pure maladministration if the elements against the criminal law are not fulfilled.

In the table of equations of maladministration and criminal acts of corruption, it is explained that the act of maladministration and criminal acts of corruption, initially started from deviations made by state or government officials. The subject of the government or the state organizer in the criminal act of corruption or maladministration act if in the analysis using the theory of authority, government or state organizers is the direct authority of the source authority both Attribution and Delegation.

In the act of maladministration or criminal acts of corruption imply both must be based on the concept against the law. Where the unlawful concepts in the doctrine against the criminal law are required to violate the provisions of the law be it formative or material. When speaking
unlawfully either on a written or unwritten level, the point of departure is to violate the rules of law without questioning how to violate it.

Certainly in violation of the law is done, and then there will be losses felt either the community or others, due to violation of the rules of legal norms.

Dotted on the difference, this difference is the key difference between the acts of pure maladministration with maladministration actions that have implications on corruption.

The act of pure maladministration is limited to violations of operational standards that become the reference of work in the public service, if in such operational standards there is a maladministration act beyond the welfare or use of authority for other purposes, need to be traced and in the presence or absence of benefits gained from abuse such authority.

III. CONCLUSION

The concept of maladministration in administrative law is an interrelation between the execution of a law by a government apparatus or an official adversely affecting the public or private personality, which is expressly stipulated in the provisions of law number 37 of 2008 on the ombudsman, but not limited to the provisions of law, the concept of maladministration is also implied in the provisions of other legislation such as, law number 25 of 2009 on public service, the law number 5 of 1986 on state administrative courts, as well as law number 31 of 1999 on eradication of corruption, juncto law number 20 year 2001 concerning the amendment to law number 31 year 1999 about eradication of corruption crime.

Maladministration action is a behavior or act against the law that can be viewed as an act of corruption, if in the act of maladministration it fulfills all elements of corruption, because corruption can occur from any act against the law. Thus it can be said if doing maladministration acts will not necessarily be an act against the law of corruption, but if a criminal act of corruption must have committed maladministration, because maladministration is the beginning of the criminal act of corruption which is a means of the element against the law itself.

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