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Legal Analysis of the Application of Involvement in Corruption Criminal Act in Semarang District Court (Study of Decision Number: 75/Pid.Sus-Tpk/2016/Pn Smg)

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Abstract. *The study aims to determine the legal responsibility for perpetrators of involvement in non-corruption criminal cases in Decision Number: 75/Pid.Sus-TPK/2016/PN Smg, the judge's considerations in applying involvement to corruption criminal cases in Decision Number: 75/Pid.Sus-TPK/2016/PN Smg. The sociological legal approach method is an approach to studying and discovering legal realities experienced in the field or an approach that is based on problems concerning legal matters and existing realities, using the theory of legal responsibility and Pancasila Justice. The results of the research and discussion are that (1) That the legal responsibility for the perpetrators of involvement in the corruption case in Decision Number: 75/Pid.Sus-TPK/2016/PN Smg, the defendant is legally and convincingly guilty of committing a crime as in the First Primary Charge. By sentencing the Defendant to 9 (nine) years in prison. (2) The implementation of the judge's considerations in applying involvement to the corruption case in Decision Number: 75/Pid.Sus-TPK/2016/PN Smg in deciding the case uses several basic legal considerations into 2 parts, namely the judge's legal considerations and the judge's non-legal considerations. The judge's legal considerations prove the elements that meet and are in accordance with the crime charged by the public prosecutor.*

Keywords: *Corruption; Implementation; Inclusion.*

1. Introduction

Corruption is an abuse of power that is contrary to the principle of the rule of law. Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUDNRI) states that it guarantees the rights of citizens to receive equal treatment before the law, but corruption damages justice and legal

certainty.[1] So that the existence of the 1945 Constitution of the Republic of Indonesia (UUDNRI) gives a mandate to state institutions, including the Corruption Eradication Commission (KPK), to eradicate corruption. This shows the state's commitment to combating corruption as a serious threat to national stability and development.[2]

Efforts to eradicate corruption do not only involve law enforcement, but also need to involve public awareness, education, and system reform. This is important to create an anti-corruption culture and strengthen integrity in various sectors. With the existence of the Corruption Eradication Law, criminalizing corruption and imposing criminal sanctions on perpetrators. This action aims to provide a deterrent effect and prevent corruption in the future. Through law enforcement in corruption, the government has created a legal umbrella with the birth of laws and regulations regarding the eradication of corruption, starting with Law Number 28 of 1999 concerning the implementation of a Clean and Corruption-Free State, Collusion, and Nepotism, to the existence of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Corruption, so that the realization of a good legal state must be comparable to the existence of law enforcement, especially criminal law.

Efforts to enforce the law are the process of upholding or functioning legal norms in real terms as guidelines for legal relations in society.[3]It can be interpreted that criminal law enforcement is the implementation of law by law enforcement officers and by everyone who has an interest in accordance with their respective authorities according to applicable legal regulations. Because criminal law regulates the interests and relationships of individuals with the State.[4]

Criminal law is referred to as formal criminal law which is different from material criminal law, the meaning of material criminal law or criminal law rules as contained in the Criminal Code (KUHP) contains instructions and descriptions of crimes/criminal acts/criminal acts/criminal events, there are also regulations on the conditions or elements of whether or not someone can be sentenced to a criminal penalty (punishment) and rules on sentencing, to regulate to whom and how the punishment is imposed, while formal criminal law regulates how the

[1]Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia
[2]Andi Hamzah, 1991, Corruption in Indonesia: Problems and Solutions, Gramedia Pustaka Utama, Jakarta, p. 2
[3]Dellyana Shant, 1998, The Concept of Law Enforcement, Liberty, Jakarta, p.32
[4]Arief, Nawawi Barda, 1991, Non-Penal Efforts in Crime Prevention Policy, UI Criminology Seminar Paper, Semarang, p. 42

state through its instruments exercises its right to punish and impose punishment, so it contains criminal procedures.[5]

Criminal law regulations, in an effort to combat criminal acts of corruption, have undergone various changes. Changes have been made due to the rapid development of corrupt acts.[6]Even the perpetrators in committing crimes are not only individuals, but also corporations. While the problem in recognizing corporations as legal subjects, there are no rules in criminal procedure law that accommodate the methods of implementing actions in the judicial process against corporations, both in terms of criminal responsibility for corporate crimes and as legal subjects are not regulated in the Criminal Code (KUHP). Because national criminal law is designed to deal with the behavior of individual humans (natuurlijk person), so that the Criminal Code is only based on the principle that only humans can be prosecuted as the makers/perpetrators who are held responsible for a crime, both in the form of crimes and violations, as contained in the articles of the Criminal Code as follows:

1) The way of formulating a crime always begins with the word "whoever" which is generally intended or refers to a person or human being.

2) The criminal system adopted, specifically the penalty of loss of liberty, can only be imposed on humans and cannot possibly be imposed on legal entities.

3) According to the principles of Indonesian criminal law, a legal entity cannot commit a crime because Indonesian criminal law is based on the doctrine of individual guilt.[7]

The reality that is happening today, the perpetrator in carrying out a crime, a person does not only commit the crime alone, but it is done because there are people who participate in committing the crime, as happens in corruption. Participation (deelneming) in positive law is that there are two or more people who commit a crime or in other words there are two or more people taking part in realizing a crime, it can be said that a person participates in a relationship with other people.[8]Meanwhile, Wirjono Prodjodikoro said that what is meant by deelneming is the participation of one or more people when another person commits a crime.[9]

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[5]Andi Hamzah, 1983, Introduction to Indonesian Criminal Procedure Law, Ghalia Indonesia, Jakarta, p. 13

[6]Miftakhul Khobid, Analysis of Criminal Law Formulation Policy in Handling Corruption, Khaira Ummah Law Journal Vol. 13. No. 1 Year 2018. Url:https://jurnal.unissula.ac.id/index.php/jhku/article/view/2581accessed April 13, 2025.

[7]I Dewa Made Suartha, 2015, Corporate Criminal Law Criminal Responsibility in Indonesian Criminal Law Policy, Setara Press, Malang, pp. 6-7

[8]Erdianto Effendi, 2011, Indonesian Criminal Law, Refika Aditama, Bandung, p.174

[9]Wirjono Prodjodikoro, 1981, Principles of Criminal Law in Indonesia, PT Eresco, Jakarta, p.108

The formulation of participation is regulated in Articles 55 and 56 of the Criminal Code, as follows:

a. The elements of the makers (Medidader) in Article 55 of the Criminal Code, include:

(1) *Pleger*(person who does)

A person who is included in this group is a perpetrator of a crime who commits his own actions, either using a tool or not using a tool. In other words, a pleger is someone who fulfills all the elements in a formulation of the characteristics of a criminal offense in each article.

(2) *Doen Plegen*(person who orders it to be done)

An act can be categorized as doen plegen, there must be at least two people, where one acts as an intermediary. Because doen plegen is someone who wants to commit a crime, but he does not do it himself but uses or orders someone else, with the note that the one used or ordered cannot refuse or oppose the will of the person who ordered him to do it. In such a position, the person who is ordered to do it must also only be a tool (instrument), and the act is completely controlled by the person who ordered it to be done. In fact, the one who really commits the crime directly is the person who is ordered to do it, but the one who is responsible is another person, namely the person who ordered it to be done. This is because the person who was ordered to do it legally cannot be blamed or cannot be held responsible. The person who was ordered has grounds that eliminate the criminal nature. As regulated in Article 44, Article 48, Article 49, Article 50 and Article 51 of the Criminal Code.

(3) *Medepleger*(person who participates in doing)

An act can be categorized as medepleger, at least two people must be involved, namely the person who ordered it (pleger) and the person who participated in it (medepleger). It is called participating in it, because he was directly involved with the perpetrator in committing a crime, and not just helping or being involved in the preparatory action. This means that between the person who participated in it and the perpetrator, there must be conscious and deliberate cooperation.

(4) *Job seeker*(person who persuades to do)

In simple terms, the definition of a uitlokker is anyone who moves or persuades another person to commit a crime. The term moving or persuading has a limited scope of meaning in Article 55 paragraph (1) part 1 of the Criminal Code, namely by giving or promising something, abusing power or dignity, with violence, threats or misleading, providing opportunities, means and information. Unlike people who are ordered to do something, people who are persuaded can still be punished, because they still have the opportunity to avoid the act they were

persuaded to do. The responsibility of the person who persuades (uitlokker) is limited only to the actions and consequences of the act they persuaded, the rest is the responsibility of the person who was persuaded.

b. The elements of an assistant (Medeplichtigheid) in Article 56 of the Criminal Code include:

(1) A person who intentionally provides assistance at the time/time a crime is committed.

(2) A person who provides the opportunity, means or information to commit a crime (before the crime is committed).[10]

Based on the formulation of the article above, all groups referred to in Article 55 of the Criminal Code (KUHP) can be classified as perpetrators of criminal acts, so that the punishment for them is also the same. On the other hand, Article 56 of the Criminal Code (KUHP) regulates people classified as people who help commit criminal acts (medeplichtig) or assistants. People are said to be included as those who help commit criminal acts if they provide assistance to the perpetrator at the time or before the crime is committed. If assistance is provided after the act, they are no longer included as people who help, but are included as receivers or conspirators.[11]

Prof. Satochid Kartanegara's opinion defines Deelneming when in one crime several people or more than one person are involved. According to doctrine, Deelneming based on its nature consists of:

1) *Deelneming*which stands alone, namely the responsibility of each participant is valued individually.

2) *Deelneming*which does not stand alone, namely the responsibility of one participant is dependent on the actions of other participants.[12]

In law enforcement practice,challenges often arise in identifying and determining the accountability of perpetrators of involvement in corruption. The problem of criminal accountability is closely related to the element of error, "talking about the element of error in criminal law means hitting the heart of it".[13]The concept of criminal responsibility is the conditions required to impose a penalty on a perpetrator of a crime. Based on the idea of monodualism (daad en dader

[10]Grahamedia Press Team, 2012, Criminal Code & Criminal Procedure Code, Grahamedia Press, Surabaya, p.20
[11]Ibid,
[12] Satochid Kartanegara, 1964, Criminal Law II Lecture Material, Stencil Material,Student Lecture Hall, p.3
[13]Sudarto, 1979, A Dilemma in Reforming the Indonesian Criminal System, FH-Undip, Semarang, p.86

strafrecht), the due process of determining criminal responsibility is not only carried out by considering the interests of society, but also the interests of the perpetrator himself.[14]

2. Research Methods

Research method is a process, a series of steps that are carried out in a planned and systematic manner in order to find a solution to a problem or get answers to certain questions. The steps taken must be harmonious and mutually supportive so that the research conducted provides unquestionable conclusions.[15] This type of research is legal research conducted using the type of socio-legal research. Explaining that law can be studied and researched as a study of law that actually lives in society as a non-doctrinal and empirical study. While it is known that sociological legal research emphasizes the importance of empirical observation, observation and analytical steps or better known as sociolegal research.[16]

3. Results and Discussion

3.1. Analysis of Legal Responsibility for Perpetrators of Participation in Non-Criminal Corruption CasesDecision Number: 75/Pid.Sus-TPK/2016/PN Smg.

Corruption is no longer a new problem in legal and economic matters for a country. Because the problem of corruption has existed for thousands of years, both in developed and developing countries, including Indonesia. Corruption has crept and slipped in various forms, or modus operandi, thus eroding state finances, the state economy and harming the interests of society..[17]Actionscorruption according to the general public in particular, is an act of taking state money in order to gain profit for oneself. However, in Leden Marpaung's book that "Misappropriation or embezzlement (of state or company money, and so on for personal or other people's benefit)".[18]

The crime of corruption itself is an activity carried out to enrich oneself or a group, where this activity violates the law because it has harmed the nation and state.[19] Apart from the various definitions of corruption above, legally, the definition of corruption, both in terms of meaning and type, has been formulated

[14]Yaiful Bakhri, Legislative Policy on Criminal Fines and Its Implementation in Efforts to Combat Corruption, Ius Quia Iustum Law Journal Vol.17 No. 02 Year 2010, Url:https://journal.uii.ac.id/IUSTUM/article/view/3908, accessed April 30, 2025.
[15]Sumadi Suryabrata, 2006, Research Methodology, PT Raja Grafindo Persada, Jakarta, p.11
[16]Sabian Utsman, 2013, Basics of Sociology of Law: Complete with Legal Research Proposal, Pustaka Belajar, Yogyakarta, p. 310
[17] Andi Hamzah, 1991, Corruption in Indonesia: Problems and Solutions, Gramedia Pustaka Utama, Jakarta, p. 2
[18] Leden Marpaung, 2007, Criminal Acts of Corruption, Djambatan, Jakarta, p. 5
[19] Surachmin & Suhandi Cahaya, 2011, Corruption Strategies & Techniques, Sinar Grafika, Jakarta, p.10

in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption..In the legal sense, the definition of corruption is not only limited to acts that fulfill the definition of a crime that can harm state finances or the state economy, but also includes acts that fulfill the definition of a crime that harms society or individuals.

Along with the progress of development in Indonesia and the development of the global economy, the demands of the community's need for banking services are increasing. The banking sector is growing rapidly and has a strategic role. Banking as a financial intermediary institution that collects and distributes community funds.[20]In carrying out its business activities as a collector and distributor of public funds, negative excesses arise in the form of a special criminal act committed by banking officials themselves, customers or third parties or cooperation between the two may occur. Criminal acts related to the banking sector can be interpreted that banks are a means of committing criminal acts and/or banks are a means of committing criminal acts.[21]

Criminal acts in the banking sector are essentially not the same as banking crimes. Banking crimes are all types of criminal acts regulated in the Banking Law, namely Law Number 7 of 1992 as amended by Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 concerning Banking. Meanwhile, criminal acts in the banking sector are all types of criminal acts related to banking businesses, so not only those regulated in the Banking Law but can also be regulated in other provisions, where the criminal acts are still related to banking businesses. The types of banking crimes are regulated in detail in Chapter VIII of the Banking Law.[22]

According to Article 51 of the Banking Law, there are 2 types, namely criminal offenses and violation offenses. Although Article 51 distinguishes banking crimes into two types of offenses, it turns out that almost all of these crimes fall into the category of criminal offenses, except for the offenses listed in Article 48 paragraph (2). When viewed from the formulation of the article, the distinction is based on whether the act was committed intentionally or due to negligence. If intentionally, it is classified as a crime, but if due to negligence, it is classified as a violation.[23]

The problems that arise related to banking activities are that sometimes these activities can harm customers, or more broadly, may be considered detrimental to the community's economy. There are many modes of operation and types of

[20] Sentosa Sembiring, 2000, Banking Law, Cv. Mandar Maju, Bandung, p.10
[21] Marulak Pardede, 1998, Bank Liquidation and Customer Protection, Sinar Harapan Library, Jakarta, p.4.
[22] Bambang Sugeng, 2018, Testimony of Bank Officials in Handling Banking Crimes and Corruption in the Banking Sector, Bhuana Ilmu Populer, Jakarta, p.76
[23] Ibid.,p.81

actions that are considered to be detrimental to customers by individuals working in the banking sector. Actions that are clearly considered criminal acts include illegal banks, banks within banks, and leaking bank secrets. There are also actions that are considered ordinary crimes, such as: forgery and embezzlement. Even criminal acts in the field of credit and so on.[24]

The act of participation in a criminal act of corruption through banking means that there are other people who participate in carrying out acts of corruption involving banking, such as bribery, extortion, embezzlement or fraudulent acts carried out by bank employees or other people related to banking activities.. Deelneming is defined as an act (criminal act) committed by more than one person.[25]

The Criminal Code (KUHP) does not provide an understanding of the crime of participation (Deelneming Delicten), there are only forms of participation both as the perpetrator (Dader) and as an assistant (Medeplichtige). However, in another book it is stated that the meaning of the word "participation" means the participation of one or more people when another person commits a crime. Thus, people conclude that in every crime there is only one perpetrator who will be subject to criminal punishment. In practice, it often happens that more than one person is involved in a criminal act. In addition to the perpetrator, there is one or several other people who participate.[26]

According to Van Hammel, inclusion is a teaching of responsibility in the case of a criminal act which, according to the law, can be carried out by a perpetrator through his own actions.,[27] Meanwhile, Wirjono Prodjodikoro said that what is called deelneming is the involvement of one or more people when another person commits a crime. The relationship between participants in resolving the crime can vary, namely:

1) Together committing a crime

2) A person has the will and plans to commit a crime while he uses other people to carry out the crime.

3) Only one person commits a crime, while other people help carry out the crime.[28]

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[24]Ibid.,
[25] Ak Moch Anwar, 2001, Several General Provisions in Book I of the Criminal Code, Alumni, Bandung, p.3.
[26] Wirjono Prodjodikoro, 2003, Principles of Criminal Law in Indonesia, PT Refika Aditama, Bandung, p.117
[27] Ak Moch Anwar, Op.cit, p. 3.
[28] Wirjono Prodjodikoro, 1981, Principles of Criminal Law in Indonesia, PT Eresco Jakarta, Bandung, p.108

Ownership of authority is often caused by provisions or laws or customs, if this authority is used wrongly to carry out certain actions, this is called abusing authority. So abusing authority can be defined as carrying out an act by a person who actually has the right to do so, but is done wrongly or directed at the wrong thing. By paying attention to the discussion of the methods that must be taken by the Perpetrator of Corruption as stated in Article 3*juncto*Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code, namely by means of "misusing authority, opportunities, existing means due to "position or status" it can be stated:

a. Those who can commit criminal acts of corruption by abusing the authority, opportunities or means available to them because of their position or status are civil servants.

b. Meanwhile, perpetrators of corruption who are not civil servants or private individuals can only commit corruption by abusing existing opportunities or means due to their position.

In addition, the defendant made a deposit ticket that was different from the real one and forged the signature of the Branch Manager of Bank BTPN Semarang Branch in the name of KING AMIDJAJA. Changed the nominal in the term deposit ticket so that it was different from the real one. Paid interest on deposits at Bank Jateng according to the rate*ticket*deposit made by the defendant. That the Defendant's actions are unlawful because they are contrary to:

1) Article 52 of Law Number 1 of 2004 concerning State Treasury states that every person and/or body that controls documents relating to state treasury is obliged to properly administer and maintain said documents in accordance with applicable laws and regulations.

2) Article 8 paragraph (1) of Government Regulation Number 58 of 2005 concerning Regional Financial Management states that individuals or bodies that receive or control regional money/goods/assets are required to organize administration in accordance with statutory regulations. Article 1 number 22 of Law Number 1 of 2004 concerning State Treasury states that State/Regional Losses are a real and definite shortage of money, securities and goods as a result of unlawful acts, whether intentional or negligent.

3) Decree of the Board of Directors of PT. Bank BTPN Number: 032/DIR3.1/XI/2004 dated November 30, 2014 concerning Standard Operating Procedures that cash withdrawals and deposits are made at the teller counter, Memorandum from the Retail Funding Business Head Office at Bank BTPN

Number M.264/RPFB/WIL/VI/2010 dated June 15, 2010 concerning Affirmation Regarding the Prohibition of Receiving and Delivering Cash Funds or Documents for Personal Bankers and Personal Banker Managers which states that "Retail Funding Business Officers (Personal Bankers/Personal Banker Managers) are not permitted to accept deposits from customers in cash/documents or in any form from customers or prospective customers".

By sentencing the Defendant DIYAH AYU KUSUMANINGRUM, SE. binti I MADE SUELA to 9 (nine) years in prison and imposing a fine of IDR 100,000,000.00 (one hundred million rupiah) and if the fine is not paid, it will be replaced with imprisonment for 2 (two) months. Sentencing the Defendant DIYAH AYU KUSUMANINGRUM, SE. binti I MADE SUELA to pay compensation of IDR 21,581,630,336.00 (twenty one billion five hundred eighty one million six hundred thirty thousand three hundred thirty six rupiah), with the provision that if the Defendant does not pay compensation within a maximum of 1 (one) month after the court decision has permanent legal force, then his/her property can be confiscated by the Prosecutor and auctioned to cover the compensation, in the event that the Defendant does not have sufficient property to pay the compensation, it will be replaced with imprisonment for 3 (three) years.

Criminal law is known as responsibility, Dutch calls it toerekenbaarheid, in English criminal responsibility or criminalliability. Criminal responsibility, Roeslan Saleh calls it "criminal responsibility", while Moeljatno says "responsibility in criminal law", other legal experts more often call it "criminal responsibility".[29] In essence, criminal responsibility is a system built by criminal law to react to violations of an agreement to reject a certain act.[30]According to Roeslan Saleh, criminal responsibility is the continuation of objective blame that does not exist in a criminal act and subjectively fulfills the requirements to be punished for the act.[31]

3.2. Analysis of Judges' Considerations in the Application of Inclusion in Corruption Crime CasesDecision Number: 75/Pid.Sus-TPK/2016/PN Smg

The judge's decision is the final action of the judge in a trial, determining whether or not the perpetrator is punished, so the judge's decision is a statement from a judge in deciding a case in a trial and has permanent legal force.[32]

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[29]Sampur Dongan Simamora & Mega Fitri Hertini, 2015, Criminal Law in Charts, FH Untan Press, Pontianak, p. 166

[30]Chairul Huda, 2006, From No Crime Without Fault Towards No Criminal Responsibility Without Fault, Kencana, Second Edition, Jakarta, p. 70

[31]Roeslan Saleh in Hanafi Amrani and Mahrus Ali, 2015, Criminal Responsibility System: Development and Implementation, PT Rajawali Press, Jakarta, p. 21

[32] Lilik Mulyadi, 2007, Compilation of criminal law from a theoretical and practical perspective on pre-trial justice, MandarMaju, Jakarta, p.127

Judges have the duty to receive, examine, and try, as well as decide cases which means resolving criminal disputes. Judges are also ordinary human beings who have weaknesses and shortcomings placed in a central position in upholding law and justice. So that judges in making decisions, must consider many things, both those related to the case being examined, the level of actions and mistakes made by the perpetrator, to the interests of the victim and his family and also consider the sense of justice of the community.[33]

A judge in sentencing a defendant may not impose the penalty unless it is done with at least two means valid evidence, so that the judge is convinced that an act the crime actually occurred and the defendant was guilty of committing it (Article 183 KUHAP) while the valid evidence referred to is witness statements, expert statements, letters, instructions, statements from the defendant or other matters. which is generally known so that it does not need to be proven (Article 184).[34]Meanwhile, in the criminal justice system that is run based on the Criminal Procedure Code (KUHAP), the judge is placed as the leader of the trial in the process of providing evidence and making a verdict. The role of the judge in leading the trial is illustrated by the judge's monopolistic authority in determining the trial day, summoning and examining witnesses/experts/defendants/evidence to test and assess evidence and declare whether or not a criminal event has occurred.[35]

According to Lilik Mulyadi, based on theoretical and practical vision, the judge's decision is:

"The verdict pronounced by a judge due to his/her position in a criminal trial that is open to the public after carrying out the criminal procedure process and procedures generally contains a sentence of punishment or acquittal or release from all legal charges made in written form with the aim of resolving the case."

According to Barda Nawawi Arief, judges in making a decision in a court hearing can consider several aspects, namely:

1) The perpetrator's fault
2) Motives and accusations of committing a crime
3) How to commit a crime,
4) Good attitude of perpetrators of criminal acts
5) Life history and socio-economics

[33] Sunaryo, S., Op.Cit., p.271
[34] Satjipto Rahardjo, 2013, Anthology of Problems in the Criminal Justice System, Center for Justice Services and Legal Service, Jakarta, p. 11
[35] J.Pajar Widodo, 2013, Becoming a Progressive Judge, Bandar Lampung, p.15

6) The attitude and actions of the perpetrator after committing a crime,

7) The impact of criminal penalties on the future of the perpetrator

8) The public's view of the criminal acts committed by the perpetrator.[36]

Thus, in essence, the judge's considerations should also include the following matters:

a. The main issues and things that are acknowledged or the arguments that are not denied

b. There is a legal analysis of the decision regarding all aspects concerning all facts/matters proven in the trial.

c. All parts of the Plaintiff's petitum must be considered/tried one by one so that the judge can draw a conclusion about whether or not the claim has been proven and whether or not the claim can be granted in the verdict.

One of the considerations of the judge is the most important aspect in determining the realization of the value of a judge's decision that contains justice (*ex aequo and bono*) and contains legal certainty, in addition to also containing benefits for the parties concerned so that the judge's consideration must be addressed carefully, well, and carefully. If the judge's consideration is not careful, good, and careful, then the judge's decision derived from the judge's consideration will be canceled by the High Court/Supreme Court.[37]

Thus, the position of the judge in examining a case also requires evidence, where the results of the evidence will be used as a consideration in deciding the case. Evidence is the most important stage in the examination in court. Evidence aims to obtain certainty that athe events/facts presented really happened, in order to obtain a true and fair judge's decision.[38]While the decision handed down by the judge must be based on clear and sufficient consideration. Decisions that do not meet these provisions are categorized as decisions that are not sufficiently considered or onvoldoende gemotiveerd. The reasons used as considerations can be in the form of certain articles of laws and regulations, customary law, jurisprudence or legal doctrine.[39]

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[36]Barda Nawawi Arief, 2001, Problems of Law Enforcement and Crime Prevention Policy, PT. Citra Aditya Bakti, Bandung, p. 23

[37] Mukti Arto, 2004, Civil Case Practice in Religious Courts, 5th edition, Pustaka Pelajar, Yogyakarta, p. 140

[38] Cristian H. Panelewan, Legal Review of Protection of Suspects' Rights in the Criminal Case Settlement Process, Social Science Journal, Vol. 2 No. 2, Year 2015. Url: https://jurnal.usk.ac.id/SKLJ/article/view/12152accessed May 28, 2025.

[39] M. Yahya Harahap, 2005, Civil Procedure Law, Sinar Grafika, Jakarta, p.798

The Court Judge makes a decision in a court hearing, considering several aspects, namely:

1) The perpetrator's fault

This is the main requirement for someone to be punished. Error here has the broadest meaning, namely that the perpetrator can be blamed. the crime. The intent and the intention of the perpetrator of the crime must be determined normatively and not physically. To determine the existence of deliberateness and intention must be seen from event to event, which must be holding the normative measure of willfulness and intention is the judge.

2) Motives and objectives for committing a crime

Criminal cases contain the element that the act has motive and purpose to intentionally break the law.

3) How to commit a crime

The perpetrator committed the act with an element of prior planning. first to commit the crime. Indeed, there is an element of intent in in it is the perpetrator's desire to fight the law.

4) Life history and socio-economic situation

The life history and socio-economic conditions of the perpetrator of the crime are also very important. influence the judge's decision and reduce the punishment for the perpetrator, for example, never having committed any criminal act, originating from from a good family, belonging to a high-income society mediocre (lower class).

5) The mental attitude of the perpetrator of the crime

This can be identified by looking at feelings of guilt, feelings of regret and promised not to repeat the act. The perpetrator also provide compensation or compensation to the victim's family and make peace in a family way.

6) The perpetrator's attitude and actions after committing a crime

When the perpetrator was asked for information about the incident, he explained that he did not... convoluted, he accepted and admitted his guilt, because the judge saw The perpetrator behaved politely and was willing to take responsibility, and also admitted all his actions by being open and honest.

7) The impact of criminal penalties on the future of the perpetrator

Criminal penalties also have a purpose, namely to deter perpetrators criminal acts, also to influence the perpetrator not to repeat the crime his actions, free

the perpetrator from guilt, socialize the perpetrators by providing coaching, so that make him a better and more useful person.

8) The public's view of the criminal acts committed by the perpetrators

In a criminal act, the community considers that the perpetrator's actions are a despicable act, so it is only natural that the perpetrator be punished, so that the perpetrator gets his reward and learns not to doing things that can harm yourself and others. it is stated that this provision is to guarantee the enforcement of truth, justice and legal certainty.[40]

Justice means treating everyone with the principle of equal liberty, without discrimination based on subjective feelings, differences in descent, religion and social status. The existence of real disparities in national life, as a legacy of the injustice of the pre-Indonesian government, must be returned to a balanced point that runs straight, by developing different treatments (the principle of difference) according to the different living conditions of each person (group) in society, and by aligning the fulfillment of individual rights with the fulfillment of social obligations.[41]

The aim of the idea of justice is not limited to the fulfillment of economic welfare, but is also related to efforts at emancipation within the framework of freeing humans from idolatry of objects, restoring human dignity, fostering national solidarity, and strengthening the sovereignty of the people.[42]

It is necessary for every person, group or community to take action and contribute, no matter how small, to help realize fair and equitable welfare for the surrounding community. So, every person, group or community has an interest in equalizing social justice for all Indonesian people. This responsibility does not only rest in the hands of the government as the wheel of government.[43]

The construction of social justice in Pancasila is not only interpreted in economic terms, but the social justice aimed at by Pancasila is justice in all fields. The achievement of such justice ultimately gives birth to a prosperous state. In the concept of a welfare state, everyone is equal before the law and what is more important is that the state is run based on the rule of law itself.[44]The realization of a welfare state is largely determined by the integrity and quality of state administrators, accompanied by a sense of responsibility and humanity that

[40] Barda Nawawi Arief, 2001, Problems of Law Enforcement and Crime Prevention Policy, PT. Citra Aditya Bakti, Bandung, p.77
[41]Yudi Latif, The Complete State.., op.cit., p.585.
[42]Ibid,
[43]Ibid,
[44]Abdul Hamid Tome, Grounding Pancasila: Efforts to Institutionalize Pancasila Values in Village Community Life, Al-'Adl Journal, Vol. 13 No. 1 Year 2020. Url:https://ejournal.iainkendari.ac.id/index.php/al-adl/article/view/1717accessed May 29, 2025.

radiates from every citizen.[45]In this regard, that a person is not enough to be punished if the person has committed an act that is contrary to the law or is unlawful in nature. Although his actions fulfill the elements of a crime in the law and are not justified, this does not yet fulfill the requirements for imposing a criminal penalty.[46]For criminal punishment, there still needs to be a condition that the person who committed the act was at fault or guilty.

In other words, the person must be held accountable for his actions.[47]Because it is impossible for a perpetrator to be willing to provide information if it will drag him/her into becoming a suspect/defendant, so holding someone accountable under criminal law does not only mean legally imposing a penalty on the person, but it can also be fully believed that it is indeed appropriate to ask for accountability for the crime he/she has committed.[48]So this concept of justice and legality is what is applied in the national law of the Indonesian nation, which means that national legal regulations can be used as a legal umbrella (law unbrella) for national legal regulations, according to their level and degree and these legal regulations have binding power on the materials contained (content material) in these legal regulations.[49]

4. Conclusion

That the legal responsibility for the perpetrators of participation in the corruption case in Decision Number: 75/Pid.Sus-TPK/2016/PN Smg, the defendant is legally and convincingly guilty of committing a crime as in the First Primary indictment. By sentencing the Defendant to 9 (nine) years in prison and imposing a fine of IDR 100,000,000.00 (one hundred million rupiah) and if the fine is not paid, it is replaced with imprisonment for 2 (two) months. Sentencing the Defendant to pay compensation of IDR 21,581,630,336.00, with the provision that if the Defendant does not pay compensation within a maximum of 1 (one) month after the court decision has permanent legal force, then his property can be confiscated by the Prosecutor and auctioned to cover the compensation, in the event that the defendant does not have sufficient property to pay the compensation, it is replaced with imprisonment for 3 (three) years.

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[47]Ibid,
[48]Moh. Yusril, Syachdin, Kamal. Implementation of Replacement Money in Corruption Crimes (Study of the Donggala District Attorney's Office), Toposantaro Journal of Law Volume 1 No. 2 of 2024. Url:Https://Jurnal.Fakum.Untad.Ac.Id, accessed May 29, 2025.
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