SOETOMO JUSTICE, 2025
Vol. 1, No. 1, 1-14
Published by the Faculty of Law, University of Dr. Soetomo
Open access at: https://ejournal.unitomo.ac.id/index.php/justice

Check for updates

Type: Research Article

Discourse on Corruption from an Administrative Law Perspective

Lanny Ramli
Faculty of Law, University of Airlangga, Indonesia
E-mail: lanny.ramli@fh.unair.ac.id

Muklis Al'anam
Faculty of Law, University of Airlangga, Indonesia
E-mail: muklis.alanam-2023@fh.unair.ac.id

ABSTRACT

Corruption is implicitly defined as the unlawful misuse of authority, position, or trust to obtain personal gain or benefit from certain groups that may harm the public interest and may harm the public interest. The criminal offense of corruption in its various forms includes extortion, bribery, and gratuities, which have occurred for a long time with perpetrators ranging from state officials to corruption offenses in various forms include extortion, bribery, and gratuities, which have occurred for a long time with perpetrators ranging from state officials to the lowest from state officials to the lowest employees. Corruption essentially starts with a habit, which is not realized by every apparatus. That every official does not realize, starting from the habit of receiving tribute, gifts, bribes, the provision of certain facilities or others, and in the end. Corruption begins with actions that violate accountability. Accountability. Official accountability is embodied in the principle of accountability. Research This research refers to the normative research method, with a statutory, case, and conceptual approach. Statutory, case, and conceptual approaches. This concludes that the criminal offense of corruption is certainly related to administrative law in the context of abuse of authority over the position held.

KEYWORDS

Corruption Crime;
Abuse of Authority;
Accountability Principle

INTRODUCTION

Corruption in Black's Law Dictionary terms that: *"illegality a vicious and fraudulent intention to evade the prohibitions of the law, something against or forbidden by law, moral turpitude or exactly opposite of honesty involving intentional disregard of law from improper motives.*[1] Corruption crimes in Indonesia can be classified into 30 (thirty) types and can be grouped into 7 (seven) types of formulations in Law No. 31 of 1999 jo. Law No. 20 of 2001, as follows:[2]

1. Corruption to state financial losses;
2. Corruption of bribery;
3. Corruption against embezzlement in office;
4. Extortion corruption;
5. Corruption is a fraudulent act;
6. Corruption of conflict of interest in procurement; and
7. Graft corruption.

Thus, this is related to the abuse of authority of administrative officials in carrying out government administration. The accountability of these officials is faced with the rules of administrative law. According to Tatiek Sri Djatmiati argues that: "corruption crimes are inseparable from administrative law which is repressive in nature".[3]

According to William Wade explains that *administrative law is concerned with the nature of the power of public authorities and, especially, with the manner of their exercise. It is also it is the law relating to the control of government power and it may be said to be the body of general principles which govern the exercise of powers and duties by public authorities.*[4] The crime of corruption, which is certainly related to unlawfulness and abuse of authority of state officials, is an administrative law concept and the parameters of abuse of authority are measured in administrative law aspects.[5] According to Philipus M. Hadjon stated that: "The crime of corruption for state administrators is related to personal responsibility and position as a public service functionary. Criminal responsibility as personal responsibility is related to maladministration, while official responsibility is related to administrative law".[6]

One example of abuse of authority, which is currently in the news about corruption cases in the past, is very surprising. It is described in detail in various media. Former Minister of Trade Tom Lembong was arrested by the Attorney General's Office as a suspect in a corruption case of sugar imports in 2015-2016. Prosecutors stated that Tom Lembong had violated the rules made by himself. Tom Lembong committed the act together with the Director of Business Development of PT Perusahaan Perdagangan Indonesia (PT PPI), Charles Sitorus. At the time, Charles Sitorus ordered PT PPI's Senior Manager Staff to meet eight private companies. The meeting discussed a cooperation plan between PT PPI and the eight companies to import raw crystal sugar (GKM) into white crystal sugar (GKP). Eventually, the eight companies imported raw crystal sugar and sold it to PT PPI. When he became Minister of Trade, Tom Lembong signed a

---

1 Henry Campbell Black, MA. *Black's Law Dictionary* (West Publishing Co 1968), h. 414.
2 Lilik Mulyadi, *Titik Singgung Mengadili Menyalahgunakan Kewenangan Pada Pengadilan Tindak Pidana Korupsi Dan Pengadilan Tata Usaha Negara* (Jakarta: Kencana, 2023), h. 4.
3 Tatiek Sri Djatmiati, *Hukum Administrasi Sebuah Bunga Rampai* (Laksbang Pressindo 2020), h. 40.
4 William Wade, *Administrative Law* (Oxford University Press 2000), h. 4-5.
5 Nur Basuki Minarno, "Pembuktian Unsur Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi" (2007) 12:1 Perspektif 46.
6 Philipus M. Hadjon et al., *Hukum Administrasi Dan Tindak Pidana Korupsi*, Cetakan Ke (Yogyakarta: Gadjah Mada University Press, 2012), h. 16-17.

regulation, namely Regulation of the Minister of Trade No. 117/M-DAG/PER/12/2015 on Sugar Import Requirements (Permendag 117/2015) which replaced the Decree of the Minister of Industry and Trade No. 527/MPP/Kep/9/2004.[7]

Article 4 of MOT 117/2015 states that GKP imports can only be carried out to control the availability and stability of GKP prices. In addition, there is another condition that imports of GKP can only be carried out by SOEs. This is under Article 5 paragraph (2), namely "Imports of White Crystal Sugar as referred to in Article 2 paragraph (2) letter c can only be carried out by BUMN owners of API-U (General Importer Identification Number) after obtaining Import Approval from the Minister". This rule was violated by Tom Lembong when he committed a criminal act of corruption or abuse of authority. Tom Lembong's actions appear to violate MOT 117/2015, which states that crystal sugar imports can only be carried out by SOEs, not by private companies. However, a closer look at MOT 117/2015 shows that crystal sugar imports are divided into three categories: Raw Crystal Sugar, Refined Crystal Sugar, and White Crystal Sugar. The import license granted by Tom Lembong is for Raw Crystal Sugar, which is the type of sugar that can be imported by private companies on the condition that they have an Import Identification Number-Producer (API-P), meaning that it does not have to be imported through SOEs because companies that already have an API-P are easier to import in the customs clearance process and the import process will be directly supervised by the company itself to minimize fraud.[8]

The crime of corruption is very detrimental to state finances or the state economy and hampers national development, so it must be eradicated to realize a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. as a result of the criminal acts of corruption that have occurred so far, in addition to harming state finances or the state economy, they also hamper the growth and continuity of national development which demands high efficiency.

METHOD

Legal research is normative research that examines existing legal norms, aiming to achieve coherence truth. So that the research is guided by 3 (three) approach methods, namely: 1) statutory approach that this research establishes a *lex specialis* and *lex generalis* position;[9] 2) conceptual approach that this research does not rely on existing rules, it is also done because there is no or may not be legislation on the problem at hand so that it is developed based on scholarly or doctrinal opinions;[10] And 3) case approach, an approach taken by examining cases related to the legal issues faced by the author by requiring ratio decidendi, namely the legal reasons used by the judge to arrive at his decision.[11]

---

7 Imaduddin Kautsar & Najwa Aslami, "Dugaan Kasus Tindak Pidana Korupsi Impor Gula: Analisis Celah Pelanggaran Wewenang Menteri Perdagangan" (2024) LK2 FH UI, online: <https://lk2fhui.law.ui.ac.id/portfolio/dugaan-kasus-tindak-pidana-korupsi-impor-gula-analisis-celah-pelanggaran-wewenang-menteri-perdagangan/>.

8 *Ibid*.

9 Peter Mahmud Marzuki, *Penelitian Hukum* (Kencana Prenada Media Group, Jakarta, 2005), h. 33.

10 *Ibid.,* h. 177.

11 *Ibid.,* h. 133.

RESULT & DISCUSSION

I. Models, Forms, and Types of Corruption

Corruption and corruption come from the Latin corruptus, which means changing from a condition that is fair, right, and honest to a condition that is the opposite.[12] Meanwhile, the word corruption comes from the verb corrupter, which means rotten, damaged, destabilize, twist, bribe, one who is corrupted, lured, or bribed.[13] Corruption is the misuse of trust for personal gain.[14] In The Oxford Unabridged Dictionary, corruption is defined as the perversion or destruction of integrity in the performance of public duties by bribery or kickbacks. While the concise definition used by the World Bank, corruption is the abuse of public office for private gain.[15] From these definitions, there are also several elements inherent in corruption. First, the act of taking, hiding, or embezzling state or public assets. Second, against legal and applicable norms. Third, the abuse of power or authority or trust that is in him. Fourth, for the benefit of oneself, family, relatives, corporations, or certain institutions. Fifth, harming other parties, both society and the state.[16]

From a legal perspective, the definition of corruption is clearly explained in 13 articles in Law Number 20 of 2001 Concerning the Amendment to Law Number 31 of 1999 Concerning the Eradication of Corruption (GCPL Law). Based on these articles, corruption is formulated into 30 (thirty) forms/types of corruption crimes which can be grouped into 7 (seven) namely; state financial losses, bribery, embezzlement in office, extortion, fraudulent acts, conflict of interest in procurement, and gratuities. These articles explain in detail the acts that can be subject to imprisonment for corruption.[17]

In the GCPL Law, corruption is defined as an unlawful act to enrich oneself, others, or a corporation that results in harm to state finances or the state economy. There are nine categorical acts of corruption in the Anti-Corruption Law, namely: bribery, illegal profit, secret transactions, gifts, grants (gifts), embezzlement, collusion, nepotism, and abuse of position and authority and state facilities. Some forms of corruption include the following:

a. Bribery includes the act of giving and receiving bribes, both in the form of money and goods.
b. Embezzlement, is an act of fraud and theft of resources committed by certain parties who manage these resources, whether in the form of public funds or certain natural resources.
c. Fraud, is an economic crime that involves trickery or swindle. This includes the process of manipulating or distorting information and facts with the aim of taking certain advantages.

---

12 Muhammad Azhar, *Pendidikan Antikorupsi* (Yogyakarta: LP3 UMY Partnership, 2003), h. 28.
13 Ridwan Nasir, *Dialektika Islam Dengan Problem Kontemporer* (Surabaya: IAIN Sunan Ampel Press, 2006), h. 281-282.
14 Syamsul Anwar, *Fikih Antikorupsi Perspektif Ulama Muhammadiyah Majelis Tarjih Dan Tajdid PP Muhammadiyah* (Jakarta: Pusat studi Agama dan Peradaban (PSAP), 2006), h. 10.
15 Aled Williams, "Corruption Definitions And Their Implications For Targeting Natural Resource Corruption" (2021) Target Nat Resour Corrupt 2.
16 Hamdan Rampadio, Ana Fauzia & Fathul Hamdani, "The urgency of arrangement regarding illicit enrichment in indonesia in order to eradication of corruption crimes by corporations" (2022) 9:2 J Pembaharuan Huk 225–241.
17 Komisi Pemberantasan Korupsi, *Memahami Untuk Membasmi; Buku Saku Untuk Memahami Tindak Pidana Korupsi* (Jakarta: Komisi Pemberantasan Korupsi Republik Indonesia, 2006), h. 19-20.

d. Extortion, the act of demanding money or other resources by force or intimidation by those in positions of power. Typically carried out by local and regional mafias.
e. Favouritism, which is a mechanism of abuse of power that implies the privatization of resources.
f. Violating applicable laws and harming the state.
g. Confidentiality, even if it is done collectively or through congregational corruption.

A more operational type of corruption was also classified by reform figure, M. Amien Rais, who stated that there are at least four types of corruption, namely:[18]

a. Extortionate corruption, in the form of bribes or kickbacks made by businessmen to the authorities.
b. Manipulative corruption, such as a request by a person with an economic interest to the executive or legislative branch to make a regulation or law favorable to his or her economic business.
c. Nepotistic corruption, which is the occurrence of corruption due to family ties, friendship, etc.
d. Subversive corruption, i.e. those who arbitrarily plunder the country's wealth to divert it to foreigners for personal gain.

Among the models of corruption that often occur in practice are: illegal fees, bribery, extortion, embezzlement, smuggling, gifts, or grants related to one's position or profession.[19] Quoting Gerald E. Caiden in Toward a General Theory of Official Corruption describes in detail the commonly known forms of corruption, namely:[20]

a. Treason, subversion, illegal foreign transactions, smuggling.
b. Embezzlement of institutional property, privatization of government budgets, cheating, and stealing.
c. Improper use of money, falsification of documents and embezzlement, funneling institutional money into personal accounts, evading taxes, and misappropriating funds.
d. Abuse of authority, intimidation, torture, persecution, granting pardons, and clemency out of place.
e. Deceiving and misleading, giving a false impression, cheating and deceiving, blackmailing.
f. Disregard for justice, breaking the law, giving false testimony, unlawful detention, entrapment.
g. Not performing duties, desertion, living attached to others like a parasite.
h. Bribery and bribery, extortion, collecting fees, asking for commissions.
i. Rigging elections, falsifying voting cards, and dividing up electoral areas to gain the upper hand.
j. Using internal information and confidential information for personal gain; making false reports.
k. Selling without authorization for government positions, government property, and government licenses.

---

[18] Syamsul Anwar,*Op.Cit.,* h. 18.
[19] Jeremy Pope, *Strategi Memberantas Korupsi; Elemen Sistem Integritas Nasional, (Terj.) Masri Maris* (Jakarta: Yayasan Obor Indonesia, 2003), h. xxvi.
[20] Achmad Anwar Abidin, "Pembentukan Karakter Siswa Melalui Internalisasi Nilai-Nilai Anti Korupsi," *JALIE: Journal of Applied Linguistics and Islamic Education* 1, no. 2 (2017), h. 363–64.

l. Manipulating regulations, purchasing supplies, contracts, and borrowing money.
m. Avoiding taxes, and earning excessive profits.
n. Selling influence, offering intermediary services, conflicts of interest.
o. Accepting gifts, services, facilitation payments, and entertainment, improper travel.
p. Associating with criminal organizations, and black market operations.
q. Scheming, covering up crimes.
r. Unlawful spying, misuse of telecommunications and post.
s. Misusing office seals and letter paper, houses of office, and privileges of office.

II. State Financial Losses Due to Abuse of Authority

Authority plays an important role in categorizing corruption. In administrative law, there are two main ways to obtain government authority, namely attribution and delegation.[21] About the concepts of attribution, delegation, and mandate, it is stated by J. G. Brouwer and A. E. Schilder:[22]

1. *With attribution, power is granted to an administrative authority by an independent legislative body. The power is initial (originair), which is to say that is not derived from a previously existing power. The legislative body creates independent and previously non-existent powers and assigns them to an authority.*
2. *Delegations are the transfer of an acquired attribution of power from one administrative authority to another so that the delegate (the body that has acquired the power) can exercise power in its name.*
3. *With the mandate, there is no transfer, but the mandate giver (mandans) assigns power to the other body (mandataris) to make decisions or take action in its name.*

Brouwer argues that in attribution, authority is given to an administrative body by an independent legislative body. This authority is original and is not drawn from pre-existing authority. The legislature creates an independent authority rather than an extension of a previous authority and grants it to a competent person. Delegation is a transfer of attributable authority from one administrative body to another so that the delegator (the body that has granted the authority) can test the authority on its behalf. In a mandate, there is no transfer of authority, but the mandator (*mondous*) authorizes another body (mandataries) to make a decision or take action on its behalf. Attribution is said to be the normal way of acquiring governmental authority.[23] It is also said that attribution is the authority to make decisions (*besluit*) that are directly derived from the law in a material sense.

Prohibition of abuse of authority for government agencies or officials covers several other prohibitions, as referred to in Article 17 paragraph (2) of Law Number 30 of 2014 concerning Government Administration (UU AP), namely: "The prohibition of abuse of Authority as referred to in paragraph (1) includes: a. prohibition of exceeding Authority; b. prohibition of mixing Authority; and/or c. prohibition of acting arbitrarily". In the

---

[21] Philipus M. Hadjon, "Discretionary Power Dan Asas Asas Umum Pemerintahan Yang Baik (AAUPB)" (Seminar Nasional ""Aspek Pertanggungjawaban Pidana Dalam Kebijakan Publik Dari Tindak Pidana Korupsi" Semarang, 2004), h, 1-2.

[22] Brouwer J.G dan Schilder, *A Survey of Dutch Administratif Law* (Nijmegen: Ars Aequi Libri, 1998), h. 16-18.

[23] H.D. Van Wijk, *Hoofdstukken van Administratief Recht* (Utrecht: Uitvegerij Lemma BV, 1995), h. 51.

concept of criminal law for corruption offenses that abuse of authority is regulated in Article 2 of the Anti-Corruption Law, which states that:

> "Any person who unlawfully commits an act of enriching himself or herself or another person or a corporation that may harm the state finances or the state economy shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)".

And Article 3 states that:

> "Every person who intending to benefit himself or herself or another person or a corporation abuses the authority, opportunity or means available to him or her because of his or her position or position which may harm the state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)".

Article 2 and Article 3 of the GCPL Law expand the doctrine of unlawfulness to include both formal and material unlawfulness. What is meant by formal and material unlawfulness at the same time is that an act is considered a criminal offense based on not only the legislation (as a form of formal unlawfulness, *formeel wederrevhtelijkheid*) but also the fact that it is a despicable act in the eyes of the community, contrary to the sense of justice of the community, as a form of material unlawfulness, material *wederrevhtelijkheid.*[24]

According to Nur Basuki Minarno, the elements of the Article include 3 (three) aspects:[25]

a. The purpose of the perpetrator's actions is to benefit themselves or others and the corporation;
b. The method used can abuse the authority, opportunity, or means available in his/her position or position;
c. The result of the perpetrator's actions can harm state finances or the state economy.

In general, criminal law recognizes two meanings against the law, against the law in the formal sense and against the material law.[26] Against formal law emphasizes the violation of regulations while against material law means violating regulations and values in society. In summary, the former uses a one-stage evaluation while the latter uses a two-stage evaluation.[27]

Constitutional Court Decision Number 003/PUU-IV/2006 provides an explanation that: Article 2 paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 on the Eradication of the Crime of Corruption as amended by Law Number 20 of 2001 on the Amendment to Law Number 31 of 1999 on the Eradication of the Crime of Corruption

---

[24] Enni Roesnajanti, "Penerapan Azas Pembalikan Beban Pembuktian Tindak Pidana Pencucian Uang (Studi Putusan Mahkamah Agung RI No. 1454 K/PID.SUS/2011 dan Putusan Pengadilan Negeri Lamongan No. 262/PID.SUS/2017/PN LMG)" (2021) 4:2 Lex J Kaji Huk dan Keadilan 211–233.

[25] Nur Basuki Minarno, *Op.Cit.,* h. 46.

[26] S Serbabagus, "Unsur Dapat Merugikan Keuangan Negara atau Perekonomian Negara pada Pertanggungjawaban Tindak Pidana Korupsi" (2017) 1:1 Lex J Kaji Huk dan Keadilan 113–138.

[27] Taufik Rachman dan Lucky Raspati, "Menakar Makna Merugikan Perekonomian Negara Dalam Undang-UndangTipikor" (2021) 4:2 Nagari Law Rev 229.

insofar as the phrase reads, "What is meant by 'unlawfully' in this Article includes unlawful acts in a formal sense as well as in a material sense, that is, even though the act is not regulated in the laws and regulations, if the act is considered reprehensible because it is not following the sense of justice or the norms of social life in the community, then the act can be punished" is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force and is contrary to the 1945 Constitution of the Republic of Indonesia.

Based on Article 5 Paragraph 1 of Supreme Court Regulation Number 1 of 2020 concerning Sentencing Guidelines Article 2 and Article 3 of the Corruption Eradication Law explains that: "in determining the severity of the punishment, the Judge must consider sequentially the following stages:

a. Categories of losses to the state or the state economy;
b. Error rate, impact, and profit;
c. The range of punishment;
d. Aggravating and mitigating circumstances;
e. Sentencing; and
f. Other provisions related to the imposition of punishment.

Based on the above rules, there are several divisions regarding state losses or the state economy that are regulated, as follows:

TABLE 1. Sharing Arrangements Regarding State or Economic Losses

Article 6 paragraph 1 of Supreme Court Regulation Number 1 of 2020: Categories of losses to state finances or the state economy Article 2 of Law No. 31 of 1999	Article 6 paragraph 2 of Supreme Court Regulation Number 1 of 2020: Categories of losses to state finances or the state economy Article 3 of Law No. 31 of 1999
• Most severe category, more than Rp100,000,000,000.00 (one hundred billion rupiah); • Heavy category, more than Rp25,000,000,000.00 (twenty-five billion rupiah) to Rp100,000,000,000.00 (one hundred billion rupiah); • Medium category, more than Rp.1,000,000,000.00 (one billion rupiah) to Rp25,000,000,000.00 (twenty-five billion rupiah); and • Light category, more than Rp. 200,000,000,000.00 (two hundred million rupiah) to Rp.1,000,000,000.00 (one billion rupiah).	• The most severe category, more than Rp100,000,000,000.00 (one hundred billion rupiah); • Heavy category, more than Rp.25,000,000,000.00 (twenty five billion rupiah) to Rp.100,000,000,000.00 (one hundred billion rupiah); • Medium category, more than Rp.1,000,000,000.00 (one billion rupiah) to Rp25,000,000,000.00 (twenty-five billion rupiah); • Light category, more than Rp. 200,000,000,000.00 (two hundred million rupiah) to Rp.1,000,000,000.00 (one billion rupiah); and • The lightest category, up to 200,000,000.00 (two hundred million rupiah).

State finances mentioned in the elucidation of the GCPL Law are state assets in any form, separated or non-separated, including all parts of state assets and all rights and obligations arising, because they are in the control, management, and accountability of institutional officials, both at the central and regional levels and are in the control, management and accountability of BUMN/BUMD, foundations, legal entities, and companies that include state capital, or companies that include third parties based on agreements with the state.[28] The method of determining state financial losses is calculated based on 6 (six) methods, namely: total loss, total loss with adjustment, net loss, fair price, opportunity cost, and interest.[29]

III. State Financial Losses Due to Abuse of Authority Based on Corruption Court Decisions

The meaning of state financial loss in the concept of corruption is the reduction of state assets used for the welfare or prosperity of the people as a result of an unlawful act (Article 2 of the GCPL Law) and abuse of authority, opportunity, or means available to him because of his position or position (Article 3 of the GCPL Law).

Decision of the Corruption Court of the Central Jakarta District Court No. 29/Pid.Sus-TPK/2020/PN.Jkt.Pst which tried Benny Tjokrosaputro at PT Asuransi Jiwasraya (Persero). In the legal considerations, in essence, it states that:

a. Considering, that based on the legal facts revealed in the trial PT Asuransi Jiwasraya (Persero) is a state-owned company engaged in the field of life companies, its shares are 100% owned by the State based on the Articles of Association of PT Asuransi Jiwasraya formed to participate in building the national economy and is entitled to carry out operational activities of insurance management in particular and is entitled to carry out operational activities of life insurance management and investment management either in financial assets or property assets in the form of land or buildings;
b. Considering, based on Law No. 19 of 2003 concerning SOEs associated with the Articles of Association of PT Asuransi Jiwasraya (Persero), it is concluded that the capital owned by PT Asuransi Jiwasraya is owned by the state through direct participation originating from separated state assets.

In the end, the Corruption Court Decision of the Central Jakarta District Court No. 29/Pid.Sus-TPK/2020/PN.Jkt.Pst stated that Defendant Benny Tjokrosaputro was proven legally and convincingly guilty of committing the crime of corruption jointly and committing the crime of money laundering.

Based on Supreme Court Decision Number 417/K/Pid.Sus/2014 which tried Hotasi D.P. Nababan as the former President Director of PT Merpati Nusantara Airline. The Public Prosecutor filed a petition for Cassation in which he stated that PT Merpati Nusantara Airline is a state-owned enterprise in the form of a PT or Persero, which structurally means that PT Merpati Nusantara Airline is owned by the State. Changes in share ownership, especially when the State's shares occupy the largest/dominant amount compared to other shareholders, do not in any way reduce the legal status of PT Merpati Nusantara Airline as an SOE that manages State assets. Therefore, the opinion of the Supreme Court Judges states that:

---

[28] Eny Suastuti, "Konsep Kerugian Dalam Pengelolaan Badan Usaha Milik Negara (BUMN) Persero" (Fakultas Hukum Universitas Airlangga, 2009), h. 65-66.

[29] Chandra Ayu Astuti & Anis Chariri, "Penentuan Kerugian Keuangan Negara Yang Dilakukan Oleh BPK Dalam Tindak Pidana Korupsi," *Diponegoro Journal Of Accounting* 4, no. 3 (2015), h. 4.

a. The element of committing an act of enriching oneself or another person or a corporation. That as a result of the Defendant's unlawful actions, he has enriched another person or corporation, namely Thirdstone Aircraft Leasing Group (TALG) or Hume & Associates PC, and has caused financial losses to the State for US$ 1,000,000 (one million United States dollars);
b. The Element of Harming the State's Finance or Economy: That the unlawful actions of the Defendant have resulted in a financial loss to the State for US$ 1,000,000 (one million United States dollars);
c. Element of Doing or Ordering to Do, Who Participates in the Act. Based on the facts of law, there was cooperation between Defendant as President Director of PT MNA and TONY SUDJIARTO in the procurement of Boeing 737-400 and Boeing 737-400 aircraft leases from TALG where the Defendant did not include the Boeing 737-400 and Boeing 737-500 aircraft lease plans in the RKAP Plan to obtain approval from the General Meeting of Shareholders and paid a Security Deposit of US $ 1,000. 000 (one million United States dollars) not through a Letter of Credit or Escrow Account mechanism but in cash to the Hume & Associates PC Account even though there was no signing of the Purchase Agreement between TALG and East Dover Ltd as the owner of the Boeing 737-500 and Boeing 737-400 Aircraft and the Lease Agreement with TALG for only 1 (one) unit of Boeing 737-500 Aircraft and the Legal Opinion from the Legal Division regarding the risk of cooperation with TALG, in addition to knowing that the Security Deposit paid will be used for purposes other than its function as a guarantee as stipulated in the Decree of the Minister of Finance Number: Kep. 116 /Based on the aforementioned considerations, the element of doing or ordering to do, who participated in the act as referred to in Article 55 paragraph (1) to 1 of the Criminal Code is fulfilled;
d. Based on the aforementioned considerations, the Supreme Court thinks that the Defendant has been legally and convincingly proven guilty of committing the crime as charged by the Public Prosecutor in the Primair Indictment, therefore the Defendant must be sentenced by his actions.

IV. Integrity Pact and Accountability

The meaning of the word Integrity Pact (English Integrity Pact) is a statement or promise to oneself about the commitment to carry out all duties, functions, responsibilities, authorities, and roles. To fulfill the promise to oneself requires a good work ethic and awareness of Ethos: attitude, personality, character, character, and belief in something. Work ethic is the spirit of work that characterizes and believes in a person or group. Ethos is shaped by various habits, influences, culture, and the value system it believes in. In this ethos, there is a very strong passion or spirit to do something optimally better and even strive to achieve the best possible quality of work. The meaning of work is self-existence, as a source of income for oneself, the family, and society. The most important thing is to interpret work for devotion to God the Creator.

Associated with deviant actions of officials who do not heed or follow norms of good behavior. Deviations occur when public institutions fail to perform their statutory obligations or the principles that bind public officials. Failure to respond to letters, omitting files (in part or in whole), making unsettling statements, delaying decisions, showing prejudice, giving incomplete instructions, and confusing the public official.

The function of work ethic as a factor in reducing corruption and as a form of accountability is as follows:

a. As an Encourager

Encouragement is a form of encouragement that requires someone to do something. Without encouragement someone becomes lazy, concerning the work ethic, encouragement is interpreted as the work enthusiasm of each individual.

b. As an Evocative

When someone is moved to do something, there is a desire to do it. When you are moved to have a good and decent job, there is a desire to work hard.

c. As a Driver

Without something to drive you, you will stay in place. When you are not driven by motivation at work, you will feel bored with monotonous work every day. You will feel these three functions when you cultivate the value of work ethic and apply it when doing activities.

Accountability is defined as an ethical concept that is used synonymously with the concepts of responsibility, answerability, blameworthiness, and liability.[30] Accountability is also knowledge and accountability for every action, product, decision policy, and implementation within the scope of the role or work position which includes the obligation to report, explain, and be questioned for any consequences that have been produced. Accountability comes from the Latin compare (accountable) form of the root word computer (take into account) which also comes from the word pure (make calculations). Accountability is associated with openness, transparency, and accessibility.

Based on the opinion of Donald Faris's survey results at ICW, legal reform efforts must be carried out continuously so as not to give room for the emergence of corrupt intentions and actions. In Indonesia, the first rank of corruption occurs among the bureaucracy, DPRD, and regional heads. The forms of corruption are no longer just manipulation of transportation, hotel, and pocket money, but fictitious project tenders, extortion, markup of procurement of goods, and tax evasion. Transparency International's Corruption Perception Index is based on surveys and reports on how business people and government experts view corruption in the public sector. The index uses a scale of 0 - 100, where 0 is the score for the country with the worst level of corruption and 100 for the most corruption-free country. The top five countries are Denmark, Canada, Finland, Sweden and Switzerland. At the bottom of the ranking is Somalia, which for ten consecutive years has had the worst level of corruption in the world. At the top of the ranking are Denmark, Canada, Finland, Sweden, and Switzerland which are characterized by transparency in bureaucratic processes, encouraging citizen involvement, media freedom, and independent judicial systems. These countries allow citizens to access information on how public funds are spent. They consistently top the rankings. In contrast, there are countries like Somalia, South Sudan, and North Korea that are ravaged by war, or controlled by dictatorships, where government is dysfunctional and corruption is the only way for citizens to live their daily lives.[31]

These data are certainly a big responsibility in the context of administrative law enforcement of corruption crimes. Official responsibility in the aspect of corruption crime has 2 (two) things, namely:

a. Position accountability; and
b. Personal liability.

---

[30] Novia Salfat Anggraini & Hernadi Affandi, "Dismissal of Acting Provincial Heads in Indonesia Based on the Transparency Principle Perspective" (2024) 8:1 Lex J Kaji Huk dan Keadilan 61–69.

[31] Eva Mazrieva, "Indeks Persepsi Korupsi Indonesia Turun ke Peringkat 90", (2017), online: *Voaindonesia.com*.

According to Tatiek Sri Djatmiati, "state liability which emphasizes the element of fault (*faute*) becomes the balance of protection. If it is a personal mistake (faute personally), then the lawsuit cannot be submitted to the administrative court. The settlement of administrative disputes is guided by the civil code (droit civil), there must be an element of official misconduct (faute de service)".[32] This official responsibility is concerned with the validity of government legal acts carried out by officials for and on behalf of the office (*ambtshalve*). Personal responsibility relates to maladministration in the use of authority and public service. An official who carries out the duties and authority of the office or makes policies will be burdened with personal responsibility if he commits maladministration.[33]

CONCLUSION

The crime of corruption is inseparable from administrative law which is repressive relating to unlawful abuse of authority of state officials is an administrative law concept and the parameters of abuse of authority are measured in administrative law aspects. The crime of corruption for state administrators is related to personal responsibility and position as public service functionaries. Criminal responsibility is a personal responsibility related to maladministration, while official responsibility is related to administrative law.

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None.

ACKNOWLEDGMENT

None.

REFERENCES

BOOK

Anwar, Syamsul, *Fikih Antikorupsi Perspektif Ulama Muhammadiyah Majelis Tarjih dan Tajdid PP Muhammadiyah* (Jakarta: Pusat studi Agama dan Peradaban (PSAP), 2006).

Brouwer JG dan Schilder, *A Survey of Dutch Administratif Law* (Nijmegen: Ars Aequi Libri, 1998).

Eny Suastuti, *Konsep Kerugian Dalam Pengelolaan Badan Usaha Milik Negara (BUMN) Persero* Fakultas Hukum Universitas Airlangga, 2009) [unpublished].

HD Van Wijk, *Hoofdstukken van Administratief Recht* (Utrecht: Uitvegerij Lemma BV, 1995).

Hadjon, Philipus M & Tatiek Sri Djatmiati, *Hukum Administrasi dan Tindak Pidana Korupsi* (Yogyakarta: Gadjah Mada University Press, 2012).

Henry Campbell Black, MA, *Black's Law Dictionary* (St. Paul, Minn: West Publishing Co, 1968).

---

[32] Tatiek Sri Djatmiati, *Op.Cit,* h. 8.

[33] Adam Setiawan dan Nehru Asyikin, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penggunaan Diskresi Sebagai Instrumen Pelayanan Publik (Public Service)" (2020) 32:1 Mimb Huk 83–84.

Komisi Pemberantasan Korupsi, *Memahami Untuk Membasmi; Buku Saku Untuk Memahami Tindak Pidana Korupsi* (Jakarta: Komisi Pemberantasan Korupsi Republik Indonesia, 2006).

Lilik Mulyadi, *Titik Singgung Mengadili Menyalahgunakan Kewenangan Pada Pengadilan Tindak Pidana Korupsi dan Pengadilan Tata Usaha Negara* (Jakarta: Kencana, 2023).

Marzuki, Peter Mahmud, *Penelitian Hukum* (Jakarta: Kencana, 2005).

Muhammad Azhar, *Pendidikan Antikorupsi* (Yogyakarta: LP3 UMY Partnership, 2003).

Pope, Jeremy, *Strategi Memberantas Korupsi; Elemen Sistem Integritas Nasional, (terj.) Masri Maris* (Jakarta: Yayasan Obor Indonesia, 2003).

Ridwan Nasir, *Dialektika Islam dengan Problem Kontemporer* (Surabaya: IAIN Sunan Ampel Press, 2006).

Tatiek Sri Djatmiati, et-al, *Hukum Administrasi Sebuah Bunga Rampai* (Yogyakarta: Laksbang Pressindo, 2020).

William Wade, *Administrative Law* (US, Eight: Oxford University Press, 2000).

JOURNAL

Abidin, Achmad Anwar, "Pembentukan Karakter Siswa Melalui Internalisasi Nilai-Nilai Anti Korupsi" (2017) 1:2 JALIE J Appl Linguist Islam Educ 363–364.

Adam Setiawan dan Nehru Asyikin, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penggunaan Diskresi Sebagai Instrumen Pelayanan Publik (Public Service)" (2020) 32:1 Mimb Huk 83–84.

Aled Williams, "Corruption Definitions And Their Implications For Targeting Natural Resource Corruption" (2021) Target Nat Resour Corrupt 2.

Anggraini, Novia Salfat & Hernadi Affandi, "Dismissal of Acting Provincial Heads in Indonesia Based on the Transparency Principle Perspective" (2024) 8:1 Lex J Kaji Huk dan Keadilan 61–69.

Chandra Ayu Astuti & Anis Chariri, "Penentuan Kerugian Keuangan Negara yang Dilakukan Oleh BPK dalam Tindak Pidana Korupsi" (2015) 4:3 Diponegoro J Account 4.

Kautsar, Imaduddin & Najwa Aslami, "Dugaan Kasus Tindak Pidana Korupsi Impor Gula: Analisis Celah Pelanggaran Wewenang Menteri Perdagangan" (2024) LK2 FH UI, online: <https://lk2fhui.law.ui.ac.id/portfolio/dugaan-kasus-tindak-pidana-korupsi-impor-gula-analisis-celah-pelanggaran-wewenang-menteri-perdagangan/>.

Nur Basuki Minarno, "Pembuktian Unsur Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi" (2007) 12:1 Perspektif 46.

Rampadio, Hamdan, Ana Fauzia & Fathul Hamdani, "The urgency of arrangement regarding illicit enrichment in Indonesia in order to eradication of corruption crimes by corporations" (2022) 9:2 J Pembaharuan Huk 225–241.

Raspati, Taufik Rachman dan Lucky, "Menakar Makna Merugikan Perekonomian Negara Dalam Undang-UndangTipikor" (2021) 4:2 Nagari Law Rev 229.

Roesnajanti, Enni, "Penerapan Azas Pembalikan Beban Pembuktian Tindak Pidana Pencucian Uang (Studi Putusan Mahkamah Agung RI No. 1454 K/PID.SUS/2011 dan Putusan Pengadilan Negeri Lamongan No. 262/PID.SUS/2017/PN LMG)" (2021) 4:2 Lex J Kaji Huk dan Keadilan 211–233.

Serbabagus, S, "Unsur Dapat Merugikan Keuangan Negara atau Perekonomian Negara pada Pertanggungjawaban Tindak Pidana Korupsi" (2017) 1:1 Lex J Kaji Huk dan Keadilan 113–138.

WEBSITE

Eva Mazrieva, "Indeks Persepsi Korupsi Indonesia Turun ke Peringkat 90", (2017), online: *Voaindonesia.com*.

Philipus M Hadjon, *Discretionary Power dan Asas Asas Umum Pemerintahan Yang Baik (AAUPB)*, by Philipus M Hadjon (Semarang, 2004).