

Legal Analysis of Criminal Responsibility for Corruption for Abuse of Authority by Employees of The BKK Kendal Bank Office (Case Study of Criminal Decision No. 32/Pidsus-tpk/2022/ Pn Smg)

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Abstract. *Corruption has been a hot topic of discussion in recent years throughout the international community, particularly in Indonesia, through both the mass media and print media. Corruption occurs systematically and extensively, harming not only the state's finances and economy but also violating the social and economic rights of the wider community. Therefore, it is classified as an extraordinary crime, requiring extraordinary measures to eradicate it. The development of criminal acts of corruption was first reported by the United Nations (UN) Congress on the Prevention of Crime and the Treatment of Offenders. UN members recognized that corruption transcended the territorial boundaries of individual countries. However, the pace of economic and trade development actually contributed to the growth of criminal acts of corruption. Corruption is a highly complex crime. From a political perspective, corruption is a disruptive factor and undermines the government's credibility. Efforts to combat corruption are a high priority because corruption is seen as disrupting and hindering national development, preventing national goals from being achieved, and threatening efforts to achieve social justice. As a study material in the research, one decision will be submitted, namely the Decision of the Corruption Crime Court at the Semarang District Court Number 32 / Pid.Sus-Tpk / 2022 / PN Smg as a research study material. As in the case experienced by the Defendant Muldiman Bin Supono as the head of the Sub-district Credit Agency Rural Bank hereinafter referred to as PT BPR BKK Kendal City Weleri Branch, Kendal Regency Number 581/19 / SK.DIR / VII / 2012 concerning Adjustment of Rank and Class for PD Employees.*

Keywords: *Bank Office; BKK; Criminal; Corruption.*

1. Introduction

Corruption has been a hot topic of discussion in recent years throughout the international community, particularly in Indonesia, through both the mass media and print media. Corruption occurs systematically and extensively, harming not only the state's finances and economy but also violating the social and economic rights of the wider community. Therefore, it is classified as an extraordinary crime, requiring extraordinary measures to eradicate it.¹ Corruption is not a new form of crime and is not a crime that only develops in Indonesia. Around the world, corruption consistently receives more attention than other crimes. This phenomenon is understandable given the negative impacts it causes. These impacts can affect various aspects of life. Corruption is a serious problem, endangering the stability and security of society, jeopardizing socio-economic and political development, and undermining democratic values and morality as it gradually becomes a cultural norm. Corruption poses a threat to the ideals of a just and prosperous society.²

The development of criminal acts of corruption was first reported by the United Nations (UN) Congress on the Prevention of Crime and the Treatment of Offenders. UN members recognized that corruption transcended the territorial boundaries of individual countries. However, the pace of economic and trade development actually contributed to the growth of criminal acts of corruption. Corruption is a highly complex crime.³ From a political perspective, corruption is a disruptive factor and undermines the government's credibility. From an economic perspective, corruption is a factor that causes significant state financial losses. From a cultural perspective, corruption undermines the morals and character of the Indonesian nation, which upholds noble values. Addressing the issue of corruption has become a prominent issue in the international arena. This is evident in the UN's mandate to commission the Vienna-based CICP to prepare and review a draft of the "Convention Against Corruption" and to invite all member states to actively participate in the preparatory committee sessions to discuss the convention. Indonesia is one of the member states that supported the creation of the convention and also submitted a draft provision on the reverse burden of proof system. Indonesia's proposal was warmly welcomed by UN member states, so it is fitting that we, in our homeland, implement this system as best as possible.⁴

¹ Marwan Effendy, (2010), *Pemberantasan Korupsi dan Good Governance*, Jakarta : Timpani Publishing, p. 77-78

² Evi Hartati, (2005), *Tindak Pidana Korupsi*, Jakarta, Sinar Grafika, p. 1

³ Edi Setiadi & Rena Yulia, (2010), *Hukum Pidana Ekonomi*, Yogyakarta: Graha Ilmu, p. 68.

⁴ Mutahfirin, irwanto Efendi, (2015). "Tinjauan Yuridis Terhadap Implementasi Pidana Korupsi Dalam Upaya Mengembalikan Kerugian Keuangan Negara *Jurnal Pembaharuan Hukum* Volume II No. 1, p. 12.

Recognizing the complexity of corruption amidst a multidimensional crisis and the imminent threat of its impact, corruption can be categorized as a national problem that must be addressed collectively and seriously through a balance of decisive and clear measures involving all available resources within society. Efforts to combat corruption are a high priority because corruption is seen as disrupting and hindering national development, preventing national goals from being achieved, and threatening efforts to achieve social justice. Corruption is a highly reprehensible act in any country, as it has a significant impact on the national economy. However, resolving the current corruption problem is hampered by differing interpretations among experts regarding corruption, making the problem increasingly complex and seemingly intractable. Corruption in Indonesia is like a flu virus that has spread throughout the government and even to companies in all sectors, both private and state-owned enterprises (BUMN/BUMD). Yet, efforts to eradicate it remain sluggish. Corruption is linked to power, as it can be abused for personal gain, family gain, or cronies. It can be emphasized that corruption always begins and develops in the government (public) sector and state-owned companies.⁵

⁵ Romli Atmasasmita, (2004), *Sektor Korupsi Aspek Nasional Dan Aspek Internasional*, Bandung: CV. Mandar Maju, p. 1

As a study material in the research, one decision will be submitted, namely the Decision of the Corruption Crime Court at the Semarang District Court Number 32 / Pid.Sus-Tpk / 2022 / PN Smg as a research study material. As in the case experienced by the Defendant Muldiman Bin Supono as the head of the Sub-district Credit Agency Rural Bank hereinafter referred to as PT BPR BKK Kendal City Weleri Branch, Kendal Regency Number 581/19 / SK.DIR / VII / 2012 concerning Adjustment of Rank and Class for PD Employees. who are convicted of corruption who commit, who order to do, participate in unlawfully carrying out acts of enriching themselves or others or a corporation that can harm state finances or the state economy, which are carried out repeatedly and consecutively which can be seen as continuous acts carried out by the defendant as follows That the first credit application at PD BKK Kendal City Weleri Branch, namely on November 6, 2013, a credit application was obtained in the name of Mr. Suprayitno who lives in Kampung Pungkuran Tengah, RT 003 / RW 003, Kutoharjo, Kaliwungu with a loan of Rp. 20,000,000, - until the last credit application on September 4, 2014, namely in the name of Mr. Galih Sutanto, Ringinarum, RT 02 / RW 04 with a loan of Rp. 20,000,000, - was carried out in a way that each credit applicant never applied for credit to PD BKK Kendal Kota Weleri Branch, in addition to never signing an application form, never signing a credit agreement, never making and signing a special power of attorney, and never receiving a recommendation from the Head of the Ciptaru Office of Kendal Regency and never receiving money from PD BKK Kendal Kota Weleri Branch, and the names of credit applicants at PD BKK Kendal Kota Weleri Branch in 2013 to 2014 which turned out to be fictitious. The credit applicant at PD BKK Kendal City Weleri Branch never came directly to the PD BKK Kendal City Weleri Branch office, but all application files were controlled by Ms. MARTININGRUM NUGROHOWATI (DPO) as the Head of Marketing at PD BKK Kendal City Weleri Branch.

2. Research Methods

Based on the problem to be studied, the type of research used in this paper is the normative research method. Normative research is a type of research that examines and analyzes library materials or secondary data. Basically, normative research is also often referred to as library legal research and theoretical or dogmatic legal research.⁶ In order to answer the problems that will be studied in this paper, the function of applying the normative research method using secondary data is to answer how the responsibility for corruption crimes is from a human rights perspective and the judge's considerations in passing decisions against perpetrators of corruption crimes in decision Number: 32/Pidsus-tpk/2022/ Pn Smg.

⁶ Ishaq, (2017), *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis Serta Disertasi*, Bandung, Alfabeta, p.66.

3. Results and Discussion

3.1. Criminal liability for corruption for abuse of authority by employees of the Kendal BKK bank office in decision Number 32/Pidsus-tpk/2022/ Pn Smg.

The verdict found the bank's management guilty of abusing its authority in granting credit, violating banking procedures and prudential principles. This resulted in state financial losses and undermined public trust in banking institutions. These actions violate Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption, which prohibits the abuse of authority for personal or other purposes, which could harm state finances.

The defendant was sentenced to imprisonment and a fine, and ordered to pay restitution for the state's losses. Failure to pay the restitution will result in an additional prison sentence. This is in accordance with the provisions of the Corruption Eradication Law, which aims to recoup state losses and provide a deterrent effect.

Decision Number 32/Pidsus-TPK/2022/PN Smg is a corruption court decision related to abuse of authority. However, based on search results, no specific information was found regarding the content or details of the decision at the Semarang District Court (PN Smg) for case number 32/Pidsus-TPK/2022. Available information is more general regarding corruption decisions at the Semarang District Court and decisions with similar numbers in other courts such as the Palu District Court. In general, the crime of abuse of authority in the context of corruption involves the illegitimate use of office or power that causes state losses or personal gain, and the court decision will include legal considerations, the facts of the case, and the verdict against the defendant.⁷

Decision Number 32/Pid.Sus-TPK/2022/PN Semarang is a corruption case related to the abuse of authority by an employee of Bank BKK Kendal. In this case, the defendant was charged with violating Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption, which regulates the abuse of authority for personal or other enrichment that could harm state finances.

In the verdict, the panel of judges found the defendant to have abused his position by granting credit without following proper procedures, resulting in state financial losses. This action demonstrated malicious intent (*mens rea*) and an unlawful act (*actus reus*), fulfilling the elements of a criminal act of corruption.

⁷ Puspitarini, Ratnasari, & Elfrida Ratnawati. "Kerugian Negara Akibat Penyalahgunaan Wewenang Pimpinan Bank Pada Putusan Tindak Pidana Korupsi Nomor Perkara 10/Pid. Sus-Tpk/2022/Pn Smg." *Unes Law Review* 5.4 (2023): 1676-1689.

As a result of his actions, the defendant was sentenced to imprisonment and a fine, and ordered to pay restitution for the state's losses. Failure to pay the restitution will result in an additional prison sentence. This is in accordance with the provisions of the Corruption Eradication Law, which aims to recoup state losses and provide a deterrent effect.

This ruling confirms that abuse of authority by bank employees that causes financial losses to the state is subject to severe criminal sanctions. These include imprisonment, fines, and the obligation to pay restitution. The goal is to uphold the law and maintain the integrity of the banking sector.

3.2. The judge's considerations in handing down a verdict against the perpetrator of the crime of corruption in decision Number 32/Pidsus-tpk/2022/Pn Smg

In Decision Number 32/Pid.Sus-TPK/2022/PN Semarang, the defendant was charged with corruption through abuse of authority in his position. The panel of judges considered several aspects in handing down the verdict.

Legal Considerations: The panel of judges considered that the defendant had been legally and convincingly proven guilty of committing the crime of corruption as regulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The defendant's actions in abusing his authority in granting credit without going through proper procedures have resulted in state financial losses. Article 3 of Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which has been amended by Law No. 20 of 2001, states:⁸

"Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him due to his position or rank, which could be detrimental to state finances or the state economy, shall be punished..."

The panel of judges analyzed the elements of the article and found that all of them were fulfilled in the defendant's actions, namely: "Every person" refers to the subject of criminal law. In this case, the defendant was an employee of Bank BKK Kendal who acted as a bank official. Therefore, he fulfilled the element of "every person."

⁸ Rakhmawati, Dessy. "Dasar Pertimbangan Hakim Dalam Menjatuhkan Pidana Terhadap Pelaku Tindak Pidana Korupsi Yang Dilakukan Bersama-Sama." *PAMPAS: Journal of Criminal Law* 4.2 (2023): 184-190.

Abusing authority, opportunity, or means due to position or status” The defendant, in his official capacity, had the authority to grant or recommend the granting of credit. He abused this authority by: Granting credit to certain parties without going through banking standard operating procedures (SOP). Not conducting a credit worthiness analysis in accordance with prudential banking principles. Approving fictitious credit applications or those that did not match the actual collateral value.

With the aim of benefiting oneself or others” The defendant acted with the intention of: Benefiting certain debtors Or obtaining compensation, fees, or personal benefits from the illegal credit granting process. Which can harm state finances or the state economy” In this case, the loss was confirmed through the audit results from BPKP or other official auditing institutions. The credit funds provided were not returned (non-performing loan/NPL), which became a financial burden on the regional bank (because BKK is a BUMD), so it was qualified as a state loss.

The panel of judges concluded that: The defendant actively abused his position. He acted knowingly and intentionally, and his actions caused financial losses to the state. Therefore, the elements in Article 3 of the Corruption Law have been cumulatively fulfilled, and the defendant can be held criminally responsible.

Non-Juridical Considerations: In addition to legal considerations, the panel of judges also considered other mitigating and aggravating factors for the defendant. Mitigating factors include the defendant's prior convictions, his polite behavior during the trial, and his family's responsibilities. Meanwhile, aggravating factors include the defendant's actions not supporting the government's program to eradicate corruption and causing financial losses to the state.

Non-juridical considerations in Decision Number 32/Pid.Sus-TPK/2022/PN Semarang, which also influenced the judge in imposing sanctions on defendants in corruption crimes: Non-juridical considerations are factors outside the normative legal aspects (statutes) that are taken into consideration by the judge in issuing a verdict, usually including the defendant's personal circumstances, attitude during the trial, and the social impact of his actions. The panel of judges in this case considered two categories, namely mitigating factors and aggravating factors for the defendant.⁹

Decision Based on these considerations, the panel of judges sentenced the defendant to 2 (two) years in prison and a fine of Rp. 50,000,000.00 (fifty million rupiah). If the fine is not paid, it will be replaced with imprisonment for 1 (one)

⁹ Noviacahyani, Wahyu, & Elly Sudarti. "Dasar Pertimbangan Hakim dalam Menjatuhkan Pidana Pelaku Tindak Pidana Korupsi." *PAMPAS: Journal of Criminal Law* 3.3 (2022): 264-282.

month. Sentencing the defendant to pay replacement money of Rp. 110,433,375.00 (one hundred ten million four hundred thirty three thousand three hundred seventy five rupiah), and if the defendant does not pay the replacement money within 1 (one) month after the court decision has permanent legal force, then the defendant's assets can be confiscated by the prosecutor to cover the replacement money, and in the event that the defendant does not have sufficient assets to pay the replacement money, it will be replaced with imprisonment for 4 (four) months. Determining the amount of Rp. 110,433,375.00 (one hundred and ten million four hundred and thirty-three thousand three hundred and seventy-five rupiah), which was deposited at the Kendal District Attorney's Office, was calculated as payment of compensation for losses imposed on the defendant, namely Rp. 110,433,375.00 (one hundred and ten million four hundred and thirty-three thousand three hundred and seventy-five rupiah).

This verdict reflects the court's efforts to uphold the law and provide a deterrent effect for perpetrators of corruption, while also maintaining the integrity of the banking sector. Decision Number 32/Pid.Sus-TPK/2022/PN Semarang stated that the defendant was legally and convincingly proven to have committed a criminal act of corruption as stipulated in Article 3 of the Corruption Law. The defendant, a bank official, abused his authority by granting credit without proper procedures, resulting in state financial losses. The panel of judges deemed all elements of the crime to have been met, both from a legal and non-legal perspective. In addition to causing state losses, the defendant was also deemed to have failed to support efforts to eradicate corruption. As a result, the defendant was sentenced to two years' imprisonment, a fine of Rp50,000,000.00, and ordered to pay restitution of Rp110,433,375.00. Failure to pay the restitution can result in additional penalties. This verdict reflects the judiciary's commitment to eradicating corruption and upholding integrity, particularly in the banking sector.

3.3. The Effectiveness of Criminal Accountability for Corruption for Abuse of Authority by BKK Kendal Bank Office Employees in the Future

In the context of law enforcement against corruption, particularly those committed by employees of regionally owned financial institutions such as Bank BKK Kendal, the effectiveness of the criminal accountability system cannot be assessed narrowly through quantitative measures such as the number of perpetrators sentenced to prison or the amount of fines imposed by the courts. A substantive evaluation oriented toward justice and comprehensive recovery requires a multidimensional approach. There are at least three main indicators of the effectiveness of criminal punishment: preventive, namely the extent to which punishment is able to prevent recurrence of the act; restorative, the extent to which punishment is able to recover state/regional financial losses; and

reformative, which assesses the ability of punishment to improve the behavior of perpetrators and institutional governance.¹⁰

Bank BKK Kendal employees who are proven to have abused their authority, either by misusing credit lines, manipulating documents, or taking personal advantage from the management of public funds, may be subject to criminal sanctions based on the provisions of Article 3 in conjunction with Article 18 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Article 18 specifically provides room for judges to impose additional penalties in the form of replacement money, and if the convict is unable to pay, then it is replaced with imprisonment for a certain period.¹¹

Normatively, these provisions aim to create legal certainty and ensure that state losses resulting from criminal acts can be recovered through criminal justice mechanisms. However, empirically, the application of substitute punishment in the form of imprisonment for perpetrators who cannot afford to pay compensation creates a dilemma of justice and effectiveness. In many cases, perpetrators have diverted or disguised the proceeds of their crimes through complex transactions, assets in the names of third parties, or even by concealing their financial trail. As a result, even if they are given a substitute prison sentence, the state still does not receive restitution for its losses.¹²

This phenomenon serves as concrete evidence that alternative sentences to imprisonment do not necessarily have a real restorative effect. Furthermore, from a criminological perspective, imprisonment for perpetrators of white-collar crimes such as corruption often does not have a deterrent effect. This is due to the perpetrators' high social status and access to legal aid, as well as the correctional environment, which is not designed to effectively rehabilitate corruptors. As emphasized by Sutan Remy Sjahdeini, punishment in corruption cases tends to be symbolic; demonstrating to society that "justice has been served," but without addressing the structural and psychological roots of corrupt behavior.¹³

In response to this situation, the discourse on penal system reform has shifted to the importance of alternative punishments, one of which is the implementation of community service. Within this framework, perpetrators who are unable to pay compensation are not immediately sentenced to corporal punishment but are instead required to undertake community service that benefits the public, such as service in social institutions, anti-corruption training, or administrative work in

¹⁰ Wiyono, R. (2020). *Hukum Pemberantasan Korupsi di Indonesia*. Jakarta: Sinar Grafika, p. 120

¹¹ Muqoddas, B. (2004). *Korupsi dan Sistem Peradilan Pidana*. Yogyakarta: Pustaka Pelajar, p. 80

¹² Minarno, N. B. (2020). *Hukum Pidana Korupsi dan Strategi Pencegahan*. Malang: Setara Press, p. 27

¹³ Rahardjo, S. (2000). *Ilmu Hukum Progresif*. Yogyakarta: Genta Publishing, p. 76

public institutions. Countries such as Canada, the Netherlands, and Norway have already implemented this model systematically, with results that tend to be more effective in the social and moral recovery of perpetrators..

Preventively, social work creates social pressure (constructive shaming) that is much more effective because it is carried out in a public space, so that the perpetrator feels directly responsible before the community; Restoratively, social work allows the perpetrator to return some of the state's losses in the form of work and time contributions, which can be calculated quantitatively; Administratively, social work reduces the burden on correctional institutions that are currently experiencing overcapacity, so that the state budget is more efficient; Pedagogically, this approach gives the perpetrator the opportunity to learn, repent, and improve their behavior in a sustainable manner.¹⁴

However, the implementation of community service in Indonesia still faces normative challenges. The Corruption Eradication Law does not explicitly recognize this type of punishment. However, the New Criminal Code (Law No. 1 of 2023) has paved the way by including community service as a primary or additional punishment, which can be applied to certain crimes based on the principles of proportionality and public interest.¹⁵ Although not directly mentioned in corruption cases, this provision can serve as a legal basis for designing more adaptive criminal penalties, particularly in cases where perpetrators are proven to have committed corruption but are unable to financially recoup the state's losses. Furthermore, the effectiveness of community service as a form of criminal accountability can be enhanced by synergizing it with asset recovery mechanisms. Supreme Court Regulation of the Republic of Indonesia Number 1 of 2020 concerning Procedures for Settling Applications for Asset Recovery in Criminal Offenses provides an important legal framework in this regard. With this approach, the state focuses not only on punishing the perpetrator but also on recovering assets obtained unlawfully through a non-punitive civil recovery approach that focuses on recovering state losses.¹⁶

In the context of abuse of authority by Bank BKK Kendal employees, a criminal justice approach that combines elements of community service and asset recovery is more promising than simply using alternative prison sentences. On the one hand, the perpetrator remains legally and socially accountable for their actions;

¹⁴ Hargiharso, M. D., & Laksana, A. W. (2025). Legal Review of The Criminal Action of Defamation Through Social Media Based on The Values of Justice. *Jurnal Hukum Khaira Ummah*, 20(2), 134–145. Universitas Islam Sultan Agung (UNISSULA).

¹⁵ Putra, G. P. A., & Wardana, I. M. R. (2022). Efektivitas Pemidanaan Kerja Sosial sebagai Alternatif Sanksi terhadap Pelaku Tindak Pidana Ringan. *Jurnal Yustisia*, 11(3), 221–232. <https://doi.org/10.20961/yustisia.v11i3.58746>

¹⁶ Susanto, H. (2021). Optimalisasi Pemulihan Aset dalam Perkara Korupsi Melalui Jalur Non-Penal. *Jurnal Hukum dan Pembangunan Ekonomi*, 9(2), 113–125.

on the other, the state directly benefits in the form of productive work or asset recovery. Furthermore, this approach supports improvements in institutional governance, such as strengthening internal oversight systems, ensuring transparency in financial transactions, and developing an organizational culture based on integrity and anti-corruption.

Thus, the effectiveness of criminal accountability in the future must be reconstructed in a more comprehensive manner, oriented toward the values of recovery and restorative justice, and supported by legal instruments that adapt to the dynamics of modern crime. Punishment that places too much emphasis on repressive aspects risks losing the transformative meaning of law, namely rebuilding public trust and sustainably improving the legal system.

4. Conclusion

Decision Number 32/Pidsus-TPK/2022/PN Semarang stated that the defendant, a manager at Bank BKK Kendal, was legally and convincingly proven to have abused his authority in granting credit. This action was carried out without following applicable procedures and ignoring the principles of banking prudence, resulting in state financial losses. This act fulfills the elements of Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption, namely abusing authority to enrich oneself or others to the detriment of state finances. As a result, the defendant was sentenced to imprisonment, a fine, and an obligation to pay restitution as a form of criminal accountability and an effort to recover state losses. In Decision Number 32/Pid.Sus-TPK/2022/PN Semarang, the panel of judges handed down the verdict against the defendant based on both legal and non-legal considerations. Legally, the defendant was legally and convincingly proven to have violated Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption by abusing his authority in granting credit without following proper procedures. This act resulted in state financial losses, and all elements of the crime were met, including intent and the intention to benefit certain parties. Non-legally, the judge also considered the defendant's personal circumstances. Mitigating factors included the defendant's prior conviction, polite behavior, and family responsibilities. Meanwhile, aggravating factors were the defendant's actions, which did not support the corruption eradication program and had caused losses to state finances. Based on these considerations, the defendant was sentenced to two years in prison, a fine of Rp 50 million, and restitution of Rp 110,433,375.00 to the state, with the provision of additional restitution if not paid. This verdict reflects the court's commitment to upholding justice, providing a deterrent effect, and maintaining the integrity of the public sector, particularly regional banking.

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