



CRIMINAL RESPONSIBILITY AGAINST VILLAGE HEADS WHO COMMIT CRIMINAL ACTS OF VILLAGE FUND CORRUPTION

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Abstract

Corruption is a special criminal act. One form of equitable and just national development is development carried out not only in urban areas, but also in rural areas through the provision of Village Funds from state finances. However, the state's efforts, in this case the central government, to develop villages seem to be hampered by criminal acts of corruption committed by unscrupulous Village Heads. The problem formulation that will be the main topic of discussion is what are the legal procedures for managing Village Funds which originate from State Finance? What is the criminal responsibility for individual Village Heads who commit criminal acts of Village Fund corruption? This research is normative juridical research, namely research that refers to legal norms contained in Legislation, Court Decisions and legal norms that exist in society regarding what happens in reality in society which is related to the research material. In this research, it can be concluded that individual Village Heads who commit criminal acts of Village Fund corruption can be charged under Article 2 or Article 3 in conjunction with Article 18 Paragraph (1) letter b of Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to the Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes. The author's advice to law enforcement officials, especially the justice profession, is to prioritize the principles of law enforcement in deciding cases and in giving punishment to corruptors in Indonesia.

Keywords: *Village Head, Corruption Crimes, Village Funds*

A. INTRODUCTION

One of the ideals of the Indonesian nation as an independent country is sustainable and sustainable economic development. One form of this should be for Indonesia to be declared as one of the developed countries in the world. However, complex problems haunt these ideals. One of the problems is criminal acts of corruption which are increasingly widespread in all aspects of national and state life. Todaro and Smith stated that the goal of economic development is to improve people's welfare and create equitable distribution. One form of equitable and just national development is development carried out not only in urban areas, but also in rural areas. The village is the leading edge of the area in contact with the community. The progress of the village is the progress of its community. Therefore, it needs to be continuously thought about and then realized so that the village can progress, both from economic, administrative and community participation aspects. Village development needs to be directed at the realization of an "independent village", namely a village whose residents have a high enthusiasm for development, who have the ability to identify village problems, develop plans to solve problems and implement these plans as efficiently and effectively as possible, by first- primarily relies on resources and funds originating from village communities, and is able to maintain the continuity of the development process. Regional financial management mandated by the Regional Government Law is efficient, economical, effective, transparent and responsible by paying attention to a sense of justice, propriety and benefit to the community.

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The budget for each village throughout Indonesia will receive funds whose budget calculation is based on the number of villages taking into account, among other things, population size, poverty rate, area area, and level of geographic difficulty in order to improve welfare and equitable village development. As for Article 72 of Law of the Republic of Indonesia Number 6 of 2014 concerning Villages, which basically states that one of the sources of village funds comes from the State Revenue and Expenditure Budget (APBN). Article 72 paragraph (2) of Law of the Republic of Indonesia Number 6 of 2014 concerning Villages, explains that the amount of budget allocation intended directly for villages is determined at 10% from and beyond transfer funds to regions (on top) in stages. In its preparation, the budget sourced from the APBN for villages is calculated based on the number of villages and allocated taking into account population size, poverty rate, area area and level of geographical difficulty in order to improve welfare and equitable village development.

From the explanations above, it can be seen that the State is really serious about developing rural areas by allocating special funds sourced from the APBN. It is hoped that the large amount of funds allocated will trigger village development and development, including economic development, infrastructure and Human Resources (HR) development. With the Village Fund, the source of income in each village will increase. Increased village income provided by the government to improve the standard of living of village communities. However, the existence of Village Funds also raises new problems in management. Village governments are expected to be able to manage in accordance with statutory regulations efficiently, economically, effectively, transparently and responsibly by paying attention to a sense of justice and compliance and prioritizing the interests of the community.

However, ironically, the state's efforts, in this case the central government, to develop villages seem to be hampered by criminal acts of corruption committed by unscrupulous Village government officials. Individual Village Government officials such as Village Heads who have the authority to manage village funds then abuse their power by committing criminal acts of Village Fund corruption. The definition of authority according to Budihardjo is institutionalized power, the ability to carry out certain legal actions which are intended to give rise to legal consequences, and rights which contain the freedom to carry out or not carry out certain actions or demand that other parties take certain actions.

Abuse of authority according to Rivera and Waline in Willy DS's book consists of 3 types, namely:

1. Abuse of authority to carry out actions that are contrary to the public interest or to benefit personal, group or class interests.
2. The second abuse of authority is that the official's actions are truly intended for the public interest, but deviate from the purpose for which the authority is granted by law or other regulations.
3. The final abuse of authority is abusing procedures that should be used to achieve certain goals, but have used other procedures to achieve them.

Village funds which are expected to contribute to village development become land for irresponsible individuals to enrich themselves. This Village Fund corruption adds to the dark track record of this illegal act in this country. In line with that, Ermansjah Djaja stated that corruption is nothing new in this country. Corruption in Indonesia is even classified as an extra-ordinary crime or extraordinary crime because it has damaged not only the State's finances and the State's economic potential, but has also destroyed the socio-cultural, moral, political and legal pillars of national security. A criminal act of corruption cannot be separated from money involving the state. This money is money belonging to the state which was taken by corruptors and used individually or collectively, so the money that should have belonged to the state which was lost must be returned to the state. Corruption not only harms state



finances, but also has the potential to damage the foundations of social life and people's economic rights.

The terminology of state finances is very significant as one of the main elements that must be proven by the Public Prosecutor (JPU) when bringing a defendant to trial on charges under Article 2 and/or Article 3 of the Law of the Republic of Indonesia Number 31 of 1999 in conjunction with the Law of the Republic of Indonesia. Law of the Republic of Indonesia Number 20 of 2001 concerning Eradication of Corruption Crimes. For his actions, the Defendant was charged with violating Article 3 Juncto Article 18 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Crimes. In the research, the author included examples of criminal acts of corruption committed by individual Village Heads in the Decision Number 5/Pid.Sus-TPK/2023/PT PAL, in the decision the defendant named Arpin Abdullah was charged that the 2019 Village Fund (DD) was budgeted for infrastructure development in Lamontoli Village, Kec. South Bungku, Kab. Morowali, Prop. Central Sulawesi according to APBDes changes include:

- 1) Implementation of village-owned PAUD/TK/TPA/TKA/TPQ/Non-Formal Madrasah for IDR. 31,300,000.- (Thirty million three hundred thousand rupiah);
 - 2) The implementation of posyandu is IDR. 47,285,000.- (Forty-seven million two hundred and eighty-five thousand rupiah);
 - 3) Maintenance of buildings/infrastructure for village halls/community halls amounting to Rp. 418,482,000.- (Four hundred and eighteen million four hundred and eighty two thousand rupiah);
 - 4) Support for the implementation of the construction/rehab program for Uninhabitable Houses (RTLH) amounting to Rp. 266,448,000.- (Two hundred and sixty six million four hundred and forty eight thousand rupiah)
 - 5) Organizing village-level youth and sports festivals/competitions amounting to Rp. 14,102,000.- (Fourteen million one hundred and two thousand rupiah);
 - 6) Fisheries assistance (seeds/feed/etc.) amounting to Rp. 60,000,000.- (Sixty million rupiah).
- Meanwhile Dana D

Based on the court's decision, the Defendant ARPIN ABDULLAH was sentenced to imprisonment for 4 (four) years, and a fine of IDR 200,000,000.00 (two hundred million rupiah) with the provision that if the fine is not paid, it will be replaced by imprisonment for 3 (three) months.

B. FORMULATION OF THE PROBLEM

1. What are the legal procedures for managing Village Funds which originate from State Finance?
2. What is the criminal responsibility for individual Village Heads who commit criminal acts of Village Fund corruption?

C. RESEARCH METHODS

1. Nature of Research

The nature of the research is descriptive research, namely the aim of describing or analyzing research results. This research describes the criminal responsibility of individual Village Heads who commit criminal acts of Village Fund corruption.

2. Types of research

This type of research is normative juridical research, namely research that refers to legal norms contained in statutory regulations, court decisions and legal norms that exist in society.

3. Method of collecting data

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Because this research is normative research, the data collection method used is library research and document study. The literature study in this research is to look for theoretical foundations and research problems.

4. Data Type

a. Primary Legal Materials

Data obtained through Law of the Republic of Indonesia Number 6 of 2014 concerning Villages, Law of the Republic of Indonesia Number 20 of 2001 concerning Eradication of Corruption Crimes,

b. Secondary Legal Materials

Data obtained from books, journals, documents, legal scientific writings and the internet.

c. Tertiary Legal Materials

Data whose legal materials provide explanatory information regarding primary legal materials and secondary legal materials.

5. Data analysis

After the data has been collected, both primary and secondary, it is then analyzed again using qualitative analysis methods as data analysis based on quality, quantity and real characteristics that apply in society. How to analyze data sourced from legal materials based on concepts, theories, statutory regulations, doctrine, legal principles, expert opinions or researchers' own views, which are related to criminal responsibility for individual Village Heads who commit criminal acts of Village Fund corruption.

D. DISCUSSION

1. Legal Procedures for Management of Village Funds Sourced from State Finances

That in order to support the realization of good governance in village administration, village financial management is carried out based on governance principles, namely transparent, accountable and participatory and carried out in an orderly and budgetary manner. Village financial management is managed within 1 (one) budget year, namely from January 1 to December 31, this is as specified in Article 2 of the Minister of Home Affairs Regulation Number 37 of 2007 concerning Village Financial Management. To realize expectations that are in line with what society needs, the government has moved to create Presidential Regulation of the Republic of Indonesia Number 2 of 2015 concerning the National Development Agenda, which contains the focus of Indonesia's development program from the outskirts of regions in order to support community welfare.

In relation to regional financial management, the President hands over regional management powers to governors/regents/mayors as heads of regional governments in separate ownership of regional assets. Article 10 Paragraph (1) of Law of the Republic of Indonesia Number 17 of 2003 concerning State Finance explains that regional financial management powers include (1) being exercised by the head of the regional financial management work unit as the APBD management official and (2) being exercised by the head of the work unit regional officials as official users of goods/regional budgets. According to Thomas, management is a process or series of work carried out by a series of groups of people in which there is planning, organizing, implementing and supervising by utilizing existing potential to achieve certain goals. Management of Village Funds (DD) in Presidential Regulation No. 60 concerning Village Funds article 2 states that Village Funds are managed in an orderly manner, in compliance with statutory provisions, efficiently, economically, transparently and responsibly by paying attention to a sense of justice and propriety and prioritizing the interests of the community local. Meanwhile, in Regulation of the Minister of Finance Number 49 concerning Procedures for Allocation, Distribution, Use, Monitoring and Evaluation of Village Funds, article 22 paragraph (2) states that the



implementation of activities financed from Village Funds is prioritized to be carried out efficiently using local resources/raw materials, and endeavored to absorb more labor from local village communities.

The Village Fund Allocation management cycle based on Government Regulation Number 43 of 2014 concerning Implementation and in accordance with Minister of Home Affairs Regulation Number 113 of 2014 concerning Village Financial Management includes:

- a. Plan preparation;
- b. Village Deliberation involving village elements, BPD, and community groups starting from the hamlet level to the village level; And
- c. Determination.

State finances based on Law of the Republic of Indonesia Number 17 of 2003 concerning State Finances in Article 1 point 1 explains that "State Finances are all the rights and obligations of the State which can be valued in money, as well as everything whether in the form of money or in the form of goods that can be used as property. state is related to the implementation of these rights and obligations". Furthermore, according to the Government Regulation of the Republic of Indonesia Number 58 of 2005 concerning Regional Financial Management, it is a whole activity which includes planning, implementation, administration, reporting, accountability and supervision of regional finances.

Regarding this matter, Adrian Sutedi stated that the conception of state finance provides a high philosophical understanding, especially of the position of state finances determined by the State Revenue and Expenditure Budget (APBN) as a form of incarnation of sovereignty. In other words, the essence of public revenue and state financial expenditure in the APBN is sovereignty. As a constitutional institution, the Financial Audit Agency (BPK) has a big role in examining everything related to the use of state finances, this is stated in the provisions of Article 23 paragraph (5) of the 1945 Constitution. The position of the BPK in accordance with the constitutional mandate as a state institution that audits state finances needs to be strengthened, accompanied by strengthening its role and performance. Independence and freedom from dependence on the government in terms of institutions, audits and reporting are very necessary for the BPK so that it can carry out the tasks mandated by the 1945 Constitution.

Examining the management and responsibility of state finances is a complex issue occurring in this country. This is because inspection activities as a management function aim to determine the level of success and failure that occurs, after plans are made and implemented by government organs. In this case, of course, it has implications for the Corruption, Collusion and Nepotism (KKN) practices that have occurred so far, which have caused much harm to state finances, because there are indications of deviations between management and accountability of state finances which have been found by the BPK. Thus, the success of village fund management is measured by increasing community knowledge about the existence of village funds as well as increasing community participation in village level development planning deliberations, and increasing community knowledge about accountability for the use of village funds which must be carried out by the Village Government. Because if in the management of village funds sourced from state finances it turns out that there are irregularities committed by the Village Government, an inspection will be carried out by the BPK. Therefore, perpetrators of abuse such as corruption in Village Funds which originate from state finances must be held accountable for these actions.

2. Criminal Responsibility for Individual Village Heads Who Commit Criminal Acts of Village Fund Corruption

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As explained in the previous discussion, Village Funds are state finances whose use or management must be administratively accountable to the State. If there is misuse in the management of Village Funds, then anyone involved in it is obliged to be held accountable for their actions through the criminal justice process.

a. Proving Corruption Crimes in the Criminal Justice System in Indonesia

Evidence according to Eddy OS Hiariej is the provisions regarding evidence which include evidence, evidence, methods of collecting and obtaining evidence up to the presentation of evidence in court as well as the strength of evidence and the burden of proof. This means that proof is an effort to obtain information through evidence and evidence in order to gain confidence in whether the alleged criminal act is true or not and to determine whether there is guilt in the defendant. That criminal procedural law aims to seek and obtain or at least approach the material truth, namely the complete truth of a criminal case by applying the provisions of criminal procedural law honestly and precisely to find out who the perpetrator is who can be accused of committing a violation of the law and then request an examination and verdict. from the court to determine whether it is proven that a criminal act has been committed and whether the accused person can be blamed.

The legal sources of evidence are:

- 1) Constitution;
- 2) Doctrine or teaching;
- 3) Jurisprudence.

Thus, the evidentiary system in the criminal justice system for criminal acts of corruption in Indonesia aims to shed light on a criminal act of corruption, including in the case of a criminal act of corruption committed by a village head, which leads to the belief that a criminal act actually occurred and that the defendant guilty of committing a criminal act of corruption and evidence can be confiscated to compensate the state for losses, and the perpetrator of a criminal act of corruption is held accountable for his corrupt act.

b. Corruption Crime Justice System To Provide Criminal Sanctions Against Individual Village Heads Who Commit Crimes of Corruption of Village Funds

The criminal justice system is a system in a society for dealing with crime problems. Overcoming is defined as controlling crime so that it is within the limits of tolerance. Furthermore, Mardjono Reksodiputro defined that what is meant by the criminal justice system is a crime control system consisting of police institutions, prosecutors, courts and prisons for convicts.¹ Muladi in Romli Atmasasmita's book states that the criminal justice system is a judicial network that uses material criminal law, formal criminal law and criminal implementation law. However, this institution must be seen in a social context. A nature that is too formal if based solely on the interests of legal certainty will bring disaster in the form of injustice.

Accountability is a central concept known as the doctrine of guilt. In Latin, the meaning of guilt is known as *mens rea*, which is based on an action that does not result in a person being guilty unless the person's thoughts are evil. In English, this doctrine is formulated as an act does not make a person guilty, unless the mind is legally blameworthy. Based on this principle, two conditions can be formulated that must be fulfilled in order to impose criminal sanctions on someone, namely that there is a

¹Romli Atmasasmita, *Contemporary Justice System*, Kencana Preneda Media Group, Jakarta, 2010,



prohibited external act or criminal act (actus reus) and there is an evil or disgraceful inner attitude (mens rea). The Indonesian nation's efforts to increase the eradication of criminal acts of corruption are realized in the form of updating the substantive aspects of law which include legal rules relating to corruption and structural aspects by establishing special institutions tasked with eradicating criminal acts of corruption.

Renewing the legal substance aspect, namely making changes to legislation regarding corruption, which was originally based on Law Number 3 of 1971, was replaced with Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (UU Tipikor). Meanwhile, from the legal structure aspect which includes legal institutions, the Corruption Eradication Commission (KPK) has been established based on Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK Law) whose duties include, among other things, as an investigator and public prosecutor for criminal acts of corruption whose nominal value is more than of one billion rupiah. Apart from that, a Corruption Crime Court (Tipikor Court) has also been established based on Law Number 46 of 2009 concerning Corruption Crime Courts (Tipikor Court Law).

The Corruption Court is the only court that has the authority to examine, try and decide cases of criminal acts of corruption as regulated in Article 5 of the Anti-Corruption Law. Furthermore, based on the provisions of Article 3 of the Corruption Law, the Corruption Crime Court is located in each district/city capital whose jurisdiction includes the jurisdiction of the relevant district court. However, during the transition period, based on the provisions of Article 35 Paragraph (1) and Paragraph (2) of the Corruption Law, it was stipulated that with this law, for the first time, Corruption Courts were established in every District Court in the Provincial Capital. Meanwhile, the legal area includes the legal area of the province concerned. As in North Sumatra Province, the Corruption Crime Court is located at the Medan District Court. Because the Medan District Court is a court that has relative authority to try cases in the jurisdiction of Medan City as the capital of North Sumatra Province. As per the author's research, Decision Number: 112/Pid.Sus-TPK/2018/PN Mdn is a Village Fund Corruption Crime Decision whose case was examined, tried and decided at the Corruption Crime Court at the Medan District Court.

E. CLOSING

a. Conclusion

- 1) Legal Procedure for Management of Village Funds Sourced from State Finances The legal procedure for managing Village Funds sourced from state finances is that the Regional Government has been fully entrusted by the Central Government to manage the region itself through regional autonomy, so that the success of Village Fund management is measured by increasing public knowledge about its existence. Village Funds as well as increasing community participation in Village level development planning deliberations, and increasing community knowledge about accountability for the use of Village Funds which must be carried out by the Village Government. Because if in the management of Village Funds which originate from state finances it turns out that there are irregularities committed by the Village Government, an inspection will be carried out by the BPK. Therefore, perpetrators of abuse such as corruption in Village Funds which originate from state finances must be held accountable for these actions.
- 2) Criminal liability for individual Village Heads who commit criminal acts of Village Fund corruption is that the perpetrator can be charged under Article 2 or Article 3 Juncto Article 18 Paragraph (1) letter b Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of

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1999 concerning Eradication of Corruption Crimes. Corruption crime cases are tried in a special court for corruption crimes, namely the Corruption Crime Court at the District Court. As in North Sumatra Province, the Corruption Crime Court is located at the Medan District Court. Because the Medan District Court is a court that has relative authority to try cases in the jurisdiction of Medan City as the capital of North Sumatra Province.

b. Suggestion

- 1) It is hoped that every Indonesian, wherever they are and whatever their job, status and position in the government or private system, will avoid committing criminal acts of corruption and not commit criminal acts of money laundering, and become anti-corruption pioneers. This is very beneficial for the progress and sustainability of development in the Unitary State of the Republic of Indonesia. It is also hoped that the community and police will participate in overseeing Village Fund Management so that it can be right on target and in accordance with Central Government programs.
- 2) It is hoped that law enforcement officials will prioritize law enforcement so that the principle of law enforcement is in deciding cases and in giving punishment to corruptors in our beloved country of Indonesia. Moreover, judges as law enforcement officers are role models for other law enforcement officers as well as for the general public in terms of law enforcement that is wise, wise and fair.

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