

**Article History**

Received: 04 July 2024

Reviewed: 14 Aug 2024

Accepted: 12 Sep 2024

Published: 18 Sep 2024

The Criminal Offence Of Corruption Of Village Funds (Analysis Of Medan District Court Decision No. 59/Pid.Sus-Tpk/2019 /Pn Mdn)

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Abstract: *This research aims to provide an understanding of the legal aspects of Village Fund Corruption. In detail, the objectives to be achieved are to analyze the Legal Regulation of the Crime of Corruption of Village Funds, the process of supervision of Village Funds in an effort to prevent Corruption Crimes in Batu Bara Regency and the Legal Considerations of Judges in Issuing Verdicts on Corruption Crimes of Village Funds in the Decision of the Medan District Court No.59/Pid.Sus-TPK/2019/PN Mdn. This study uses a statutory approach and a case approach in its normative juridical research methodology. The results of the study show that the Criminal Law Regulation on the Crime of Corruption of Village Funds, is contained in Law Number 31 of 1999 jo Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, especially articles 2 and 3. The mechanism for monitoring village funds requires the involvement of all parties, namely the village community, the Village Consultative Body (BPD), the Government Internal Supervisory Apparatus (APIP), and related OPDs. The judge's decision is very important, because in it there is a value that can be in direct contact with human rights. In principle, only the judge's decision that has permanent legal force can be implemented. A decision can be said to have permanent legal force if it is issued through an open and transparent trial and no other legal remedies are submitted. Regulation of Village Fund Corruption is regulated in Law Number 31 of 1999 jo Law Number 20 of 2001 concerning the Eradication of Corruption Crimes articles 2 and 3. In carrying out the supervised supervision of village funds, the involvement of all parties is needed, and the judge's decision is very important, because in it there is a value that can be in direct contact with human rights.*

Keywords : *Corruption; Village Funds; Verdicts*

Abstrak: Penelitian ini bertujuan untuk memberikan pemahaman tentang aspek hukum mengenai Korupsi Dana Desa. Secara rinci tujuan yang ingin dicapai yaitu Untuk menganalisis Pengaturan Hukum terhadap tindak Pidana korupsi Dana Desa, proses pengawasan Dana Desa dalam upaya pencegahan Tindak Pidana Korupsi di Kabupaten Batu Bara dan Pertimbangan Hukum Hakim dalam Menjatuhkan Putusan terhadap Tindak Pidana Korupsi Dana Desa pada Putusan PN Medan No.59/Pid.Sus-TPK/2019/PN Mdn. Penelitian ini menggunakan pendekatan perundang-undangan dan pendekatan kasus dalam metodologi penelitian yuridis normatifnya. Hasil penelitian menunjukkan Pengaturan Hukum Pidana Terhadap Tindak Pidana Korupsi Dana Desa, terdapat dalam Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi khususnya pasal 2 dan pasal 3. Mekanisme pengawasan terhadap dana desa

memerlukan keterlibatan Semua pihak yaitu masyarakat desa, Badan Permusyawaratan Desa (BPD), Aparat Pengawas Intern Pemerintah (APIP), OPD-OPD terkait. Putusan hakim adalah bersifat sangat penting, karena di dalamnya terdapat sebuah nilai yang dapat bersentuhan langsung dengan hak-hak asasi manusia. Pada prinsipnya hanya putusan hakim yang mempunyai kekuatan hukum tetap yang dapat dijalankan. Suatu putusan itu dapat dikatakan telah mempunyai kekuatan hukum tetap apabila dikeluarkan melalui sebuah persidangan yang terbuka dan transparan dan tidak adanya upaya hukum lain yang diajukan. Pengaturan Tindak Pidana Korupsi Dana Desa, diatur dalam Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi pasal 2 dan pasal 3. Dalam melakukan pengawasan terhadap dana desa diperlukan keterlibatan semua pihak, dan Putusan hakim adalah bersifat sangat penting, karena di dalamnya terdapat sebuah nilai yang dapat bersentuhan langsung dengan hak-hak asasi manusia.

Kata kunci: Korupsi; Dana Desa; Putusan

INTRODUCTION

Corruption cases in Indonesia are seen as one of the serious legal problems, this can be seen together in various news reports how rampant corruption cases have occurred recently. Starting from the lowest level of bureaucratic positions such as village heads, sub-district heads, village heads, to higher levels of positions such as members of parliament, ministers, and judges, corruption cases have not escaped. Corruption cases have occurred in almost all government circles from the central to the village level. All efforts have been made to prevent corruption but have not yet shown signs of success. With the government's allocation of village funds, it does not rule out the possibility of misuse of village funds by village government officials.

The existence of villages is formally recognised in Law No. 23/2004 on Regional Government and Law No. 6/2014 on Villages. Based on these provisions, villages are defined as villages and customary villages or what are called by other names, hereinafter referred to as villages are legal community units that have territorial boundaries that are authorized to regulate and manage government affairs, the interests of local communities based on community initiatives, origin rights, and traditional rights recognised in the system of government of the unitary state of the Republic of Indonesia.

Villages are at the forefront in achieving the success of all affairs and programmes from the government. The leeway given by the central government to village governments to manage the Village Fund brings many benefits, especially in village development. However, if this authority is not balanced with legal awareness, it will bring difficulties to village officials, as well as losses to villagers.

This corruption is commonly found in local (village) government in many countries. Systematic corruption leads to economic losses as it undermines incentives political losses as it undermines government institutions social losses as wealth and power fall into the hands of the undeserving. When corruption has become so entrenched that property rights are no longer respected, the rule of law is undermined, and incentives for investment are undermined.

There are five loopholes commonly used by village officials to corrupt village funds: the

planning process, the implementation planning process (nepotism and non-transparency), the procurement of goods and services in the context of the distribution and management of village funds (mark up, fictitious, and non-transparent), the accountability process (fictitious), and the monitoring and evaluation process (formality, administrative, and late detection of corruption).

The village head is required to submit a report on village administration to the regent or mayor at the end of each year and term of office. Fictitious projects. This mode is quite popular, not only in villages, but in many sectors. Unscrupulous government officials or village officials create activities, but they never actually exist.

Article 72 paragraph 2 of Law No. 6/2014 reads:

'The budget allocation as referred to in paragraph (1) letter b is sourced from Central Expenditure by streamlining village-based programmes in an equitable and fair manner.'

From this explanation, it is expected that the budget allocation from the APBN can be maximised by streamlining village-based programs evenly and equitably, meaning that the budget allocation should be able to provide justice to the village community through village programs with equitable development.

The majority of the perpetrators of village fund corruption are village heads. The corruption of village funds has an impact on the non-optimisation of public services in the village. The increasing trend of corruption is inseparable from the modus operandi of the village heads in misappropriating the village fund budget. With a variety of methods, all modes are carried out for personal gain to enrich themselves.

One of them is the corruption of abuse of authority committed by Arifin as the former Head of Suka Jaya Village, Tanjung Tiram District, Batubara Regency, who abused his authority by corrupting village funds, causing state losses of Rp. 599,524,788 (five hundred ninety-nine million five hundred twenty-four thousand seven hundred eighty-eight rupiah). The actions committed by the former head of the suka jaya village are clearly stated as unlawful acts because the elements of self-enrichment are proven and proven to misappropriate funds for the 2017 fiscal year.

Initially, the former head of the village of suka jaya ordered the Treasurer of the Village of suka jaya to go to the Tanjung Tiram Pemabantu branch of Bank Sumut to check whether the Village Fund and ADD for the 2017 Budget Year had entered the Village Account or not, then ordered the Village Treasurer to withdraw / take the funds then after the funds were taken and handed over to the former head of the village of suka jaya..

Furthermore, the use of the Village Fund and Village Fund Allocation for the 2017 Fiscal Year was not used to carry out activities in accordance with the Cost Budget Plan (RAB) and until the end of January of the following year the former head of the village of suka jaya had not also made an accountability report for the Realisation of the Implementation of the APBDes for the first and final semester to the Regent of Batu Bara which should be based on the regulation of the minister of home affairs number 113 of 2014 concerning Village financial management and the Accountability Report for the Realisation of the Implementation of the

APBDesa for the first semester no later than the end of July of the current year while the Accountability Report for the Realisation of the Implementation of the APBDesa.

The final semester is no later than the end of January of the following year, this is contrary to Article 3 paragraph (1) of Law Number 17 of 2003 concerning State Finance which states that regional finances are managed in an orderly manner, in compliance with laws and regulations, efficiently, economically, effectively, transparently, and responsibly. The Regulation of the Minister of Home Affairs Number 113 of 2014 concerning Village Financial Management Accountability Report for Realisation of APBDesa Implementation, because it hindered village development and seized the rights of the community to village development that should have taken place but was corrupted by the former Village Head of Suka Jaya and enriched himself then for these actions had implications for cutting village funds the following year after the corruption case, where there was a cut in village funds every year because Suka Jaya Village did not fulfil the accountability report.

In this research there are three ways to formulate the problem: First, it will discuss the Criminal Law regulation of the criminal act of corruption of the Village Fund, second, it will discuss how the process of monitoring the Village Fund in an effort to prevent Corruption Crime in Batu Bara Regency, and third, how the Judges' Legal Considerations in Passing Sentences on the Criminal Act of Corruption of the Village Fund in Medan District Court Decision No.59/Pid.Sus-TPK/2019/PN Mdn.

The urgency and renewal in this research is that currently one of the pressing issues is the issue of eradicating corruption, especially corruption related to village funds. Since the Republic of Indonesia was established, corruption has always haunted the dynamics of the development of the nation and state. Corruption cases have occurred in almost all government circles from the central to the village level. All efforts have been made to prevent the occurrence of criminal acts of corruption but have not shown signs of success in eradicating it. This issue continues to be the focus of the government's attention on various occasions. Corruption itself has become a problem that has a very broad destructive ability in people's lives, so it needs to be strengthened both in terms of enforcement and regulation in the law. Law No. 31/1999 in conjunction with Law No. 20/2001 on the Eradication of Corruption, Law No. 6/2004 on Villages as Prevention Efforts. Various efforts to prevent corruption of village funds need to be pursued by various parties.

The existing law on the eradication of corruption is outdated as it was enacted in 1999 and revised in 2001, making it at least 20 years old. Therefore, there are many developments that have not been covered. The purpose of reforming corruption law is to answer the challenges of eradicating corruption in the future. Sophisticated corruption crimes continue to regenerate and evolve into new forms.

METHOD

This research uses a statute approach, which is carried out by examining all laws related to corruption cases, namely Law Number 31 of 1999 in conjunction with number 20 of 2001

concerning the eradication of criminal acts of corruption, law number 6 of 2024 concerning villages and a case approach in reviewing the literature of Court Decision Number 59/Pid. The use of this type of research will produce answers related to the criminal act of corruption of village funds committed by the village head of Suka Jaya, Tanjung Tiram sub-district by using data from primary, secondary, and tertiary legal sources as secondary data mentioned in this study. The technique of collecting and processing legal materials is carried out by researching and studying legal materials and analysing them so as to produce an in-depth research.¹

DISCUSSION

A. Criminal Law Regulation on Corruption of Village Funds

Corruption explains that what is meant by abuse in office is an act committed by a government official with the power he has to embezzle financial reports, eliminate evidence and allow others to eliminate or destroy evidence with the aim of benefiting himself at the expense of state finances.²

According to Eggi Sudjana³ the crime of corruption is rottenness, depravity, dishonesty, bribery, deviation from purity, words with insulting or defamatory nuances, bribery, *niet ambtelijk corruptive* or in Indonesian the word corruption is a bad act, such as embezzlement of money, acceptance of bribes or corruption is a rotten, bad act, like accepting bribes (using their power for their own interests and so on).⁴

However, after the authority was implemented in the village, it turned out that the implementation did not run in accordance with existing policies, especially in Suka Jaya Village, Tanjung Tiram Sub-District, Batu Bara Regency. This research examines the implementation of village authority in Suka Jaya Village in order to realise village autonomy. By paying attention to the reality in the field, it provides empirical evidence of the existence of village autonomy through the implementation of the authorities contained in Law Number 32 of 2004 concerning Regional Government through Government Regulation Number 72 of 2005 concerning Villages.

The authority of the village is the authority possessed by the village, including the authority in the fields of: a. Administration of Government b. Implementation of Development c. Community Development d. Community Empowerment e. The right of origin and, f. The right of origin. Community empowerment e. The right of origin and, f. Customs and traditions

Village finances are all village rights and obligations that can be valued in money and

¹ Sunggono, Bambang. *Metodologi Penelitian Hukum*. Jakarta: Sinar Grafika, 2015. p.195

² Hamzah, Andi. *Hukum Pidana Indonesia*. Jakarta: Sinar Grafika, 2017.p.208

³ Y Kristian, Y & Gunawan. *Tindak Pidana Korupsi: Kajian Terhadap Harmonisasi Antara Hukum Nasional Dan United Nations Convention Against Corruption (UNCAC)*, Cetakan Kesattu. Bandung :PT Refika Aditama, 2015. p.23-24

⁴ Meytri, Kurniasih. Analisis Penerapan Asset Recovery dalam Tindak Pidana Korupsi untuk pengembalian Kerugian Negara, *Anti Korupsi*, 2(4), 2011. 82-95 DOI: [JURNAL ANTI KORUPSI \(unej.ac.id\) https://doi.org/10.19184/jak.v4i1.38798](https://doi.org/10.19184/jak.v4i1.38798).

everything in the form of money and goods related to the implementation of village rights and obligations. Rights and obligations give rise to revenues, expenditures, financing, and village financial management.⁵

The misuse of authority committed by the former village head should refer to Law No. 6/2014. Article 26 paragraph (1) explicitly regulates the four main tasks of the Village Head, namely organising the village government, carrying out village development, fostering the village community and empowering the village community.

With the tasks assigned, the Village Head is expected to bring the village to the direction expected by the Law. Based on the Regulation of the Minister of Home Affairs (Permendagri) Number 20/2018, Village Finance is all rights and obligations of the Village that can be valued in money and everything in the form of money and goods related to the implementation of village rights and obligations. It is the same with managing village finances.

Village finances are all Village rights and obligations that can be valued in money and everything in the form of money and goods related to the implementation of village rights and obligations. The overall activities of managing village finances include planning, implementation, administration, reporting, and accountability of village finances.

The Village Financial Management Authority Holder, hereinafter abbreviated as PKPKD, is the Village head or other designation, which because of his/her position has the overall authority to manage Village finances.

The Village Financial Management Power Holder, Article 3 of Permendagri No.20/2018 as follows the Village Head is the Village Financial Management Power Holder (PKPKD) and represents the Village Government in the ownership of separated Village assets, the Village Head as PKPKD as referred to in paragraph (1) has the authority to determine policies regarding the APBDesa, determine policies regarding the management of village property, carry out actions that result in expenditures at the expense of the APBDesa, determine PPKD, Approve DPA, DPPA, and DPAL, Approve Village RAK; and Approve SPP. In exercising the power of Village financial management as referred to in paragraph (2), the Village Head authorises part of his power to the Village apparatus as PPKD. The delegation of some of the PKPKD's powers to the PPKD is stipulated by decree of the Village Head.

There are three main points related to the priority use of village funds in 2022 as stated in Article 5 paragraph (2) of Permendes 7/2021, a form of national economic recovery in the village. Regarding the recovery of the national economy in accordance with village authority, the priority of integrated efforts to achieve sustainable goals is carried out, including poverty alleviation, to realise villages without poverty, establishment, development, and capacity building of village-owned enterprises or joint village-owned enterprises for equitable village economic growth, and development and development of productive economic businesses that are primarily managed by village-owned enterprises / joint village-owned enterprises to realise

⁵ Riswati. Analisis Pengelolaan Keuangan Desa Berdasarkan Peraturan Menteri Dalam Negeri Nomor 20 Tahun 2018, tentang pedoman pengelolaan keuangan desa, *JEKP*, 8 (1), 2021. .13-31. DOI: [JEKP \(Jurnal Ekonomi dan Keuangan Publik\) \(ipdn.ac.id\)doi.org/10.33701/jekp.v10i2](https://doi.org/10.33701/jekp.v10i2).

environmentally conscious village consumption and production.

The use of funds for national priority programs in accordance with village authority is prioritised for integrated efforts, namely village data collection, mapping of potential and resources, and management of information and communication technology as an effort to expand partnerships in village development, tourism village development for equitable village economic growth, strengthening vegetable and animal food security to realise villages without hunger, stunting prevention to realise healthy and prosperous villages; and inclusive village development to increase overall community involvement in village development.

The mitigation and handling of natural and non-natural disasters in accordance with village authority is prioritised for integrated efforts, including mitigation and handling of natural disasters, mitigation and handling of non-natural disasters, and realising villages without poverty through the Village Fund Direct Cash Assistance (BLT).

The factors that cause corruption in more detail are as follows:⁶ First, Weak religious and ethical education, Second, Colonialism, a foreign government does not inspire the loyalty and obedience needed to stem corruption, Third, Lack of education, Fourth, Poverty, in cases of widespread corruption in Indonesia, the perpetrators are not based on poverty but greed, because they are not from the circles that cannot afford to give birth to conglomerates, Fifth, Absence of harsh sanctions, Sixth, Scarcity of fertile environment for anti-corruption actors, Seventh, Government structure, Eighth, Radical change. When the value system undergoes radical change, corruption emerges as a transitional disease and state of society. Corruption in a bureaucracy can reflect the state of society as a whole.⁷

The Constitutional Court (MK) deleted the word 'may' in Article 2 paragraph (1) and Article 3 as amended by the Corruption Eradication Act (Anti-Corruption Law). That way, the corruption offence, which has been a formal offence, turns into a material offence that requires an effect, namely the element of state financial loss must be calculated in real / certain terms. Stating that the word 'may' in Article 2 paragraph (1) and Article 3 of the Anti-Corruption Law is contrary to the 1945 Constitution and has no binding legal force. Rejecting the petition of the Petitioners for other than and the rest;' reads the verdict number 25/PUU-XIV/2016 read out by the Constitutional Court Panel. In its decision, the Court considered that Article 2 paragraph (1) and Article 3 of the Anti-Corruption Law related to the application of the element of harm to state finances had shifted by emphasising the existence of consequences (material offences).

The element of harming state finances is no longer understood as an estimate, but must be understood to have actually occurred or real in tipikor. The inclusion of the word 'may' makes the offence of the two articles a formal offence. In fact, in practice it is often misused to reach many actions that are suspected of harming state finances, including discretionary

⁶ Evi, Hartanti. *Tindak Pidana Korupsi Bagian Kedua*. Jakarta: Sinar Grafika, 2018 .p.27

⁷ KPK: Faktor Struktural dan Sejarah Picu Munculnya Korupsi di Indonesia. Di akses pada Juni 29, 2024 dari artikel ilmiah : [KPK: Faktor Struktural dan Sejarah Picu Munculnya Korupsi di Indonesia \(hukumonline.com\)](https://www.hukumonline.com/berita/id/103474-faktor-struktural-dan-sejarah-picu-munculnya-korupsi-di-indonesia)

policies or decisions or the implementation of principles that are urgent and have not yet found a legal basis. This can result in criminalisation with allegations of abuse of authority, the Court in its consideration. Likewise related to business, when viewed these two articles as formal offences, it causes public officials to be afraid to take policies or worry that the policies taken will be subject to tipikor. As a result, it can have an impact on the stagnation of the state administration process, low budget absorption Criminalisation of policies occurs because there are differences in the interpretation of the word 'can' in the element of harming state finances by law enforcement officials, so that it often raises issues ranging from the calculation of the actual amount of state losses to which institutions are authorized to calculate state losses '.

Considering that corruption is an act that not only harms the country's finances and economy but more than that it causes social conflict and inequality. This means not only giving punishment to those found guilty with the maximum punishment, but also so that the state losses caused by the perpetrator's actions can be returned to all in the not too distant future. In terms of regulations, it can be said that the politics of criminal law in efforts to tackle corruption is quite significant. It can be seen how many times the legislation on the eradication of the crime of corruption has been updated. Regulations on the eradication of criminal acts of corruption have been enacted one after another, always the latter improving and adding to the former.

The essence of the existence of Article 4 of the PTKP Law as the basis for law enforcement of corruption offences that harm state finances is to emphasise that when state financial losses move into the realm of criminal law, the return of state financial losses does not eliminate the responsibility of the perpetrators of corruption offences. This is because the return of state finances in no way reduces the nature of unlawfulness in the elements of Article 2 and Article 3 of the PTKP Law, but only as a factor or mitigating circumstances for the defendant. However, it should be considered two main things in law enforcement of corruption offences in cases where the value of state financial losses is small and the cost of handling the case is large, such as corruption of village funds.

B. The Village Fund Supervision Process in an Effort to Prevent Corruption in Batu Bara Regency

The essence of the existence of Article 4 of the PTKP Law as the basis for law enforcement of corruption offences that harm state finances is to emphasize that when state financial losses move into the realm of criminal law, the return of state financial losses does not eliminate the responsibility of the perpetrators of corruption offences. This is because the return of state finances in no way reduces the nature of unlawfulness in the elements of Article 2 and Article 3 of the PTKP Law, but only as a factor or mitigating circumstances for the defendant. However, it should be considered two main things in law enforcement of corruption offences in cases where the value of state financial losses is small and the cost of handling the case is large, such as corruption of village funds.

Supervision by the BPK is directly mandated by Article 23E of the 1945

Constitution, which states that a free and independent Supreme Audit Agency is established to examine the management and responsibility of state finances. Village funds are part of state finances. State finances are all state rights and obligations that can be valued in money, as well as everything in the form of money and in the form of goods that can be used as state property in connection with the implementation of these rights and obligations.⁸

Village Funds are funds sourced from the national budget designated for villages that are transferred through the district/city APBD and used to finance governance, development implementation, community development, and community empowerment.⁹ Thus, village funds as part of state finances are also the object of supervision/examination by the Supreme Audit Agency.

The supervision carried out by the KPK is mandated by Law Number 30 of 2002 concerning the Corruption Eradication Commission. Article 6 states that the Corruption Eradication Commission has the task of coordinating with agencies authorised to eradicate corruption, supervising agencies authorised to eradicate corruption, investigating, and prosecuting corruption, taking measures to prevent corruption, and monitoring state governance. The monitoring of state governance is the entry point for the KPK to participate in monitoring village funds. KPK has not yet entered into the use of village funds, therefore KPK requests assistance from the National Police and the Attorney General's Office in monitoring village funds so that they are not misappropriated by unscrupulous officials, both regents and provinces, including village heads.¹⁰

So there are several parties that oversee this village fund. Functional supervision is carried out by the Regency and District governments in the form of reporting, carried out every month and at the end of each year. Then inherent supervision, namely supervision carried out by direct superiors through the organizational structure of the village government, in this case carried out by the village head, village officials and each head of the activity implementer. Then there is also direct supervision by the community, although in fact there has been no direct supervision by the community in the management of village fund allocations. This is due to the community's lack of understanding of the village fund allocation program.¹¹ And then there is supervision by the Supreme Audit Agency and the Corruption Eradication Commission.

Prevention efforts Various efforts to prevent corruption of village funds need to be pursued by various parties. At the very least, the first three years can be an initial lesson to minimize the potential for state financial losses in the following year. For this reason, in addition to involving villagers more pro-actively and being given authority in supervision, capacity building is also given to the BPD or empowerment institutions in the village. In

⁸ UU No. 17 Tahun 2003 tentang Keuangan Negara, Pasal 1 angka 1.

⁹ PP No. 60 Tahun 2014 tentang Dana Desa yang Bersumber dari APBN, Pasal 1 angka 2.

¹⁰ KPK Ajak Polri dan Kejaksaan Awasi Penggunaan Dana Desa, Diakses pada Februari 12, 2024 dari artikel ilmiah: <https://www.hukumonline.com/berita/a/kpk-ajak-polri-dan-kejaksaan-awasi-penggunaan-dana-desa-t57a35ea89cd41/>

¹¹ Putra, Chandra Kusuma. *Pengelolaan Alokasi Dana Desa dalam Pemberdayaan Dana Desa*, Malang : Universitas Brawijaya, 2010. p.47

addition, other strengthening is given to government officials and technical managers related to village finances. This includes strengthening and socializing regulations related to village fund.

C. Judges' Legal Considerations in Passing a Verdict on Village Fund Corruption in Medan District Court Decision NO.59/PID.SUS-TPK/2019/PN MDN.

Taking into account Article 2 Paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 Concerning the Eradication of Corruption Jo Law Number 20 of 2001 Concerning Amendments to Law Number 31 of 1999 Concerning the Eradication of Corruption, Article 197 of the Criminal Procedure Code as well as other articles of the relevant laws and regulations Adjudicating the case in Case Number 59/Pid.Sus-TPK/2019/PN.Mdn, as follows: 1). Stating that the defendant was legally and convincingly proven guilty of committing the crime of "CORRUPTION" as in the Primair indictment; 2).Sentencing the defendant to imprisonment for 6 years and 6 months and a fine of Rp. 200,000,00, - (two hundred million rupiah) provided that if the fine is not paid, it must be replaced with imprisonment for 3 months; and 3). Charges the defendant to pay restitution in the amount of Rp. 599,524,788, - (five hundred ninety nine million five hundred twenty four thousand seven hundred eighty eight thousand rupiah) if the restitution is not paid within 1 (one) month after the Court decision that has obtained permanent legal force, then the property of the convicted person will be confiscated and auctioned by the prosecutor to cover the restitution. If the convicted person does not have sufficient assets to pay the restitution, then it shall be replaced with imprisonment for 3 (three) years and 3 (three) months. In his decision the judge decided: 1). Determining that the period of arrest and detention of the defendant is fully deducted from the sentence imposed; 2).Ordering the defendant to remain in detention; 3).Determining that the evidence is attached to the case file. 4). Charged the defendant to pay court costs in the amount of Rp.10,000,- (ten thousand rupiah).

The former head of Suka Jaya Village was charged with Article 2 paragraph 1 because there were elements of unlawful acts and self-enrichment where the village funds could not be accounted for because they had been used for extravagance for his personal life.

D. Analysis of the Decision

The judge's consideration or Ratio Decidendi is an argument or reason used by the judge as a legal consideration that becomes the basis before deciding the case¹². Decision making by a panel of judges is carried out after the judges of the panel express their opinions or considerations in confidence on a case and then deliberation for consensus is carried out. If unanimity is not obtained, the decision is made by majority vote. Sometimes the judges differ in opinion or consideration so that even a majority vote cannot be obtained. If this happens, the decision chosen is the opinion of the judge that is most favorable to the defendant (Article 182 paragraph (6) KUHAP).

¹² Amir Ilyas, *Asas-Asas Hukum Pidana, Memahami Tindak Pidanan dan Pertanggungjawaban Pidana Sebagai Syarat Pemidanaan*. Yogyakarta: Mahakarya Rangkang Off set, 2017. p. 54.

Article 183 of the Criminal Procedure Code states that the judge may not impose a sentence on a person unless he or she is convinced by at least two valid pieces of evidence that a criminal offense actually occurred and that the defendant is guilty of committing it.

The Indonesian Criminal Procedure Code adheres to a negative system of evidence, which means that it only recognizes the existence of valid evidence listed in the applicable laws and regulations. Outside of this is not valid evidence.

Law has a regulatory role in society. The existence of law in society must integrate and coordinate the interests of people in society. Therefore, it is expected that their interests will not conflict with each other. To achieve this can be done by limiting and protecting these interests.

Corruption is classified as an extra ordinary crime due to its extraordinary impact, not only damaging public finances and disrupting social stability and security, but also damaging democratic values and legal certainty. Therefore, corruption, which is a special type of crime, must also be dealt with in an unconventional manner. Corruption is a serious problem that endangers the stability and security of society, jeopardizes social, economic and political development, and undermines democratic and moral values because it becomes a culture that threatens the ideals of justice and a prosperous society.¹³

In criminal law, obtaining a fair decision requires a very long process, namely through the legal process. In this process, the essence to be achieved is to find material truth, which is the basis for imposing criminal sanctions in order to achieve a sense of justice. A fair decision can be obtained if it is handled by a judge who not only has high scientific integrity.

Law as compelling rules that determine human behavior in society. In the context of the judge's decision, the rules or norms of law play a role as guidelines (*leiding*) and testing instruments (*teotsingrecht*) for human activities or a person regulated within the scope of the applicable laws and regulations. The nature of legal norms is the "das sollen" side of a judge's decision. Without paying attention to legal norms, the judge's decision is actually arbitrary.

Basically, the judge's duty is to make a decision in every case or conflict that is brought before him, determining matters such as legal relationships, the legal value of behavior and the legal position of the parties involved in a case, so that in order to be able to resolve disputes or conflicts impartially based on applicable law, the judge must always be independent and free from the influence of any party, especially in making decisions.

The judge's decision is very important, because it contains a value that can be in direct contact with human rights. In principle, only judicial decisions that have permanent legal force can be executed. A decision can be said to have permanent legal force if it is issued through an open and transparent trial and no other legal remedies are filed, besides that a judge's decision that has permanent legal force is a judge's decision that is set out in writing

¹³ Ana, Aniza Karunia. Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Dalam Perspektif Teori Lawrence M. Friedman, *Dharmasjya*,10(1), 2022. 155. [http://www. Penegakan Hukum Tindak Pidana korupsi Di Indoesesia Dalam Perspektif Teori Lawrence M. Friedman | Karunia | Jurnal Hukum dan Pembangunan Ekonomi \(uns.ac.id\).\(DOI; https://doi.org/10.20961/hpe.v10i1.62831](http://www.Penegakan Hukum Tindak Pidana korupsi Di Indoesesia Dalam Perspektif Teori Lawrence M. Friedman | Karunia | Jurnal Hukum dan Pembangunan Ekonomi (uns.ac.id).(DOI; https://doi.org/10.20961/hpe.v10i1.62831)

accompanied by various prerequisites as regulated in Article 197 of the Criminal Procedure Code Paragraph (1) including letter f (article of legislation that is the basis for punishment or action and legislation that is the legal basis for the decision, accompanied by aggravating and mitigating circumstances of the defendant) and letter h (statement of the defendant's guilt, a statement that all elements in the formulation of the criminal offense have been fulfilled along with their qualifications and the punishment or action imposed).

The judge's decision is basically a law (judge-made-law), as the law in general must be obeyed and has legal binding force on the litigants. The judge's decision is binding on the parties concerned, in the sense that the judge's decision must be considered correct until it is overturned by a higher court, even if the decision is materially incorrect (*res iusticate veritate habetur*)¹⁴.

From the position of the case that has been described previously, as for the basis of the judge's consideration in the verdict on the criminal act of corruption of village funds with Article 2 of the Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption Jo Law Number 20 of 2001 at the Medan District Court (Case Study Number: 59/PID.SUS-TPK/2019/PN MDN), it can be seen that the basis for the judge's consideration in imposing the verdict is aggravating and mitigating matters. Aggravating matters, namely: 1). The defendant's actions are not in line with government programs that are actively carrying out development from the village in order to realize the welfare of the village community; 2). The defendant did not return the state loss of Rp. 599,524,788, - (five hundred ninety-nine million five hundred twenty-four thousand seven hundred eighty-eight rupiah) while the mitigating circumstances are: 1).The defendant admitted his actions frankly; 2). The defendant has never been convicted; 3). The defendant was polite during the trial process

As for the prosecutor's indictment, the defendant was charged with the primair charge, namely violating Article 2 Paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Jo Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption which has the elements of every person, the element of unlawfully, the element of committing an act of enriching oneself or another person or a corporation and the element that can harm state finances or the state economy.

Judges in trying criminal offenders must go through the process of presenting truth and justice in a court decision as a series of law enforcement processes. In making a decision, the judge must have a basis for consideration based on conviction and supported by valid evidence so that the decision made by the judge truly fulfills the public's sense of justice. The judge in making a decision must consider many things, both those relating to the case being examined, the level of actions and mistakes committed by the perpetrator, the interests of the victim, his family and a sense of justice.

In this case, according to the author, the judge in deciding the case did not pay attention

¹⁴Marpaung, Leden. *Asas Teori Praktik Hukum Pidana*. Jakarta : Sinar Grafika, 2018.p.78

to non-judicial aspects, the convicted person should have been sentenced to a heavier penalty to provide a deterrent effect for the case he committed. Where the case had an impact on hampering the continuity of development in Suka Jaya Village, Tanjung Tiram District, Batu Bara Regency. As a result of the corruption case, the Suka Jaya Village Fund is minus every year, which is cut when the disbursement is made to cover the Accountability Report that the Suka Jaya Village Head is unable to fulfill for the Corruption Case, so this clearly has a huge impact on village development and on the empowerment of the village community. Because the actions of the former head of the village of Suka Jaya were unlawful acts that abused his authority as head of the village by ordering the witnesses to disburse funds to Bank Sumut, and also his actions were actions that only enriched himself and only concerned with personal interests which were considered to have harmed the State. Moreover, the former village head was unable to be cooperative by disappearing to escape and becoming a DPO until 2019 and was found in Sibolga, which is an act that complicates the continuity of the legal process. So in the opinion of the author, the convicted person should be sentenced to a more aggravating punishment with the things mentioned above.

Initially, a proposal for the disbursement of phase I funds was made addressed to the Sub-district Head, especially for Tanjung Tiram Sub-district and then the Sub-district Head forwarded the proposal to the Batu Bara Regent c/q Head of the Batu Bara District PMD Office, then the Batu Bara District PMD forwarded it to the Batu Bara District BPKAD for the disbursement process and found out that at the time of the disbursement the Village was notified by the Sub-district.

In this case, other village officials were not involved because an accountability report was not made because the work was not completed and the use of the Village Fund Allocation and Village Fund T.A 2017 was something that the defendant did not carry out so that an accountability report was not made, the activity was not carried out which is a form of the suspect's guilt and the defendant used the money for poya poya, namely staying at hotels, eating food, karaoke for less than 1 (one) year and 2 (two) months without working.

Then the defendant did not give any money to KAMARIAH other than KAMARIAH's honorarium as Treasurer based on this, the former head of the suka jaya village was caught up in the case alone because when the search made the disbursement with the Village Treasurer then after the disbursement was completed the money was taken entirely by the former head of the suka Jaya Village because he was afraid of robbery against the Treasurer if the money was held by the Treasurer. So this has shown that the former village head has misused the authority which has taken over the handling of these funds which should be kept in the treasury which is managed by the treasurer which of course if there is an expenditure of funds must be with the approval of the village head.

CONCLUSIONS

Corruption of village funds is mostly a matter of abuse of authority carried out by village government officials, especially to the detriment of state finances. Law Number 31 of 1999 in

conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption (UU PTKP), especially Article 2 and Article 3, makes the element of state financial loss one of the elements of corruption, the mechanism for monitoring village funds requires the involvement of all parties in the monitoring mechanism, namely the village community, the Village Consultative Body (BPD), the Government Internal Supervisory Apparatus (APIP), related OPDs such as the Community and Village Empowerment Office, the Sub-District Head, the Supreme Audit Agency (BPK) and other relevant stakeholders. A judge's decision is very important, because in it there is a value that can be in direct contact with human rights where in principle only a judge's decision that has permanent legal force can be executed. A decision can be said to have permanent legal force if it is issued through an open and transparent trial and there are no other legal remedies filed.

ACKNOWLEDGEMENT

Praise and gratitude to God Almighty for giving grace to the author to carry out this research as effectively as possible. The author would like to express his deepest gratitude to his parents, friends, and all those who have helped in this research. The author prays that God Almighty will reward with abundant goodness.

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