Criminal Liability For Corruption By Public Officials: Analysis Of Decision No. 141/Pid.Sus-TPK / 2024 / PN Mdn

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Abstract
Corruption committed by public officials is a serious violation of the integrity and trust of the public in the state administration. This study analyzes criminal liability for corruption perpetrators in their capacity as public officials through the case study of Decision No. 141/Pid.Sus-TPK / 2024 / PN Mdn. Juridical-normative approach and Decision Analysis become the basis in assessing how the application of criminal elements and the principle of responsibility. The results showed that public officials can be held criminally liable in full if proven to commit unlawful acts with awareness and bad faith. This decision confirms the importance of judicial independence in combating corruption.

I. Introduction

Corruption is an extraordinary crime that has taken root in various sectors of life in Indonesia. This crime not only harms the state's finances, but also damages the joints of national and state life, including public morality, the integrity of state institutions, and people's trust in the legal system and government.[1] In the Indonesian context, corruption has a systemic impact, because it involves many actors who have strategic positions in the government structure and financial management of the country.[2]

The phenomenon of corruption among public officials is a very serious problem. Public officials are actually public servants who are responsible for conducting government in a clean, transparent, and accountable manner. But in practice, not a few of them actually

[1] Komisi Pemberantasan Korupsi, *Laporan Tahunan KPK 2023*, Jakarta: KPK, 2024, pp. 7.
[2] Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*, Jakarta: Kencana, 2022, pp. 91.

abuse the power and authority they have for personal interests or certain groups.[3] Authority that should be used for the welfare of the people is often used as a tool to enrich themselves unlawfully.[4]

Many corruption cases involving public officials show various modes, ranging from mark-ups, fictitious procurement, bribes, gratuities, to abuse of authority in strategic decision-making.[5] One form of corruption that often occurs is the abuse of authority in the process of procurement of government goods and services. This activity is often used as a loophole to carry out malicious conspiracies between public officials and private parties with the aim of obtaining large personal profits, at the expense of public interests.[6]

In the Indonesian criminal law system, public officials who are proven to have committed corruption can be held criminally liable under the provisions of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning the eradication of corruption (UU Tipikor).[7] Criminal liability in this context is not just a form of retaliation for an unlawful act, but also a mechanism for restoring the integrity of the legal system and preventing similar crimes in the future.[8] In the Indonesian legal system, any person can only be convicted if legally and convincingly proven to have committed a criminal act with elements of guilt or mens rea.[9]

Law enforcement against corruption committed by public officials is often colored by challenges. It is not uncommon to find political intervention, pressure from interest groups, or the practices of the judicial mafia that try to undermine the legal process.[10] Therefore, the analysis of court decisions in corruption cases is very important to assess the extent to which the courts are able to carry out their judicial functions independently and professionally, while answering the public's expectations for justice and effective eradication of corruption.[11]

Verdict No. 141/Pid.Sus-TPK / 2024 / PN Mdn is one of the important decisions related to the criminal liability of public officials in corruption cases. In this case, the defendant is a head of the central tapanuli District Health Office who was charged with abusing his authority in the process of procuring goods and services that resulted in billions of rupiah in state losses. The analysis of this ruling will provide a concrete picture of how the judge applies the principles of criminal law and assesses the element of guilt of the accused in

[3] Jimly Asshiddiqie, *Etika Penyelenggara Negara*, Jakarta: Konstitusi Press, 2023, pp. 122.
[4] Agus Rahardjo, "Korupsi sebagai Kejahatan Sistemik," *Jurnal Integritas*, Vol. 8, No. 1, 2023, pp. 5–7.
[5] Indonesia Corruption Watch, *Tren Korupsi 2023*, Jakarta: ICW, 2024, pp. 14.
[6] Erdianto Effendi, "Mekanisme Pengadaan Barang dan Jasa sebagai Sumber Korupsi," *Jurnal Hukum & Pembangunan*, Vol. 53, No. 1, 2023, pp. 112.
[7] Undang-Undang Nomor 20 Tahun 2001 tentang Perubahan atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.
[8] Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, Bandung: Alumni, 2021, pp. 150.
[9] Andi Hamzah, *Asas-Asas Hukum Pidana*, Jakarta: Prenada Media, 2022, pp. 98.
[10] Komnas HAM, *Tantangan Penegakan Hukum dalam Kasus Korupsi*, Jakarta: Komnas HAM, 2024, pp. 32.
[11] Harkristuti Harkrisnowo, "Independensi Hakim dalam Menangani Perkara Korupsi," *Jurnal Yudisial*, Vol. 18, No. 2, 2023, pp. 180.

his capacity as a public official.[12]

This study aims to explain how criminal liability is applied to public officials who commit acts of corruption, focusing on case studies of such verdicts. By examining the proven criminal elements, the form of legal responsibility imposed, and the consideration of judges in deciding cases, it is hoped that this study can enrich the treasure of Indonesian criminal law, especially in the context of combating corruption and law enforcement against the state apparatus.[13]

Furthermore, this analysis will also discuss how important the meaning of the element "abuse of authority" in Article 3 of the corruption law and how the proof of this element can be done in court. By examining comprehensively, this study is expected to contribute to the strengthening of a responsive and equitable criminal law system in the face of corruption crimes committed by public officials.[14]

2. Research Method

This study is a normative legal research (legal research) conducted with the approach of legislation (statute approach), conceptual approach (conceptual approach), and case approach (case approach). Normative legal research aims to examine the principles of law, legal norms, and legislation relevant to the object of study, namely criminal liability for public officials who commit corruption.[15] The legislative approach is done by reviewing Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning the eradication of corruption, the Criminal Code (KUHP), and other legal provisions relating to criminal law and public office.[16] This approach is important for finding the legal basis and juridical foundations of the criminal liability of public officials. Conceptual approach is used to understand the basic notions in criminal law, such as actus reus, mens rea, abuse of authority, and criminal liability of public officials according to the doctrine of criminal law. With this approach, researchers explore the thoughts of criminal law experts to support the arguments in the analysis of the verdict.[17]

Meanwhile, the case approach is used by analyzing in depth the decision number 141 / Pid.Sus-TPK / 2024 / PN Mdn. The analysis was carried out on the legal considerations of the panel of judges, the elements of the articles charged, the evidence of criminal elements, and the types of criminal sanctions imposed on the accused. This ruling was chosen because it reflects judicial practice in the application of the law to public officials charged with corruption. The Data used in this study consists of primary, secondary, and tertiary

[12] Putusan Pengadilan Tindak Pidana Korupsi pada Pengadilan Negeri Medan Nomor 141/Pid.Sus-TPK/2024/PN Mdn.
[13] Nur Basuki Minarno, "Pertanggungjawaban Hukum Pidana dalam Tindak Pidana Korupsi oleh Pejabat Negara," *Jurnal Hukum*, Vol. 10, No. 1, 2024, pp. 63–65.
[14] Chairul Huda, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*, Jakarta: Kencana, 2023, pp. 165.
[15] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: RajaGrafindo Persada, 2022, pp. 13.
[16] Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, 2021, pp. 35–37.
[17] Sudarto, *Hukum dan Hukum Pidana*, Bandung: Alumni, 2023, pp. 76.

legal materials. Primary legal materials include legislation and analyzed court decisions. Secondary legal materials in the form of legal literature such as books, scientific journals, and articles from experts in criminal law and corruption. While tertiary law materials in the form of legal dictionaries and legal encyclopedias.[18] Data analysis was carried out qualitatively, that is, by interpreting legal norms and linking them with doctrine and jurisprudence, in order to produce a systematic and logical legal argument regarding the form of criminal liability of public officials in corruption. The results of this analysis are then structured in a descriptive-analytical way to explain and evaluate the application of the law by the judge in the judgment under study.[19]

3. Results and Discussion

In the No. 141/Pid.Sus-TPK / 2024 / PN Mdn, the defendant is a head of the Central Tapanuli District Health Office who is involved in the use of the Puskesmas operational assistance fund (BOK) budget. Based on the public prosecutor's indictment, the defendant is suspected of having collaborated with Henny Novriani Gultom, S.E., M.M. and the Puskesmas, namely the head of the Puskesmas and the treasurer of the Puskesmas by cutting the funds of the BOK (Health operational assistance) of the TA Puskesmas. 2023 in the amount of 50 % (fifty percent) of the amount that should be received entirely by Staff / Officers of Puskesmas receiving Bok funds (health operational assistance), each head of Puskesmas collects staff/ officers.

Furthermore, all the money from cutting funds BOK (Health operational assistance) Puskesmas TA. 2023 deposited by 25 (Twenty-Five) Heads of Puskesmas and treasurers of BOK (Health operational assistance) Puskesmas in Kabupaten Tapanuli Tengah to Henny Novriani Gultom, S.E., M.M. which was then deposited and accepted by the defendant Hj. Nursyam, M.Case. for 10 (ten) months from January to October 2023, it is Rp. 9.955.670.199,00 (nine billion nine hundred fifty five million six hundred seventy thousand one hundred ninety nine rupiah).

Money from cuts in health operational assistance funds (BOK) Puskesmas TA. 2023, the total amount of Rp. 9.955.670.199, 00 (nine billion nine hundred and fifty-five million six hundred seventy thousand one hundred and ninety-nine rupiah) was deposited by 25 (Twenty-Five) head of Puskesmas and treasurer of BOK (Health operational assistance) Puskesmas to Henny Novriani Gultom, S.E., M.M. as the head of Health Services Section referral Health Services Health Services Department of Central Tapanuli District, which then handed it over to the defendant Hj. Nursyam, M.Case. as the head of the Central Tapanuli Regency Health Office because of the power and authority of the defendant Hj. Nursyam, M.Case. as the head of the Central Tapanuli District Health Office, who is the direct supervisor of the 25 (Twenty-Five) Heads of Puskesmas and the treasurer of the Puskesmas Bok (Health operational assistance).

The Accused H. Nursyam, M.Case. together with Henny Novriani Gultom, S.E.,M.M. who received deposit money from 25 (Twenty-Five) Heads of Puskesmas and treasurer of BOK

[18] Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayumedia Publishing, 2021, pp. 52.
[19] Bambang Waluyo, *Penelitian Hukum dalam Praktek*, Jakarta: Sinar Grafika, 2023, pp. 89.

(Health operational assistance) Puskesmas in Kabupaten Tapanuli Tengah derived from funds withholding from BOK (Health operational assistance) Puskesmas TA. 2023 by 50% (fifty percent), resulting in the use of BOK (Health operational assistance) funds at 25 (twenty five) Puskesmas in Kabupaten Tapanuli Tengah TA. 2023 is no longer in accordance with its designation as stipulated in the budget plan (RAB), Plan of Action (POA) and RPD (disbursement plan) of each Puskesmas that have previously been submitted and approved by the Ministry of Health.

In short, the defendant H. Nursyam, M.Case. together with Henny Novriani Gultom, S.E.,M.M. and Herlismart Habayaan has violated the provisions as stipulated and punishable by criminal penalties in Article 11 jo Article 18 of Law No. 31 of 1999 as amended by law No. 20 of 2001 on amendments to law No. 31 of 1999 on the eradication of corruption under Article 55 paragraph (1) 1st article 64 paragraph (1) of the Criminal Code.

Accountability for the use of BOK funds made by the head of the Puskesmas and the treasurer of the BOK, cannot be accepted as legitimate accountability according to laws and regulations. This is based on the fact that in its implementation in fiscal year 2023, the 25 (Twenty-Five) Heads of Public Health Centers together with the Bok Treasurer have carried out / realized the use of BOK funds for activities outside the provisions such as: shopping for tools / materials for office activities-printed materials; shopping for food and drinks meetings; Honorarium for resource persons or speakers, moderators, hosts, and organizers; shopping for official trips within the city; shopping for Health Services; calibration.

That there is an act of withholding payments to public servants or other state officials or to the public treasury, as if the public employee or other state officials or the public treasury has a debt owed to him, even though it is known that it is not a debt at the time of performing duties as referred to in Article 12 letter f of the law on Combating Corruption.

That inclusion in a criminal offense is called deelneming. As for deelneming regulated in Article 55 paragraph (1) of the Criminal Code which states “convicted as the perpetrator of a criminal act: the 1st. Those who do, those who command to do and those who participate in doing. The provisions of Article 55 paragraph (1) to 1 in the Criminal Code are termed plegen, doenplegen and medeplegen. In criminal law there is a postulate that states “Nullus dicitur fellow principalis nisi actor AUT qui praesent est, abettans AUT auxilians actorem ad feloniam faciendam " means that a person can be called a criminal when he commits a crime or he assists and participates in committing a crime. It is worth experts add that not all actors participants in medeplegen meet all elements of the offense. It is possible that in medeplegen there are participants who meet the elements of delinquency but there are also those whose actions concretely do not meet all the elements of delinquency. But overall all the actions of medeplegen is a series of actions.

Furthermore, in the case of corruption, although in Article 11 and Article 12 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the eradication of corruption does not contain the element of “state financial losses”, but against the perpetrators of corruption

charged with Article 11 and Article 12 of the law on the eradication of corruption can still be charged to pay replacement money as stipulated in Article 18 of the law on the eradication of corruption. This is in accordance with the provisions of Article 17 of the law on the eradication of corruption which states: "in addition to being sentenced to a crime referred to in Article 2, Article 3, Article 5 to Article 14, the defendant may be sentenced to additional crimes referred to in Article 18".

As for the elements of the matter namely::

a) Civil servants or state officials
b) Receiving a gift or promise
c) Whereas it is known or reasonably suspected, that the gift or promise is given because of power or authority related to his position, or that according to the mind of the person giving the gift or promise there is a relationship with his position.
d) The act of doing, ordering, or participating in something.
e) Elements of some acts of which there is a linkage in such a way that it should be viewed as a continuing act

In Article 11 of jo Article 18 of Law No. 31 of 1999 on the eradication of corruption as amended by Law No. 20 of 2001 on amendments to Law No. 31 of 1999 on the eradication of corruption Jo. Article 55 Paragraph (1) of the 1st jo Article 64 Paragraph (1) of the Criminal Code, Law No. 46 of 2009 on corruption courts and Law No. 8 of 1981 on Criminal Procedure Law and other regulations concerned, states the defendant Hj. Nursyam, M.The case has been proven legally and convincingly guilty of corruption as charged in the first alternative indictment, convicting the defendant Hj. Nursyam, M.Case with imprisonment for 1 (one) year and 4 (four) months and a fine of Rp.100,000,000. 00 (One Hundred Million rupiah) with the provision that if the fine is not paid, it must be replaced with imprisonment of 1 (one) month and punish the defendant Hj Nursyam, M.Case to pay a replacement sum of Rp10, 608, 514, 4250.50 (ten billion six hundred eight million five hundred fourteen thousand four hundred twenty five rupiah point fifty cents) with provisions if you do not pay the replacement money within 1 (one) month after the verdict acquires permanent legal force, then the property can be seized by the public prosecutor and auctioned to cover the replacement money and in the event that the convict does not have sufficient property to pay the replacement money, it must be replaced with imprisonment for 1 (one) year.
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4. Conclusion

Criminal liability against public officials in corruption as analyzed in Decision No. 141/Pid.Sus-TPK / 2024 / PN Mdn shows that state officials are not immune from the law and can be held criminally liable individually. This ruling reinforces the principle that any official who abuses his authority to benefit certain parties or causes financial losses to the

[20] Maswandi, M. Penerapan Hukuman Mati Bagi Koruptor Dalam Perspektif Islam Di Indonesia. *Jurnal Mercatoria*, Vol. *9* No. 1 2016 , pp.75–85. https://doi.org/10.31289/mercatoria.v9i1.353

state can be sentenced to criminal sanctions in accordance with Article 11 in conjunction with Article 18 of law no. 20 of 2001 on amendments to law No. 31 of 1999 on the eradication of corruption Jo. Article 55 Paragraph (1) of the 1st Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code. In the A quo case, the elements of unlawful acts, abuse of authority, and state losses have been legally and convincingly proven. The application of the mens rea doctrine or personal error by the panel of judges is also in accordance with the general principle of criminal law, namely that there is no criminal liability without fault. The defendant's willfulness in signing a document that he knows to be fictitious constitutes a form of dolus that qualifies for criminal liability. This ruling also reflects that the sentencing system in corruption cases has begun to accommodate the purpose of repressive and preventive sentencing. However, in terms of the country's financial recovery, the imposition of money substitutes that are not equivalent to the country's total losses indicates that the punishment does not yet fully reflect the ideal restorative approach.

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