

## CRIMINAL ACT OF CORRUPTION OF BUDGET MARK-UP VILLAGE ROAD IMPROVEMENT WORK (Study of Corruption Court Decision No. 67/Pid.Sus.TPK/2019/PN.Mdn)

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### ABSTRACT

The crime of corruption of marking up the budget for village road improvement work is carried out with various modes of operation such as making a budget plan above market price then paying based on another agreement, temporarily borrowing village funds by transferring funds to a personal account then not returning it. The results of the study indicate that the corruption of the markup of the village road improvement budget is the Village Fund Budget that has been disbursed by the defendant Darma Suardi as the Head of Tanah Besih Village together with Muhammad Noor as the Treasurer of Tanah Besih Village, but in carrying out activities using village funds, other village officials were not involved. The accountability of the perpetrators of the criminal act of corruption of the markup of the village road improvement budget in the PN decision. Corruption Case No.67/Pid.Sus.TPK/2019/PN.Mdn is Darma Suardi sentenced to 6 (six) years in prison and a fine of Rp.200,000,000,- (two hundred million rupiah).

### 1. Introduction

According to Nicongani, the characteristics of a state based on the rule of law include the recognition and protection of human rights, embodying equality in the political, legal, social, economic, and cultural spheres; an independent and impartial judiciary that is not influenced by any power or authority whatsoever; and legality in all its meanings and forms.

One of the most prevalent crimes is corruption. This phenomenon is understandable given the negative impacts it can have on various aspects of life. Corruption in Indonesia has become increasingly widespread and uncontrolled among Indonesian society, leading to disasters for the nation and state. The increasing number of corruption cases is a very serious problem, as corruption can endanger the stability and security of the state and its people, jeopardize



social and economic development, and political stability. It can even undermine democratic values and national morality by fostering a culture of corruption.

National Development aims to realize a just, prosperous, and orderly Indonesian society as a whole, based on Pancasila and the 1945 Constitution. To realize this just, prosperous, and orderly Indonesian society, efforts to prevent and eradicate crime in general, and corruption in particular, must be continuously enhanced.

A social phenomenon called corruption is a reality of human behavior in social interactions that is considered deviant and endangers society and the state. Therefore, this behavior in all its forms is condemned by society, even by the corruptors themselves, as the saying goes, "a corruptor shouts corruptor." This public condemnation of corruption, according to the legal concept, is manifested in the legal formulation as a crime that requires a special approach and is punishable by quite severe penalties.

The widespread practice of corruption in Indonesia is particularly ironic given the numerous strategies employed, as perpetrators of corruption typically possess powerful economic and political positions. Uncovering corrupt perpetrators with powerful economic and political positions requires the involvement of various government institutions, such as the Supreme Audit Agency (BPK), the Financial and Development Supervisory Agency (BPKP), the Inspectorate, the Corruption Eradication Commission (KPK), and NGOs like the Indonesian Corruption Watch (ICW).

The high number of corruption cases in Indonesia today is due to various factors, including the lack of salaries or incomes for civil servants compared to increasing needs; Indonesia's cultural background, which is a source or cause of widespread corruption; poor management and inefficient controls; and modernization.

There are sufficient rationales to categorize corruption as an extraordinary crime. Therefore, its eradication requires extraordinary measures and extraordinary legal instruments. Corruption is a special type of crime, and therefore, its eradication is regulated specifically.

## 2. Research Method

This research is descriptive and analytical, that is, it describes, examines, explains, and analyzes laws and regulations related to the research objectives. The purpose of descriptive research is to accurately describe the characteristics of individuals, circumstances, phenomena, or specific groups, or to determine the frequency or distribution of a phenomenon or the frequency of certain relationships between a phenomenon and other phenomena in society.



The type of research used in this study is normative legal research. This research utilizes literature or secondary data, including books and legal norms contained in laws and regulations, legal principles, legal rules, and legal systems. It also examines statutory provisions, court decisions, and other legal materials relevant to the research formulation.

The data in this study were obtained through secondary data, namely data collected through the study of literature. Secondary data is data obtained from official documents, books related to the research object, and laws and regulations.

The data collection techniques used in this research include document studies to obtain theoretical or doctrinal conceptions, opinions or conceptual thoughts and preliminary research related to the objects studied, which can be in the form of laws and scientific works, and cases that occur through court decisions that have legal force.

### 3. Results And Discussion

#### Results

Corruption in Indonesia is viewed as a serious legal problem. This can be seen in various news reports demonstrating the rampant nature of corruption cases that have occurred recently. From the lowest levels of bureaucracy, such as village heads, sub-district heads, and village heads, to higher levels, such as members of the House of Representatives, ministers, and even judges, corruption is not immune. Satjipto Rahardjo even views corruption in Indonesia as not only ingrained in the culture but also an organized crime with international dimensions. Therefore, its eradication can no longer be handled like ordinary crimes but requires extraordinary efforts.

Corruption has become a real threat to the survival of this country, as it has recently become increasingly rampant, especially with the emergence of news reports regarding several individuals working in the executive, legislative, and judicial branches accused of abuse of authority, embezzlement, extortion, and accepting bribes. Along with this, the issue of criminalization in various criminal cases, including corruption committed by law enforcement officials, has also emerged, intensifying coverage of corruption in print and electronic media and further clouding the image of law enforcement in this country.

Based on the elements of abusing authority, opportunity, or means available to them due to their position or position, it can be concluded that an individual can only be considered to have abused authority, opportunity, or means if they hold a position or position. Therefore, what is being abused is the power or rights





held by the perpetrator. Corruption in Indonesia can be viewed from four aspects: corruption within officials, corruption within departments, corruption within state-owned enterprises, and corruption of foreign aid.

The crime of corruption involving emergency funds for natural disaster management has given rise to a number of key perpetrators, including regional heads, local government officials, and members and leaders of regional parliaments. This is truly ironic, as corruption will hamper development in all sectors. Funds ideally intended for infrastructure development, community economic empowerment, and so on are hindered by the misappropriation of funds by officials. Furthermore, another impact of corruption is the increased risk of money laundering. Corruption is not an isolated event. Its causal factors can be internal to the perpetrators, but they can also stem from environmental conditions conducive to corruption.

#### 4. Discussion

The defendant committed the corruption of marking up the village road improvement budget by disbursing or withdrawing the aforementioned village funds without involving the Activity Implementation Team (TPK) in submitting funding requests for the activities, or submitting Payment Request Letters (SPP), statements of expenditure accountability, or supporting transaction evidence. Darma Suardi, the Village Head of Tanah Besih, and Muhammad Noor, the Village Treasurer of Tanah Besih, also never involved the Village Secretary in verifying the Payment Request Letter (SPP) submissions.

The Village Fund budget disbursed by defendant Darma Suardi, the Village Head of Tanah Besih, together with Muhammad Noor, the Village Treasurer of Tanah Besih, should have been used to finance activities in accordance with the draft Village Budget (APBDes). In reality, defendant Darma Suardi did not use all of the funds for the intended activities. This is evident in the defendant's lack of accountability evidence.

In line with the goals of rural development, the use of village funds should be directed to support the eradication of underdeveloped villages and the realization of village independence. The use of Village Funds is essentially the right of the Village Government, in accordance with its authority and the priority needs of the local village community, while prioritizing the principle of justice. However, to oversee and ensure the achievement of village development targets, the government establishes priorities for the use of village funds each year.



In implementing village funds, the government has issued Government Regulation Number 60 of 2014 concerning Village Funds sourced from the State Budget, as most recently amended by Government Regulation Number 22 of 2015 concerning Amendments to Government Regulation Number 60 of 2014 concerning Village Funds sourced from the State Budget.

The irregular management of these funds has led to the arrest of many village officials as suspects and even prisoners. The primary cause is the failure to use village funds according to regulations, with some even being misappropriated and some even being stolen. Another issue is that village fund management stalls due to the lack of proper accountability for the funds used.

There are five corruption-prone areas in the village fund management process: planning, accountability, monitoring and evaluation, implementation, and procurement of goods and services in the distribution and management of village funds. The methods of corruption include drafting budgets above market prices, claiming responsibility for financing physical buildings with village funds when the project actually comes from other sources. Some also temporarily borrow village funds for personal use but do not repay them, and then levying or deducting village funds by certain sub-district or district officials.

Article 79 paragraphs (4) and (5) of Law Number 6 of 2014 concerning Villages states that village regulations concerning the Village Medium-Term Development Plan (RRPJM) and Village Work Plan (RKP) are the sole planning documents in the village and serve as guidelines for preparing the Village Budget (APBDesa). Villages design programs/activities to fulfill residents' rights, along with their budgets, which are then outlined in policies in the form of the Village Medium-Term Development Plan (RPJM), Village Work Plan (RKP), and Village Budget (APB).

The aforementioned village development planning process clearly implements the one-village, one-plan, one-budget principle as stipulated in the Village Law. If villages fulfill their development responsibilities, they will immediately play a crucial role in fulfilling residents' rights to basic services and poverty reduction. This granting of all village authority is followed by the transfer of resources/funds based on the principle of "money follows function." However, on the other hand, increasing the resources/funds managed by the village increases the risk of misuse of funds.

Misuse/misappropriation occurs due to three conditions commonly referred to as the fraud triangle: opportunity, pressure, and rationalization. These three conditions are highly likely to occur in Village Fund management. Therefore,



both the government and village communities need to actively prevent misuse of funds and conflict by jointly overseeing the village development process.

Decision-making considerations, such as the perpetrator's personality, actions, age, education level, gender, environment, and national identity, require attention. In other words, considerations of interests must be aligned with the legal norms, principles, and beliefs prevailing in the community in which the individual lives.

This also takes into account the view that human rights are linked to the criteria for determining whether an individual is capable of being responsible or irresponsible, so that justice in the application of punishment can be achieved. The legal issue that arose was which criminal law theory should be applied in making a decision regarding the criminal case before him.

The judge's legal considerations in handing down the verdict were in accordance with applicable provisions, based on all the facts and evidence revealed during the trial. Therefore, the Panel of Judges' verdict against the defendant, a perpetrator of village fund corruption, was appropriate and commensurate with the crime he committed.

Based on the judge's verdict, the defendant's form of responsibility for the corruption crime of markup of the village road improvement project budget is to serve six years in prison and a fine of Rp. 200,000,000 (two hundred million rupiah), with the provision that if the fine is not paid, it will be replaced with six months' imprisonment.

While agreeing with the judge's legal considerations, the judge's verdict is still not sufficiently severe from a criminal perspective. The sentence should be more severe to serve as a deterrent to the perpetrator, as corruption is a crime whose eradication requires extraordinary measures. At least, this is stated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

Corruptors must still be subject to the maximum penalty to create a deterrent effect. Corruptors must pay fines and compensation commensurate with the amount of losses incurred from the corruption. The judge's decision to impose compensation based on the amount of profit obtained by the corruptor is unfair. This decision results in a lack of maximum restitution of state losses.

Perpetrators of corruption involving markup of village road improvement projects should be prosecuted or threatened under Article 2 paragraphs (1) and (2), which carries a more severe penalty, namely the death penalty, aimed at perpetrators of corruption who violate Article 2 paragraph (1). Paragraph (2) of this article stipulates that the death penalty is only imposed when the state is in danger or a national disaster occurs.



Imposing severe sanctions on perpetrators of corruption involving markup of village road improvement projects is intended to create a deterrent effect, as such corruption is highly detrimental to the state and the public. It is hoped that severe sanctions will serve as a moral message for law enforcement in Indonesia and also serve as a preventative measure.

More severe punishments and the impoverishment of corruptors are necessary because corruption violates the social, economic, and political rights of the community in a structured and widespread manner, resulting in poverty and misery. Therefore, ethically, morally, and legally, the assets obtained from corruption must be returned in full for the benefit of the community, through legal action in the form of confiscation and confiscation of corrupted state assets, the imposition of fines, and compensation commensurate with the losses. The maximum penalties are expected to have a deterrent effect and impoverish corruptors.

## 5. Conclusion

The causal factor in the corruption case of the markup of the village road improvement project budget was the Village Fund Budget disbursed by the defendant Darma Suardi, the Village Head of Tanah Besih, together with Muhammad Noor, the Village Treasurer. However, other village officials were not involved in the implementation of the activities using the village funds. The funds should have been used to finance activities in accordance with the draft Village Budget (APBDes) of Tanah Besih Village.

The accountability of the perpetrators of the corruption crime is regulated by the legal provisions for the corruption case of the markup of the village road improvement project budget in the District Court decision. Corruption Case No. 67/Pid.Sus.TPK/2019/PN.Mdn is Darma Suardi sentenced to 6 (six) years in prison and a fine of Rp. 200,000,000 (two hundred million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months and impose an additional penalty on the defendant to pay compensation in the amount of Rp. 747,527,777 (seven hundred forty-seven million five hundred twenty-seven thousand seven hundred seventy-seven rupiah) with the provision that if the defendant does not pay the compensation within 1 (one) month after the decision has permanent legal force, his assets can be confiscated and auctioned to cover the compensation and if the defendant does not have sufficient assets to pay the compensation, it must be replaced with imprisonment for 6 (six) months.

The judge's considerations in handing down the verdict against the defendant in the District Court decision. Corruption Case No.67/Pid.Sus.TPK/2019/PN.Mdn is that the defendant's actions are in accordance with the legal facts revealed in court and all the elements in Article 2 paragraph (1) 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 in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code and there is no justification or excuse.

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