

LEGAL REVIEW OF ADDITIONAL CRIMINAL SANCTIONS IN DECISION NUMBER 17/PID.SUS-TPK/2023/PN PLK

Theresia¹, Rico Septian Noor², Rizki Setyobowo Sangalang³

^{1,2,3}Universitas Palangkaraya

Email: theresiajuran735@gmail.com, rizkisetjowowo@law.upr.ac.id

Received : 25 December 2025

Accepted : 27 January 2026

Revised : 02 January 2026

Published : 14 February 2026

Abstract

Decision Number 17/Pid.Sus-TPK/2023/PN Plk, handed down by the Palangka Raya Corruption Court against defendants Ben Brahim S. Bahat, former Regent of Kapuas, and Ary Egahni, member of the Indonesian House of Representatives, is an example of the application of additional penalties in corruption cases. The judge not only imposed the principal penalty of imprisonment and a fine, but also additional penalties in the form of a replacement payment of Rp8.8 billion and revocation of political rights to be elected to public office for five years after completing the sentence. This study aims to analyze the judge's considerations in imposing these additional penalties using normative, philosophical, and sociological approaches, and in relation to applicable criminal theories in Indonesia. The results of the analysis indicate that the additional penalty of replacement money was imposed based on Article 18 of the Corruption Law and Supreme Court Regulation Number 5 of 2014, with the consideration of returning state losses proportionally. Meanwhile, the revocation of political rights is based on Article 35 of the Criminal Code and the Constitutional Court Decision which confirms the constitutionality of the revocation of political rights of corruption perpetrators. From a sentencing theory perspective, the judge balanced the objectives of retributive, deterrence, and corrective justice. This decision demonstrates that the court not only upholds the law but also safeguards the integrity of democracy and rebuilds public trust in anti-corruption efforts.

Keyword: *Legal Review Of Additional Criminal Sanctions, Decision Number 17/Pid.Sus-Tpk/2023/Pn Plk*

Background

Corruption is an extraordinary crime with systemic and metastatic impacts, eroding the very foundations of state life in the legal, political, social, and economic dimensions. Corruption not only distorts the allocation of state financial resources, but more fundamentally, it undermines the fundamental principles of the rule of law: substantial justice, equality before the law, and public trust as the foundation of the social contract between citizens and state officials. In this context, corrupt practices carried out by state officials represent the state's failure to carry out its protective function to guarantee citizens' constitutional rights in a fair and balanced manner. As emphasized by Noor (2018), a state based on the rule of law is not only required to establish good regulations (*good legislation*), but must also ensure effective and just law enforcement . Failure in implementation, especially when it involves public officials, has the potential to give rise to structural injustice and marginalize the public interest, thereby losing the spirit and legitimacy of the law.

Efforts to eradicate corruption in Indonesia have a strong normative foundation through Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. This law not only regulates the main penalties (imprisonment and fines) which are retributive in nature, but also accommodates additional penalties as regulated in Article 18, which include the payment of compensation, confiscation of goods, revocation of certain rights, and the announcement of the verdict. The existence of these additional penalties reflects the development of a holistic sentencing paradigm, where criminal law on corruption is no longer oriented solely on retribution *against* individual perpetrators, but also on restoring the situation (*restitutio in integrum*) and protecting the public interest in the future. It has a dual function: as *a remedy* to recover state losses and as a *safeguard* to revoke privileges that have been abused. Philosophically, additional penalties play a crucial role in efforts to restore the socio-legal balance that has been torn apart by criminal acts. From the perspective of substantive justice put forward by Noor et al. (2024), justice should not stop at formal certainty, but must be realized in

real protection of rights harmed by abuse of power. Additional penalties in the form of compensatory money are the personification of corrective justice, which requires the perpetrator to materially repair the damage they have caused. Meanwhile, the revocation of political rights, as imposed in the reviewed decision, is an instrument of preventive and protective justice, aimed at protecting the political system and democracy from infiltration by actors proven to have damaged the integrity of public office. As analyzed by Noor (2023) in the context of *the judicialization of politics*, court decisions have a real impact on democratic governance. Therefore, the revocation of political rights by judges is not merely the application of articles, but also a constitutional statement that political power must be protected from those who have betrayed the public trust.

The case study used in this research is Decision Number 17/Pid.Sus-TPK/2023/PN Plk, handed down by the Corruption Court at the Palangka Raya District Court. This decision is interesting because it not only sentenced Ben Brahim S. Bahat (former Regent of Kapuas) and Ary Egahni (member of the Indonesian House of Representatives) to prison, but also imposed additional penalties in the form of compensation of Rp8.8 billion jointly and severally and revoked the right to be elected to public office for five years. The imposition of these additional sanctions, specifically the revocation of political rights against a member of the legislature and a former regional head, raises complex and profound legal questions. First, how is the judge's legal reasoning constructed *in* interpreting the provisions of Article 18 of the Corruption Law and Supreme Court Regulation Number 5 of 2014 into a specific amount of compensation? Second, how does the judge construct the argument for applying the revocation of political rights, and to what extent has this consideration fulfilled the principle of proportionality and taken into account relevant Constitutional Court decisions? Third, have the judge's considerations addressed the sociological and constitutional dimensions of the sanctions, as illustrated by various studies on the need for decisions that are not only procedurally just but also substantively just?

This is where the urgency of this research lies. Although a normative legal framework exists, as Noor (2018) frequently points out, there is often a gap *between* legal norms on paper (*law in books*) and their practical application in the courtroom (*law in action*). This gap has the potential to create legal uncertainty, inconsistency, and ultimately weaken the deterrent effect and legitimacy of corruption eradication efforts themselves. Therefore, research into a concrete decision such as this is necessary to examine and reflect on the extent to which the ideals of substantive justice and protection of the public interest can be realized through additional criminal instrumentation. Based on the description above, this study uses a normative juridical approach to answer two fundamental questions: first, how are additional sanctions regulated in corruption crimes according to positive law provisions in Indonesia? Second, what are the judge's considerations in imposing additional criminal sanctions in Decision Number 17/Pid.Sus-TPK/2023/PN Plk? By examining this decision in depth, this research is expected to not only provide an academic contribution in enriching the discourse on criminal law on corruption, but also can become a critical evaluation material for judicial practice so that it remains in line with the principles of a state based on law that is substantive justice and oriented towards the restoration and protection of public interests.

Formulation of the problem

Based on the background described above, the problem formulation in this research is as follows:

1. How are additional sanctions regulated in criminal acts of corruption according to positive legal provisions in Indonesia?
2. What were the judge's considerations in imposing additional criminal sanctions in Decision Number 17/Pid.Sus-TPK/2023/PN Plk?

Research methods

The research method used in this paper is the normative juridical method, namely legal research that focuses on written legal norms. This research emphasizes the analysis of laws and regulations, legal principles, doctrines, legal theories, and relevant court decisions. This approach is also known as the library approach, because the main data sources come from primary, secondary, and tertiary legal materials. More specifically, this research uses a case approach, through an analysis of Decision Number 17/Pid.Sus-TPK/2023/PN Plk as a concrete example of the application of law in judicial practice, and examines legal principles such as the principle of legality, the principle of proportionality, and the purpose of punishment, which serve to provide a theoretical basis in understanding the application of criminal law on corruption.

Regulation of Additional Sanctions in Corruption Crimes According to Positive Legal Provisions in Indonesia

Legal Substance In order to enforce the law on corruption, the State of Indonesia has 65 laws and regulations related to the eradication of corruption³⁸. One of the laws and regulations that regulates the eradication of corruption is Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. In these laws and regulations, there are types of criminal sentences imposed by judges for corruption crimes, such as life imprisonment, imprisonment with a predetermined time, fines and the death penalty. Despite having these laws and regulations, there are still 5,125 criminal acts of corruption in Indonesia from the Year During the 2020-2024 period, the Corruption Eradication Commission (KPK) handled a total of 2,730 corruption cases, named 691 suspects, and conducted 36 sting operations (OTT). Data from GoodStats states that the total state loss due to corruption in the first semester of 2024 reached IDR 5.2 trillion, increasing drastically in the second semester due to the PT Timah case which caused losses of up to IDR 300 trillion. This shows that law enforcement in the legal substance indicators in the State of Indonesia is still not running effectively.

Legal Structure In the context of enforcing the law on criminal acts of corruption, the State of Indonesia has law enforcers who have the authority to examine, try and decide cases of abuse of authority committed by state officials or state agencies in order to create justice, peace and order in the state and society. To achieve success in enforcing the law against criminal acts of corruption, good commitment and cooperation are required between law enforcers, such as the police, prosecutors, judges, advocates, the community and the Corruption Eradication Commission. Under the Indonesian legal system, corruption investigations and prosecutions are conducted by police investigators. However, after entering the reform era, when corruption became increasingly rampant, the Corruption Eradication Commission (KPK) was established. The KPK has a relationship of authority with Police Investigators and Public Prosecutors, namely conducting investigations, inquiries, and prosecutions of corruption crimes. The relationship of authority between these three institutions does not have a specific division. All three take legal action against perpetrators of corruption based on reports of alleged corruption. In carrying out their duties, if someone is proven to have committed a crime of corruption and is proven to have violated the law, then law enforcement is obliged to process the act with existing penalties in accordance with applicable laws and regulations, regardless of status and position.

In essence, corruption is a form of abuse of power by someone holding a strategic position in government for personal or group gain. In the context of criminal law, corruption is an unlawful act that harms state finances and the people's economy. Corruption occurs due to moral deviations and the abuse of authority by individuals entrusted with the people's trust. Throughout history, the practice of corruption has always been closely linked to power. This phenomenon occurs not only in Indonesia but also in various other countries around the world. When power is not accompanied by an effective oversight system, corruption thrives. This abuse of power has implications for the collapse of justice, a decline in public trust, and significant socioeconomic inequality in society. Corruption in Indonesia is worsening due to a political structure that fosters abuse of power. Public officials who gain power through the political process often use their positions as a means to recoup the political capital expended during their campaigns. This phenomenon is known as high-cost politics. Elected officials then attempt to recoup their political capital through corrupt practices, such as project procurement, the buying and selling of positions, or the acceptance of bribes. In these circumstances, corruption is no longer committed by individuals alone but has become an institutionalized practice, where political parties, businesspeople, and the bureaucracy collaborate in a network of mutually beneficial interests. As a result, corruption has become an ingrained part of the political and economic system that is difficult to eradicate.

From a legal and social perspective, the impact of corruption is vast and multi-layered. Economically, corruption causes significant losses to state finances. Public funds that should be used to build public facilities, education, health, and public welfare are instead misappropriated for personal gain. This hampers national development, increases social inequality, and decreases the quality of life. Socially, corruption creates injustice and undermines public trust in the government. People who should benefit from development instead become victims of policies misused by public officials. The political impact of corruption is also fatal, as it destroys the foundations of democracy and fosters a plutocratic system in which power is held by a handful of capitalists. As a result, democracy, which should uphold the principle of "of the people, by the people, and for the people," is transformed into "of the elite, by the elite, and for the elite." Normatively, the eradication of criminal acts of corruption is regulated through the Corruption Eradication Law, which grants law enforcement officers extensive authority to conduct investigations, prosecutions, and criminalize perpetrators of corruption. The provisions of Article 2 paragraph (1) of the PTPK Law state that anyone who unlawfully enriches

themselves or another person which can harm state finances can be punished with a prison sentence of at least four years and a maximum of twenty years, and a fine of at least two hundred million rupiah and a maximum of one billion rupiah. This provision shows that the law makers place corruption as a serious crime that must be dealt with seriously. Furthermore, Article 2 paragraph (2) provides provisions regarding the death penalty for perpetrators of corruption committed in certain circumstances, for example when the country is in a state of economic crisis or natural disaster. This provision confirms that the state views corruption as an extraordinary crime that can be subject to the heaviest sanctions if it threatens the safety of the people. However, the application of criminal sanctions in practice often does not reflect the public's sense of justice. The sentences imposed on corruptors are often considered too lenient compared to the losses incurred. Many cases show that corruptors receive remissions, luxurious facilities in detention, and even the opportunity to return to public office after serving their sentences. This situation reflects a weak moral commitment and integrity within the Indonesian law enforcement system. Weak law enforcement not only undermines public trust but also undermines the authority of the law itself.

Therefore, criminal law reform in the context of eradicating corruption must be directed at strengthening the deterrent effect and recovering state losses through asset confiscation and state financial restitution. Eradicating corruption also requires synergy between preventive and repressive measures. Preventive measures are pursued through legal education, instilling anti-corruption values, and establishing a culture of transparency and accountability within every public institution. Repressive measures, meanwhile, are implemented through firm, impartial law enforcement oriented toward restoring state finances. Nur Basuki Minarno stated that the essence of corruption eradication regulations must encompass two dimensions: prevention so that the public does not engage in corruption and the imposition of severe sanctions on perpetrators to create a deterrent effect. In this regard, institutions such as the Corruption Eradication Commission (KPK) play a vital role because they are given extraordinary authority to prosecute perpetrators of corruption across institutions and positions. However, the KPK's existence also faces major challenges in the form of political intervention, the weakening of its authority through revisions to laws, and resistance from elite groups who feel their interests are being violated. This situation shows that corruption eradication in Indonesia is not only a legal issue, but also a political issue and a matter of national morality.

Beyond the criminal law aspect, corruption is also closely linked to national political dynamics. Political corruption is one of the most dangerous forms of corruption because it is carried out by individuals or groups holding the highest political power. Muladi stated that the more corrupt a government regime, the more repressive its power becomes, 1344as those in power will attempt to cover up their corrupt practices by suppressing people's freedoms. Political corruption typically occurs in three main forms: first, corruption perpetrated by political parties as institutions; second, corruption in the general election process; and third, corruption resulting from collusion between politicians and businesspeople. This phenomenon is increasingly evident in the Indonesian political system, which tends to form "cartel parties," namely, large parties that cooperate with each other to maintain power and secure their economic interests. In a cartel party system, political competition becomes artificial as the major parties alternately share power and state resources. As a result, political parties, which should be pillars of democracy, are instead transformed into instruments of political corruption. Political corruption involving political parties also raises serious legal issues. From a modern criminal law perspective, political parties should be held criminally liable as corporate legal entities.

This means that if a political party systematically exploits its network to commit corruption, it can be subject to criminal sanctions, including suspension, revocation of political rights, or fines. Criminalizing political parties serves a preventivze purpose, both to deter other parties from committing similar crimes and to improve the morale of the parties involved so that they can return to carrying out their political functions properly. The application of the concept of corporate criminal liability to political parties is expected to have a deterrent effect on political actors while strengthening the accountability of the democratic system. Corruption also results in the loss of basic human rights. When public funds intended for social assistance, health care, or natural disasters are misappropriated, the poor suffer the most. From a human rights perspective, corruption indirectly violates the right to life and welfare. Therefore, eradicating corruption aims not only to punish perpetrators but also to restore social justice for victims, namely society as a whole. In this context, the imposition of the death penalty on perpetrators of major corruption can be seen as a state effort to protect the right to life of the masses from the destructive consequences of corruption. Although the death penalty is often debated as a violation of human rights, under certain circumstances, the imposition of the death penalty can be justified as long as it is carried out selectively, proportionally, and through a fair legal process. This principle aligns with JE Sahetapy's view that punishment must be appropriate to the time, place, and social conditions of a nation, and reflect the values of

justice and national identity. In reality, the greatest challenge in enforcing the law against corruption lies in the weak integrity of law enforcement officials. Many cases demonstrate the involvement of law enforcement officials in bribery, case buying and selling, and manipulation of the investigative process. This situation creates a paradox, where the institution that should be the last bastion of justice is actually part of the problem itself. Therefore, legal system reform is an urgent need. This reform includes strengthening the independence of judicial institutions, increasing the professionalism of law enforcement officials, implementing digital systems to minimize abuse of authority, and increasing public participation in public oversight. Law enforcement against corruption must be based on the principle of due process of law, so that it not only imposes punishment but also upholds substantive justice.

Decision Number 17/Pid.SusTPK/2023/PN Plk is related to a corruption case involving Defendant I, Ben Brahim S. Bahat (former Regent of Kapuas) and Defendant II, Ary Egahni (wife and member of the Indonesian House of Representatives). The two defendants were charged by the Public Prosecutor with committing corruption in the form of accepting gratuities and extortion against civil servants and state administrators within the Kapuas Regency Government, as regulated in Article 12B in conjunction with Article 18 and Article 12 letter f in conjunction with Article 18 of the Corruption Law in conjunction with Article 55 paragraph (1) 1 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code. The Panel of Judges considered that based on the trial facts, the two defendants were legally and convincingly proven to have received gratuities from private parties and carried out extortion by pretending that the civil servants had debts to them. In fact, the debt never existed and was merely a fabrication to enrich themselves. In its considerations, the Panel of Judges rejected the legal advisor's exception which argued that the indictment was not careful or clear. According to the judge, the indictment had fulfilled the formal and material requirements according to Article 143 paragraph (2) of the Criminal Procedure Code. Furthermore, the judge considered that the crime of corruption is an extraordinary crime so that its enforcement must be carried out with the principle of caution and the spirit of eradicating corruption.

The judge also considered the philosophical aspects based on Aristotle's concept of corrective justice, namely that punishment is based on the quality of the act, not the perpetrator's reputation or position. Therefore, even if the defendant has achievements in government or politics, this does not eliminate criminal responsibility but is merely a mitigating factor. In its verdict, the Panel of Judges imposed the following principal penalties:

1. Defendant I, Ben Brahim S. Bahat: imprisonment for 5 (five) years and a fine of Rp. 500,000,000.00 subsidiary imprisonment for 3 months.
2. Defendant II, Ary Egahni: imprisonment for 4 (four) years and a fine of IDR 500,000,000.00, subsidiary imprisonment for 3 months.

In addition, the judge also imposed an additional penalty in the form of payment of compensation of Rp8,819,801,363.00 jointly and severally, no later than 1 month after the verdict has permanent legal force. If not paid, the defendant's assets will be confiscated and auctioned. If this is still insufficient, each defendant will be sentenced to an additional 3 (three) years in prison. Revocation of political rights, namely the right to be elected to public office, for 5 years after the defendant serves the main sentence. The panel also determined that the detention period already served by the defendants be deducted entirely from the sentence imposed, and ordered that both remain in detention. Thus, this decision shows that acts of gratification and extortion carried out by public officials together with private parties are declared as criminal acts of corruption, with consequences of imprisonment, fines, compensation, and revocation of political rights. This decision also confirms the court's commitment to eradicating criminal acts of corruption in the region, while still paying attention to the legal, philosophical, and sociological aspects.

The provisions for additional sanctions in corruption crimes are contained in Article 18 of the Corruption Eradication Law. This article explicitly states that in addition to the principal penalties of imprisonment and fines, judges have the authority to impose additional penalties on perpetrators of corruption. These additional penalties include confiscation of assets obtained from the corruption crime, payment of compensation, closure of all or part of the company for a certain period, and revocation of certain rights or the elimination of certain benefits provided by the government. This regulation demonstrates that Indonesian positive law is not only oriented towards corporal punishment, but also emphasizes the aspect of recovering state losses and preventing similar crimes in the future. One prominent form of additional sanction is the obligation to pay compensation. This provision is very important considering that corruption is synonymous with state financial losses. Based on Article 18 paragraph (1) letter b of the Corruption Law, the judge can order the convict to pay compensation in the amount of assets or profits obtained from the criminal act of corruption. If the convict does not pay the compensation within one month after the verdict has permanent legal force, then the property

can be confiscated and auctioned by the prosecutor. If the proceeds from the auction are insufficient, then the convict will be sentenced to a substitute prison sentence that cannot exceed the principal sentence imposed, with a maximum of 20 years in prison. This mechanism shows that the lawmakers emphasize the restitutive aspect, namely returning state losses due to criminal acts of corruption. Furthermore, additional penalties in the form of revocation of certain rights are also an important instrument in the context of political corruption. In practice, judges often impose sanctions in the form of revocation of political rights for those convicted of corruption, especially those who serve as state officials. This revocation of political rights is based on Article 18 of the Corruption Law in conjunction with Article 35 of the Criminal Code, which gives judges the authority to revoke certain rights from convicts. The Constitutional Court, through Decision Number 4/PUU-VII/2009, has emphasized the constitutionality of this revocation of political rights. The main objective of this sanction is to prevent convicts who have committed corruption from returning to public office that could be misused to commit similar crimes. The regulation of additional sanctions in corruption crimes also reflects the paradigm that corruption eradication does not solely emphasize repressive aspects, but also preventive ones. With the confiscation of the proceeds of crime, the payment of compensation, and the revocation of certain rights, it is hoped that corruption will not only have a deterrent effect on the perpetrators but also send a clear message to the public that this crime will not provide long-term benefits. Furthermore, the application of additional sanctions also serves as a concrete effort to recover state losses, thereby achieving the corrective and restorative objectives of criminal punishment. Therefore, it can be concluded that positive law in Indonesia has expressly regulated additional sanctions for corruption crimes through Article 18 of the Corruption Eradication Law. These additional sanctions not only strengthen the repressive effect of the main criminal offense but also have a restorative and preventive function. This demonstrates that criminal law policy in eradicating corruption in Indonesia emphasizes not only the aspect of retribution but also prioritizes the recovery of state losses and the protection of the public interest from the dangers of systemic corruption that damage the very foundations of national and state life.

Judge's Considerations in Imposing Additional Criminal Sanctions in Decision Number 17/Pid.Sus-TPK/2023/PN PLK

Legal Basis for Additional Criminal Penalties in Indonesia Additional penalties in the context of Indonesian law have a strong legal basis. Article 18 of the Corruption Crime Law regulates four forms of additional penalties: confiscation of goods used or obtained from corruption, payment of compensation, closure of the company for a certain period, and revocation of certain rights. Meanwhile, the Criminal Code (KUHP) through Article 10 letter b and Article 35 also provides a basis for the revocation of certain rights, including the right to hold public office, the right to become a member of the legislature, and the right to vote or be elected. In addition to the normative basis in the law, jurisprudence also provides clear direction. The Constitutional Court, through Decisions Number 4/PUU-VII/2009 and Number 42/PUU-XIII/2015, confirmed that the revocation of political rights against perpetrators of corruption is constitutional as long as it is imposed proportionally. The Supreme Court also emphasized its implementation by issuing Supreme Court Regulation Number 5 of 2014 which prohibits the imposition of compensation on a joint and several basis and emphasizes that the burden of compensation must be in accordance with the role of each defendant.

Judge's Consideration Regarding Additional Penalty in the Form of Replacement Money The panel of judges in this decision imposed an additional penalty in the form of replacement money of Rp8.819 billion. The judge's consideration was based on the obligation to reimburse state losses resulting from corruption. The judge emphasized that the proceeds of corruption must be repaid through the additional penalty mechanism as stipulated in Article 18 of the Corruption Law. Interestingly, the judge rejected the prosecutor's demand that the replacement money be imposed jointly and severally on both defendants. This consideration was based on Supreme Court Regulation Number 5 of 2014, which stipulates that the imposition of replacement money jointly and severally is unlawful. Therefore, the judge divided the responsibility for the replacement money payment proportionally according to the role of each defendant. Furthermore, the judge also considered the consequences if the replacement money is not paid. If the defendant does not pay within one month after the decision becomes legally binding, his assets will be confiscated and auctioned. If the assets are insufficient, the defendant will be sentenced to an additional three years in prison. This consideration shows that the judge not only emphasizes the aspect of punishment, but also the aspect of recovering state losses. **The Judge's Consideration Regarding the Additional Penalty of Revocation of Political Rights** In addition to the additional penalty in the form of compensation, the judge also imposed an additional penalty in the form of revocation of political rights to be elected to public office for five years after the defendants have completed their prison sentences. The judge's

considerations were based on the fact that both defendants were public officials who abused their authority. Ben Brahim S. Bahat is the Regent of Kapuas, while Ary Egahni is a member of the Indonesian House of Representatives. Their strategic positions in public office make the corruption they committed have a wider impact on society. The judge referred to the provisions of the Criminal Code Articles 10 and 35 which regulate the revocation of certain rights. In addition, the judge also strengthened his considerations by referring to the Constitutional Court's decision which stated that the revocation of political rights for perpetrators of corruption is legal and constitutional as long as it is carried out proportionally. The judge's considerations in this case show a preventive purpose, namely to prevent perpetrators from again abusing public office in the future and to maintain public trust in public institutions.

Based on Decision Number 17/Pid.Sus-TPK/2023/PN Plk, the analysis of the judge's considerations regarding the defendants Ben Brahim S. Bahat and Ary Egahni can be explained as follows:

1. Theoretical Basis of Judges' Considerations

Conceptually, the judge's considerations in deciding a case must be based on three main bases, namely legal, philosophical and sociological bases (Sudikno Mertokusumo, 2013).

These three principles serve as guidelines to ensure that the judge's decision is not only legally correct, but also just and beneficial to society.

- Juridical considerations relate to the application of positive law to the facts revealed in court. In this case, the judge is obliged to assess whether the elements of the articles charged by the public prosecutor have been proven.
- Philosophical considerations relate to the values of justice and morality that exist in society.
- Sociological considerations include the impact of decisions on society and efforts to maintain social order.

In modern legal theory, Lon L. Fuller's view emphasizes that justice can only be upheld if the legal process is carried out with attention to the inner morality of law, namely the conformity between legal norms and moral values prevailing in society. The judge in the case *a quo* applied this principle by judging that the defendants' corrupt actions not only violated the law but also injured the values of honesty and integrity of public officials.

2. Judicial Considerations of the Judge

Based on the verdict document, the panel of judges assessed that the defendants were proven to have committed the crime of corruption as regulated in:

Article 12B and Article 12 letter f in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001, as well as Article 55 paragraph (1) point 1 and Article 65 paragraph (1) of the Criminal Code.

The judge found that both defendants jointly accepted gratuities related to their positions as public officials. Within the framework of criminal law theory, the element of "jointly committing" or "medeplegen" as referred to in Article 55 of the Criminal Code is fulfilled because there was a conscious cooperation between the two defendants to profit from the gratuities.

The judge's considerations in the legal section also demonstrate the use of a cumulative, evidence-based legal reasoning approach. The judge systematically assessed evidence in the form of documents, bank statements, and witness statements to establish a conviction *raisonnée* that the defendant's actions met the elements of a criminal act of corruption.

Furthermore, the judge rejected the defendant's defense counsel's plea, which claimed the money was a personal donation or the proceeds of political activity. The judge asserted that this defense was inadmissible because it lacked valid evidence regarding the source of the funds and their use in accordance with statutory regulations.

3. Philosophical Considerations of the Judge

From a legal philosophical perspective, judges are guided by Aristotle's theory of corrective justice, which states that justice must restore balance following violations of others' rights. In this context, corruption is viewed as an extraordinary crime that undermines the moral foundations of society, and therefore, its punishment must also be extraordinary.

The panel of judges concluded that the defendants' positions as Regent of Kapuas and members of the Indonesian House of Representatives (DPR RI) actually aggravated the offense, as both defendants had a moral obligation to maintain integrity and set an example. Therefore, the sentencing was not merely retributive (retribution), but also preventive and educational.

The judge also emphasized that corruption carries a very serious moral dimension, as it erodes public trust in government institutions. Therefore, in the judge's view, the application of the corruption laws must reflect substantive justice, not merely formal legal certainty.

4. Sociological Considerations of Judges

From a sociological perspective, the panel of judges assessed that corruption committed by regional officials had a broad impact on the social and economic stability of the community. The judges emphasized that the defendant's actions had resulted in a decline in public trust in state officials and hampered development in the Kapuas region.

Therefore, punishment is imposed by considering society's need for a deterrent effect. This aligns with Jeremy Bentham's theory of legal utilitarianism, which posits that the purpose of law is to achieve the greatest happiness for the greatest number. By punishing corrupt officials, it is hoped that society will gain a sense of justice and trust in the legal system.

5. Consideration Based on Facts and Defense

The panel of judges explicitly rejected most of the defendant's defense (plea). The argument that the money was a personal donation or loan was unacceptable because it contradicted the banking evidence and consistent witness testimony. The judges used a convergent method of evaluating evidence, namely assessing the mutually reinforcing relationships between the pieces of evidence (witnesses, documents, clues, and expert testimony).

Furthermore, the judge emphasized that the evidentiary system in corruption crimes can also apply the reversal of proof principle, as stipulated in Article 37A of the Corruption Law. This principle allows defendants to prove the origin of their assets. Because the defendant failed to prove that the assets came from a legitimate source, the assets were deemed to be proceeds of corruption.

6. Considerations Based on Jurisprudence and Previous Cases

- The judge in this case referred to several relevant legal precedents (jurisprudence), including:
- Central Jakarta District Court Decision Number 34/Pid.B/TPK/2011/PN.Jkt.Pst, which confirms that accepting gratuities without proof of legitimate origin can be classified as a criminal act of corruption.
- Decision of the DKI Jakarta High Court Number 22/Pid/TPK/2012/PT.DKI, which states that gratuities are automatically prohibited if they are not reported to the Corruption Eradication Committee within 30 days.
- Supreme Court Decision Number 52 K/Pid.Sus/2013 and PK Number 66 PK/Pid.Sus/2016, which strengthens the application of reverse burden of proof in gratification cases.

Referring to previous decisions, the judge strengthened his legal argument by arguing that the defendants' patterns of conduct were similar to those tested in the aforementioned jurisprudential precedents. This demonstrates consistency in the application of the principle of equality before the law, which states that all individuals, including public officials, have equal standing before the law.

7. Considerations in Sentencing

The panel of judges sentenced the defendants by taking into account the balance between the principle of proportionality and the principle of individualization of criminal penalties.

Aggravating considerations include:

- The defendant is a public official who should be an example in eradicating corruption.
- The defendant's actions caused state financial losses and damaged public trust.

Meanwhile, mitigating factors include:

- The defendant was polite during the trial.
- The defendant has never been convicted.

The judge finally sentenced the defendant Ben Brahim S. Bahat to 8 years and 4 months in prison, and Ary Egahni to 8 years, as well as a fine of Rp. 500,000,000.00 subsidiary to 6 months in prison, as well as additional penalties in the form of compensation of Rp. 8,819,801,363.00 and revocation of political rights for 5 years.

8. Academic Analysis

If analyzed from the perspective of criminal theory, the judge's considerations in this case represent the integrative theory of the objectives of criminal law (Muladi, 1995), which combines three main objectives:

- Retributive, namely retribution for evil deeds that have harmed the state;
- Deterrent, providing a deterrent effect on perpetrators and society;
- Resocialization, so that perpetrators can realize their mistakes and return to society as law-abiding citizens.

This integrative approach reflects a balance between legal certainty (*rechtssicherheit*), justice (*gerechtigkei*t), and legal utility (*zweckmassigkeit*).

The judge's considerations in Decision Number 17/Pid.Sus-TPK/2023/PN Plk demonstrate a comprehensive and balanced application of the law. The judge imposed an additional penalty of restitution as an effort to recover state losses, while simultaneously revoking political rights as a deterrent to prevent the defendant from misusing public office again. These considerations are based on a clear legal basis, reinforced by Constitutional Court jurisprudence and Supreme Court regulations, and align with established criminal theories in Indonesia. Thus, this decision reflects not only the punitive aspect but also embodies the values of justice, prevention, and reparation. From a criminal law perspective, this demonstrates that corruption trials not only uphold legal norms but also play a role in maintaining the integrity of public institutions, restoring public trust, and strengthening democracy in Indonesia.

CONCLUSION

Decision Number 17/Pid.Sus-TPK/2023/PN Plk, handed down by the Palangka Raya Corruption Court against Ben Brahim S. Bahat and Ary Egahni, demonstrates the firm and proportional application of additional penalties in the fight against corruption. In the verdict, the judge imposed an additional penalty of Rp8.819 billion in restitution and revocation of political rights for five years after the defendants served their principal sentences. This additional penalty was based on Article 18 of the Corruption Law, Article 35 of the Criminal Code, Supreme Court Regulation Number 5 of 2014, and the Constitutional Court decision, which affirmed the constitutionality of revocation of political rights of corruption perpetrators. The additional penalty of restitution is considered important as an instrument to recover state losses. The judge rejected the demand for joint and several liability and chose a proportional distribution mechanism based on the contributions of each defendant. This affirms the principles of justice and proportionality, while strengthening the restitutive aspect of sentencing. If the compensation is not paid, the mechanism of confiscation of assets and substitute imprisonment is applied, so that the state still obtains legal certainty regarding the recovery of losses. Meanwhile, the additional penalty in the form of revocation of political rights demonstrates the preventive dimension in criminal law. By revoking the right to be elected, the judge seeks to prevent the possibility of the defendant again abusing public office, while also sending a moral message to the public that political integrity must be maintained. The judge's considerations also demonstrate a balance between the theories of retributive, deterrence, rehabilitative, and corrective justice. Thus, this decision reflects not only the repressive function of criminal law, but also its preventive and restorative functions. The application of additional penalties in this case is a clear example that the court can enforce the law fairly, recover state losses, protect public interests, and strengthen public trust in the state's commitment to eradicating corruption.

REFERENCES

- Adami Chazawi. (2016). *Hukum Pidana Korupsi di Indonesia II*. Jakarta: Rajawali Pers.
- Adami Chazawi. (2016). *Hukum Pidana Korupsi di Indonesia*. Jakarta: RajaGrafindo Persada.
- Alamsyah, Wana. (2020). *Kinerja Penindakan Kasus Tindak Pidana Tahun 2020*. Indonesia Corruption Watch.
- Andi Hamzah. (2005). *Perbandingan Korupsi di Berbagai Negara*. Jakarta: Sinar Grafika.
- Antonius Cahyadi & E. Fernando M. Manullang. (2007). *Pengantar ke Filsafat Hukum*. Jakarta: Kencana.
- Antonius Made Tony Supriatma. (2009). *Politik Indonesia: Bergerak ke Arah Kartel?* Diakses dari <https://www.academia.edu/2624379/politik-Indonesia-bergerak-ke-arrah-kartel>
- Apriandhini, M., Rosidin, U., & Jaelani, E. (2023, January). *Perbandingan pemberantasan tindak pidana korupsi di Indonesia dan Singapura*. *Varia Hukum*, 5(1), 65–78. <https://doi.org/10.15575/vh.v5i1.27158>
- Bukit, E. A., Saragih, Y. M., & Fauzan, F. (2025, January). *Pengaruh kebijakan legislatif dalam upaya menanggulangi tindak pidana korupsi di Indonesia*. *Eksekusi*, 3(1), 191–197. <https://doi.org/10.55606/eksekusi.v3i1.1736>
- Dimas Arya Aziza. (2018). "Penerapan Delik Jabatan dalam Pasal 3 dan Pasal 11 Undang-Undang Nomor 31 Tahun 1999 Jo. Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi." *Binamulia Hukum*, 7(2), 169–178. <https://doi.org/10.37893/jbh.v7i2.31>
- Evi Hartanti. (2007). *Tindak Pidana Korupsi Edisi Kedua*. Jakarta: Sinar Grafika.
- Hamzah, Andi. (2008). *Pemberantasan Korupsi melalui Hukum Pidana Nasional dan Internasional*. Jakarta: RajaGrafindo Persada.

- https://jdih.tanahlautkab.go.id/artikel_hukum/detail/penjatuhan-sanksi-terhadap-pidana-korupsi-menurut-masyarakat-indonesia/sosialisasi-pencegahan-tindak-pidana-korupsi-dalam-----pengelolaan-keuangan-daerah
- https://sipp.pn-palangkaraya.go.id/detil_perkara
- J.E. Sahetapy. (2007). Pidana Mati dalam Negara Pancasila. Bandung: Citra Aditya Bakti.
- Jaya, I Made Laut Mertha. (2020). Metode Penelitian Kuantitatif dan Kualitatif. Yogyakarta: Quadrant.
- Kitab Undang-Undang Hukum Pidana (KUHP).
- Kuncorowati, P. W. (2005, December). Peranan penegak hukum di Indonesia dalam pemberantasan korupsi. *Civics*, 2(2). <https://doi.org/10.21831/civics.v2i2.4377>
- Lamintang, P.A.F. (2013). Dasar-Dasar Hukum Pidana Indonesia. Bandung: Citra Aditya Bakti.
- Mahkamah Agung Republik Indonesia. (2014). *Peraturan Mahkamah Agung Nomor 5 Tahun 2014 tentang Pidana Tambahan Uang Pengganti dalam Tindak Pidana Korupsi*.
- Mahkamah Konstitusi Republik Indonesia. (2009). *Putusan Nomor 4/PUU-VII/2009*.
- Mahkamah Konstitusi Republik Indonesia. (2015). *Putusan Nomor 42/PUU-XIII/2015*.
- Maksum, U., & Suparno, S. (2025, June). Synergy of administrative and criminal law enforcement as an effort to prevent and eradicate corruption in procurement of goods and services in government environment. *Journal of Social Science*, 4(6), 225–241. <https://doi.org/10.57185/joss.v4i6.473>
- Moeljatno. (2008). Asas-Asas Hukum Pidana. Jakarta: Rineka Cipta.
- Muhammad, P., & Yardi, P. (2025, June). The urgency of recovering state financial losses based on Law Number 31 of 1999 amendments to Law Number 20 of 2001 concerning the eradication of corruption crimes in Indonesia. *Journal of Social, Humanity, and Education*, 5(3), 267–275. <https://doi.org/10.35912/jshe.v5i3.2556>
- Muladi & Barda Nawawi Arief. (2010). Teori-Teori dan Kebijakan Pidana. Bandung: Alumnus.
- Noor, R. S. (2018). Upaya Perlindungan Hukum Terhadap Eksistensi Masyarakat Hukum Adat Di Kalimantan Tengah. *Morality: Jurnal Ilmu Hukum*, 4(2), 115-131.
- Noor, R. S. (2023). MENYOAL JUDICIALIZATION OF POLITICS MAHKAMAH KONSTITUSI PASCA PUTUSAN NOMOR 85/PUU-XX-2022 DALAM KONTEKS PENEGAKAN HUKUM PEMILU DI INDONESIA. *Proceeding APHTN-HAN*, 1(1), 419-452.
- Noor, R. S. (2023). MENYOAL JUDICIALIZATION OF POLITICS MAHKAMAH KONSTITUSI PASCA PUTUSAN NOMOR 85/PUU-XX-2022 DALAM KONTEKS PENEGAKAN HUKUM PEMILU DI INDONESIA. *Proceeding APHTN-HAN*, 1(1), 419-452.
- Noor, R. S., Hamzani, A. I., Widyastuti, T. V., & Kristanto, K. (2024). Gender equality in indigenous peoples in Indonesia (challenges and efforts towards the 2030 sustainable development goals). *Journal of Law and Sustainable Development*, 12(1), e2173-e2173.
- Nur, D. S., Husen, L. O., & Baharuddin, H. (2020, January). Kewenangan Komisi Pemberantasan Korupsi (KPK) dalam penyidikan dan penuntutan pada tindak pidana korupsi. *Jurnal Legalitas*, 1(7), 1060–1073. <https://doi.org/10.52103/jlg.v1i7.308>
- Pengadilan Tindak Pidana Korupsi pada Pengadilan Negeri Palangka Raya. (2023). *Putusan Nomor 17/Pid.Sus-TPK/2023/PN Plk*.
- Puanandini, D. A., Rismawati, N., & Putri, D. N. S. (2024, November). Tinjauan yuridis penegakan hukum tindak pidana korupsi di Indonesia. *Jurnal Penegakan Syariah*, 3(3). <https://doi.org/10.59818/jps.v3i3.957>
- Puanandini, D. A., Supriatna, D., & Idris, F. (2023, November). Tindak pidana korupsi sebagai kejahatan luar biasa serta penegakan hukum terhadap tindak pidana korupsi ditinjau dari perspektif dampak serta upaya pemberantasan. *Jurnal Penegakan Syariah*, 3(3). <https://doi.org/10.59818/jps.v3i3.1047>
- Putusan Mahkamah Agung Nomor 52 K/Pid.Sus/2013.
- Putusan Pengadilan Negeri Jakarta Pusat Nomor 34/Pid.B/TPK/2011/PN.Jkt.Pst.
- Putusan Pengadilan Tinggi DKI Jakarta Nomor 22/Pid/TPK/2012/PT.DKI.
- Putusan Peninjauan Kembali Nomor 66 PK/Pid.Sus/2016.
- Rae, Gradios Nyoman Tio. (2020). Good Governance dan Pemberantasan Korupsi. Jakarta: Saberro Inti Persada.
- Rahman, I. G. L. L. (2020). Pertimbangan Hakim dalam Menjatuhkan Pidana (Studi Kasus di Pengadilan Negeri Mataram). Fakultas Hukum Universitas Mataram. Retrieved from <https://fh.unram.ac.id>

- Ramada, D. P., & Utari, I. S. (2024, January). Unveiling the surge in corruption: A menacing threat to Indonesia's stability in anti-corruption law reform. *Journal of Law and Legal Reform*, 5(1), 179–200. <https://doi.org/10.15294/jllr.vol5i1.2092>
- Rosidi, A., Syaifullah, S., Sardi, I., & Awaludin, A. (2023, July). Model perlindungan saksi dan korban sebagai justice collaborator dalam perkara tindak pidana korupsi: Tinjauan analisis Undang-Undang Perlindungan Saksi dan Korban. *Jatiswara*, 38(2), 134–147. <https://doi.org/10.29303/jtsw.v38i2.503>
- Salim, A., Suryati, S., & Yusoh, R. (2025, August). Law enforcement against corruption in Indonesia: Between expectation and reality. *Law Review*, 3(2). <https://doi.org/10.71250/rlr.v3i2.73>
- Sujarweni, V. Wiratna. (2020). *Metodologi Penelitian*. Yogyakarta: Pustakabarupress.
- Tjoneng, A., Basani, C. S., & Sidabutar, N. (2020, December). Menguji kewenangan dewan pengawas Komisi Pemberantasan Korupsi dalam pemberian izin penggeledahan sebagai tindakan merintang proses penyidikan (obstruction of justice). *Esensi Hukum*, 2(2), 48–63. <https://doi.org/10.35586/esensihukum.v2i2.35>
- Undang-Undang Nomor 20 Tahun 2001 tentang Perubahan atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.
- Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.
- Wahyudi, A. (2024). Pertimbangan Hakim dalam Menjatuhkan Hukuman Ringan pada Kasus Perjudian (Studi Putusan Nomor 65/Pid.B/2013/PN.LBJ). *TATOHI: Jurnal Ilmu Hukum*, Vol. 4, No. 10.
- Widayati. (2018). “Penegakan Hukum dalam Negara Hukum Indonesia yang Demokratis”. *Jurnal Publikasi Ilmiah*. Surakarta: Universitas Muhammadiyah Surakarta.
- Wiranti, Yenni, dan Ridwan Arifin. 2020. “Tantangan dan Permasalahan Penegakan Hukum Tindak Pidana Korupsi di Indonesia”. *Jurnal Kosmik Hukum*, Vol. 20, No. 1. Purwokerto: Universitas Muhammadiyah Purwokerto.
- Yestati, A., & Noor, R. S. (2021). Food estate dan perlindungan terhadap hak-hak masyarakat di Kalimantan Tengah. *Morality: Jurnal Ilmu Hukum*, 7(1), 52-73.
- Yudhistira, A. (2024). Penerapan Aspek Filosofis, Yuridis, dan Sosiologis dalam Pertimbangan Putusan Hakim. *Jurnal Penegakan Hukum dan Keadilan*, 5(2). Retrieved from <https://researchgate.net>
- Zulkarnaen, R. (2023). Dasar Pertimbangan Hakim dalam Menjatuhkan Putusan Pidana Bersyarat sebagai Alternatif Pidana Penjara (Studi di Pengadilan Negeri Malang). *Jurnal Ilmu Hukum*, Vol. 8, No. 1.