

Analysis of Criminal Responsibility for Perpetrators of Village Fund Corruption (Decision Study: 67/Pid.Sus-Tpk/2025/Pt Sby)

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Abstract. *Indonesia, as a state based on the rule of law grounded in Pancasila and the 1945 Constitution, continues to face the detrimental impacts of village-fund corruption, which undermines governmental governance and obstructs the realization of social welfare objectives. The complexity of Village Fund misuse, as reflected in Decision No. 67/Pid.Sus-TPK/2025/PT SBY, illustrates the fragility of village-level integrity, thereby necessitating a focused analysis on the criminal liability of offenders to strengthen criminal law policies in Village Fund management. This research aims to analyze the criminal liability of perpetrators of Village Fund corruption and to examine the judicial considerations in imposing sentences on offenders involved in Village Fund corruption cases. The methodology applied in the preparation of this thesis is Normative Legal Research. The research specification is descriptive-analytical. Theories employed include the Theory of Criminal Liability and the Theory of Punishment. The results of this research show that the criminal liability of the perpetrators of Village Fund corruption in Decision No. 67/Pid.Sus-TPK/2025/PT SBY demonstrates that all elements of fault under criminal law doctrine were fulfilled by the defendant, DW. As the Head of Crabak Village, DW consciously abused his authority by personally controlling the disbursement and use of Village Funds, sidelining the roles of the treasurer and the Village Activity Management Team (TPK), preparing fictitious accountability reports supported by fake invoices and supplier identities, and carrying out mark-ups and fictitious activities, which resulted in state financial losses amounting to IDR 343,800,596.60. DW possessed criminal responsibility capacity as an adult who was mentally and physically sound and fully understood the functions of his office; his actions constituted unlawful conduct carried out intentionally (dolus) rather*

than mere administrative negligence; and no justification or excuse was present to eliminate his criminal responsibility. This decision reinforces the function of criminal liability as an instrument to uphold the rule of law, safeguard state finances, and restore public trust in the integrity of Village Fund governance. The judicial considerations in sentencing perpetrators of Village Fund corruption in Decision No. 67/Pid.Sus-TPK/2025/PT SBY demonstrates the exercise of judicial authority aligned with the objectives of punishment and the principle of legal certainty. The Panel of Judges first systematically assessed the requirements for criminal liability, including the fulfillment of the element of "any person," the existence of unlawful conduct, abuse of authority, acts of self-enrichment or enriching others, and the occurrence of state financial loss as specified in Article 3 in conjunction with Article 18 of the Anti-Corruption Law. All of these were proven through witness testimony, expert testimony, documentary evidence, indications, BPKP audit results, and the defendant's statements. At the same time, the Judges considered humanitarian aspects by taking into account mitigating factors such as cooperative behavior, a clean criminal record, and good faith in returning part of the state losses, without ignoring aggravating circumstances such as the abuse of public office and the substantial amount of state financial loss.

Keywords: Criminal Liability; Corruption; Village Funds.

1. Introduction

Indonesia is known as a state based on the rule of law, based on Pancasila and the 1945 Constitution as the basis for regulating all aspects of social life. In this context, law plays a central role as it guides human behavior, particularly in social relations between individuals. The existence of law ensures an order that maintains order in communal life.¹

Pancasila serves as the foundation of democracy as well as the basic direction in the implementation of law in Indonesia, and is the grand design of the constitution. The values contained therein are clearly stated in the Preamble to the 1945 Constitution. M. Isnaeni Ramdhan explains that the relationship between Pancasila and the 1945 Constitution can be analyzed through several paradigms: first, the juridical-philosophical paradigm that sees Pancasila as the result of a noble agreement formulated into the 1945 Constitution; second, the juridical-constitutional paradigm that positions the 1945 Constitution as the embodiment of the ideals of the struggle of the nation's founders; and third, the

¹Fines Fatimah and Barda Nawawi Arief, Vicarious Liability in Criminal Law Formulation Policy in Indonesia. Jurnal Law Reform, Vol. 7, No. 2, 2012. pp. 1-43

juridical-political paradigm that views the 1945 Constitution as an instrument of limiting power.²

As part of community protection policy, criminal law policy aims to ensure the implementation of social policy. At the same time, as an element of criminal policy, criminal law functions to combat crime through a punitive approach. Because each policy is interconnected, the direction and foundation used in criminal law policy must align with the objectives of social policy.³

As we all know, corruption is no longer a new legal and economic issue for any country. It has existed for thousands of years, both in developed and developing countries, including Indonesia. In fact, the current state of corruption in Indonesia has become so severe that it has become an extraordinary problem, having infect and spread throughout all levels of society. In the past, corruption was often associated with officials or civil servants who misused state funds.⁴

The abuse of power for personal gain can occur through corruption. Corrupt activities, which may include bribery, influence peddling, and embezzlement, are often considered legal in some countries. Corruption, an act of abuse of power, is defined as dishonesty or criminal activity committed by organizations or individuals in positions of power to gain illegitimate benefits.⁵

To this day, Indonesia is still struggling to free itself from the shackles of corruption. Corruption is not limited to the central government, but also occurs at the village level. Like an octopus, corruption is increasingly enveloping and gripping the very fabric of this country. All efforts to curb and eradicate corruption have shown no signs of success. A Kompas poll provides empirical evidence that corruption is becoming increasingly widespread and uncontrollable.⁶

This type of corruption is frequently found in all levels of government, from central government to regional governments, and even village governments. Systematic corruption has widespread impacts: economic losses due to the

²R. Saputra, Corporate Criminal Liability in Corruption Crimes. *Jurnal Cita Hukum*, Vol. 2, No. 2, 2015. pp. 269-288

³Abdurrahman Alhakim and Eko Soponyono, Corporate Criminal Liability Policy for the Eradication of Corruption, *Indonesian Legal Development Journal*, Volume 1, Number 3, 2019, pp. 322-326

⁴Herman Sitompul, Participation in Criminal Acts of Corruption, *Law and Justice*, Volume 6 Number 2, September 2019, pp. 108-123

⁵Fauzan Azima Faturachman, et. al., Accountability and Enforcement of Corporate Criminal Law in Corruption Crimes in Indonesia, *Academic: Humanist Student Journal*, Vol. 4, No. 2, 2024, pp. 197-212

⁶Mas Putra Zenno Januarsyah, Application of the Ultimum Remedium Principle to Corruption Crimes Occurring in State-Owned Enterprises, *Jurnal Wawasan Yuridika*, Vol. 1, No. 1, 2017, pp. 1-11

disruption of incentive mechanisms, political losses due to the weakening of government institutions, and social losses due to the transfer of wealth and authority to undeserving parties. When corrupt practices become entrenched, property rights are disregarded, the rule of law is ignored, and the investment climate becomes unstable, economic growth and political development ultimately stagnate.⁷

Based on Article 72 of Law Number 6 of 2014 concerning Villages, village revenue sources derived from the State Budget (APBN), known as Village Funds, are derived from central government spending through effective village-based programs implemented equitably and fairly. The amount of funds allocated directly to villages is set at 10 percent, excluding transfers to regions. This provision demonstrates the central government's strong commitment to village independence through a clearer and more structured funding scheme.⁸

Law Number 6 of 2014 strengthens the Village Fund Allocation, which is sourced from district/city balance funds. This regulation serves as the legal basis for greater financial support for villages, both through central transfers and regional balances, giving villages greater scope to manage development and improve the welfare of their communities.⁹

Previously, almost no districts/cities allocated ADD of at least 10 percent of the balancing funds because there were no legal consequences.¹⁰ However, Article 72 of the Village Law authorizes the government to impose sanctions in the form of delays or even cuts in balancing funds equal to the amount of allocations not provided to villages. Under these sanctions, regions are forced to allocate at least 10 percent of the Regional Budget (APBD) to Village Allocation Funds (ADD). From these two sources of village revenue, it is estimated that each village in Java will receive at least 1 billion rupiah. Villages outside Java, which generally receive larger balancing funds from the central government, will receive a higher allocation. In addition, villages still have three other sources of income: 10% of regional levy revenue sharing, financial assistance from the provincial and district/city APBDs, and original village income. The size of these funding sources is a direct consequence of the enactment of the 2014 Village Law.¹¹

⁷Darwis Tirande, et. al., A Criminological Analysis of Village Fund Corruption Crimes, *Pattimura Legal Journal*, Vol. 1 No. 2, 2022, pp. 133-150

⁸ Agus Kusnadi, Development of Village Government Legal Policies According to Law Number 32 of 2004 concerning Regional Government and Law Number 6 of 2014 concerning Villages. *Padjadjaran Journal of Legal Studies*, Vol. 2, No. 3, 2015, pp. 1-11

⁹Meri Yarni, Towards Advanced, Strong, Independent, and Democratic Villages Through Law No. 6 of 2014 Concerning Villages. *INOVATIF: Journal of Legal Studies*, Vol. 7, No. 2, 2014,

¹⁰Husin Amin, Management of Village Fund Allocation (ADD) for Village Development. *Journal of Social and Policy Issues*. Vol. 2, No. 2, 2022, pp. 71-76.

¹¹Muhammad Zainul Abidin, Review of Village Financial Implementation in Support of Village Fund Policy. *Journal of Economics and Public Policy*, Vol. 6, No. 1, 2015, pp. 61-76.

To ensure more efficient use of Village Funds, the government then established a special regulation derived from the Village Law, namely Government Regulation Number 8 of 2016 concerning the Second Amendment to Government Regulation Number 60 of 2014 concerning Village Funds sourced from the State Budget. This regulation emphasizes that the regulation of Village Funds is aimed at increasing the effectiveness and efficiency of their use by improving distribution mechanisms. Efforts to accelerate the distribution of Village Funds to village governments must still prioritize the principle of accountability to ensure that the funds are used in accordance with development objectives.¹²

The unethical and often illegal nature of corruption makes its measurement extremely complex. Corruption data typically comes from direct observations such as law enforcement records and audit reports, perception surveys such as public opinion polls, or expert assessments. With the large amount of village funds disbursed, which should be used for development and community empowerment, due to inadequate village oversight and the willingness of high-ranking officials to cheat, this creates an opportunity for corruption.¹³

One of the village fund corruption cases occurred in Crabak Village, Slahung District, Ponorogo Regency, when DW, who served as the Village Head of Crabak, was accused of misusing Village Funds for the 2019-2020 Fiscal Year. The methods used included manipulating accountability documents, creating fictitious activities, marking up budgets, and failing to involve the Activity Management Team (TPK) as required. The defendant also took over the entire disbursement process and control of funds, while the village treasurer never held or managed the money. Several accountability reports were proven to be inconsistent with the realization, even several receipts and purchase notes for building materials were declared fake or never issued by the shop owners listed in the documents.

Another method uncovered was the use of certain parties' names without their knowledge, including forged signatures and the use of company stamps that did not carry out any transactions. The audit also revealed discrepancies between the budget (RAB) and actual field work, indicating that some work was not carried out according to specifications or was even fictitious. Based on the BPKP audit, the total state loss due to misappropriation of Village Funds reached Rp343,800,596.60, thus strengthening the charge that the defendant had enriched himself and harmed state finances. This case illustrates how village fund

¹²Tri Putri Puspa Wulandari and Husni Mubarak. Evaluation of the Implementation of Village Fund Budget According to Government Regulation Number 60 of 2014." IAKP Journal: Journal of Financial Accounting & Taxation Innovation, Vol. 1, No. 2, 2020, pp. 84-96.

¹³Rezki Oktoberi and Kasmanto Rinaldi, "Corruption of Village Funds in a Ditch Construction Project by Village Officials: A Criminological Review," Journal Equitable, Vol. 8, No. 1, 2023, pp. 144-159

governance can be systematically misused when internal control mechanisms are weakened and supervision is not carried out as stipulated in regulations.

2. Research Methods

Based on the data obtained during the research by reading library books, it was then analyzed. The analysis used in this study was qualitative analysis, namely a research procedure that produces descriptive analytical data, namely what was obtained from library research or stated by sources in writing or orally, as well as their real behavior, which was researched and studied as a whole.¹⁴

3. Results and Discussion

3.1. Criminal Accountability for Perpetrators of Village Fund Corruption Crimes Study of Decision 67/PID.SUS-TPK/2025/PT SBY

Indonesia is a country based on law run its government system based on law (*law of the state*), not based on power (machstaat). So that in running the government it cannot act arbitrarily.¹⁵ A human act (menselijkt handelingen) by handeling is meant not only an act but an act that ignores that the act must be carried out by someone who can be held responsible.¹⁶

Law is the totality of social regulations that require external actions that have the character of justice and can be justified. Codified law is created in the form of a law. A law is a regulation that has binding legal force and is implemented and maintained by the state authorities.

Law enforcement aims to achieve a sense of justice in society. Without it, a country will be chaotic, disorganized, and potentially destroyed. Therefore, law enforcement is crucial for everyone, especially law enforcers themselves, such as the police, prosecutors, courts, correctional institutions, and other state institutions. One law enforcement effort that must be addressed urgently is the issue of corruption, particularly the corruption of village funds.

Law enforcement in village fund corruption cases requires serious attention because it has implications for public trust, governance stability, and the effectiveness of village development. Corruption in the form of misuse of village funds has resulted in state financial losses and damaged social structures at the local level.¹⁷

¹⁴Soerjono Soekanto, op.cit., p. 250.

¹⁵Krisna Harahap, 2009, The Constitution of the Republic of Indonesia Towards the 5th Amendment, Budi Utami Graffiti, Bandung, p.16.

¹⁶Satohid Kartanegara, 2007, Criminal Law. Student Lecture Hall, Jakarta, p. 74.

¹⁷Dede Kusno Adi, RAS Hernawati, and Yeti Kurniati. Law Enforcement Mechanisms in Eradicating Village Fund Corruption. Iustitia Omnibus: Journal of Legal Studies, Vol. 6, No. 1, 2024, pp. 9-18.

Responsibility or what is known as the concept of liability in terms of legal philosophy, Roscoe Pound stated that: I use the simple word "liability" for the situation whereby one may be exact legally and the other is legally subject to the exception" Criminal liability is defined by Pound as an obligation to pay compensation that the perpetrator will receive from someone who has been harmed.

A criminal act simply refers to an act prohibited by law. Whether or not the person committing the act is then punished depends on whether or not they were at fault. If the person committing the act was at fault, they can be punished. This means that a person committing a crime can be punished if they are at fault.

A person's capacity for responsibility can be measured by three things: first, they are able to truly understand the consequences of their actions. Second, they are able to recognize that their actions violate social order. Third, they are able to determine their will to act. These three things are cumulative, meaning that if even one of them is not met, the person is considered irresponsible.¹⁸

According to Moeljatno, criminal responsibility or guilt according to criminal law consists of three conditions, namely:¹⁹

1. The ability to be responsible or accountable from the maker.
2. The existence of an unlawful act is the psychological attitude of the perpetrator which is related to his behavior, namely intentional and careless or negligent (negligence).

According to Roeslan Saleh, a person is able to be responsible if his soul is healthy if:²⁰

1. Able to know to realize that his actions are against the law.
2. Can determine that awareness.

To determine liability, a perpetrator in committing a criminal act must have an "unlawful nature" of the crime, which is the most important characteristic of a criminal act. Regarding the unlawful nature when related to the psychological (mental) state of the perpetrator of the crime, the act can be either 'intentional' (opzet) or due to "negligence" (culpa). However, most criminal acts have an

¹⁸Muhamad Romdoni and Yasmirah Mandasari Saragih. Accountability for criminal acts of child molestation committed by children. *Journal of Criminal Law and Criminology*, Vol. 2, No. 2, 2021, pp. 64-76.

¹⁹Jacob Hattu, *Criminal Liability for Forced Retrieval of Covid-19 Bodies Based on General and Special Criminal Codes*. *Belo Journal*, Vol. 6, No. 1, 2020, pp. 11-31.

²⁰Kukuh Dwi Kurniawan and Dwi Ratna Indri Hapsari. Corporate criminal liability according to vicarious liability theory. *Ius Quia Iustum Law Journal*, Vol. 29, No. 2, 2022, pp. 324-346.

intentional element, not an intentional one. This is appropriate because it is common, those who do something intentionally.

In the case of village fund corruption, in Crabak Village, Slahung District, Ponorogo Regency, where the perpetrator was a Village Head with the initials DW, where the perpetrator abused his authority as Village Head to manipulate village funds which were ultimately used for personal interests, the complete case is as follows:

1. Position Case

Defendant DW, who has served as the Head of Crabak Village, Slahung District, Ponorogo Regency since 2018, was charged with misconduct in the management of Village Funds for the 2019 and 2020 fiscal years. As Village Head, he has the authority to determine the Village Budget (APBDes), form an Activity Management Team (TPK), and is responsible for the implementation of village development activities. However, in practice, the defendant is said to have not involved village officials as appropriate, including not notifying or submitting a Decree to TPK members, so that they were unaware of the appointment and did not carry out their obligations. The defendant also exploited his structural position in the village government to control the entire process of disbursement, use, and accountability of Village Funds.

In 2019 and 2020, Crabak Village received Village Funds totaling Rp783,654,000 and Rp779,417,000, respectively. Although the funds were supposed to be used for governance, village development, community development, and community empowerment, the disbursement was carried out in a manner that did not comply with regulations. Each time the funds were disbursed from the bank, the money was immediately taken and controlled by the defendant, while the village treasurer never held or managed the funds. This violates Minister of Home Affairs Regulation Number 20 of 2018, which requires village treasurers to carry out treasury functions, including receiving, storing, and making payments for village expenditures.

In the implementation of physical activities such as road maintenance, drainage construction, children's playground construction, village market/BUMDes construction, and other material procurement, the defendant did not involve the TPK. The TPK chairman and members were not even aware of the appointment decree and were never involved in the procurement process or work supervision. Instead, the defendant took over all these tasks, including ordering certain parties only to purchase materials without any capacity as an activity committee. The defendant also replaced the TPK chairman without a formal mechanism simply because he considered the previous chairman incompetent. However, this replacement also did not receive an official decree and never received the honorarium as it should have.

The most obvious violations occurred in the preparation of Village Fund financial accountability reports. The defendant used fictitious invoices, falsified supplier identities, and included receipts and letterheads never issued by the shop owners or companies named in the LPJ. The building supply store owners testified that the purchases listed in the LPJ never occurred or did not match the amounts on the documents. Some shops even stated that the signatures on the documents were not theirs, while some of the materials actually purchased by the defendant had not been paid for, resulting in personal debt. Furthermore, the defendant created financial reports that did not align with actual work, resulting in fictitious activities and markups.

The results of the construction expert's examination showed a significant discrepancy between the RAB, SPJ, and the realization in the field for several development activities, including village road maintenance, drainage repairs, and the construction of a village market/BUMDes. This discrepancy indicates that the volume of work is smaller than stated in the documents, thus there is an element of budget inflation. Based on the results of the East Java BPKP audit, the total state financial loss due to the defendant's actions reached Rp343,800,596.60. Thus, the defendant is considered to have unlawfully enriched himself or others by abusing his authority as Village Head, causing losses to state finances, and violating the provisions for village financial management as stipulated in the Minister of Home Affairs Regulation and the Ponorogo Regent's Regulation.

2. Public Prosecutor's Indictment

The defendant DW was accused of committing the crime of corruption "unlawfully enriching himself or another person or a corporation to the detriment of state finances" as regulated in Article 2 paragraph (1) in conjunction with Article 18 paragraph (1) letters a and b, paragraph (2), paragraph (3) of Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law No. 20 of 2001, the elements of which include:

a. Unlawful elements

A criminal act (delict) is an act by a person that fulfills the elements of a crime as stipulated in criminal law. If the law prohibits an act and the act complies with that prohibition, it can automatically be said that the act is unlawful.

This element was fulfilled because the defendant managed Village Funds not in accordance with the provisions:

- 1) take overall management of DD,
- 2) does not involve the village treasurer, TPK, or village officials,
- 3) using accountability reports that are fictitious or do not correspond to actual results.

All these actions are contrary to Home Affairs Ministerial Regulation No. 20 of 2018 and Ponorogo Regent Regulation No. 74 of 2018 concerning Village Financial Management.

b. Enriching oneself or another person or corporation

The Public Prosecutor argued that the defendant benefited from the misappropriated funds. A BPKP audit revealed irregularities in the use of funds, with the defendant benefiting from markups, fictitious activities, and control of the funds.

c. Can be detrimental to state finances

The East Java BPKP determined that state losses amounted to IDR 343,800,596.60, related to 2019–2020 construction activities that were not in accordance with the RAB, were fictitious, or marked up.

d. Elements of Article 18 (Additional Criminal Penalties)

Letter a: confiscation of movable/immovable property obtained from criminal acts of corruption; Letter b: payment of replacement money; Article (2): if not paid, the property can be confiscated and auctioned; Article (3): if the property is insufficient, it is replaced with imprisonment.

The prosecutor demanded compensation of Rp. 343,800,596.60, according to the value of the state's losses.

The corruption case involving defendant DW, the Village Head of Crabak, was charged with misusing Village Funds for the 2019-2020 Fiscal Year. Therefore, the author believes the defendant's actions were wrongful and violated applicable laws and regulations. Therefore, according to the doctrine of criminal responsibility theory, the following applies:²¹

"Anyone who commits a criminal act against the law as threatened with sanctions in statutory regulations must be held accountable or responsible for their mistake."

A person can be said to have committed a mistake and can be held criminally responsible if the act he committed fulfills the elements of criminal responsibility, namely the existence of a mistake, the ability to take responsibility, and the absence of a forgiving reason that eliminates responsibility.²² In the context of this research, the case that is the object of study

²¹Ferdinandus Kila, I. Nyoman Gede Sugiarta, and Ni Made Puspasutari Ujianti. Criminal Liability Without Illegal Nature in the Perspective of Criminal Law Reform. Journal of Legal Construction, Vol. 4, No. 1, 2023, pp. 28-34.

²²Marsudi Utoyo, et al. Intentional and Unintentional in Indonesian Criminal Law. Lex Librum, Vol. 7, No. 1, 2020, pp. 75-85.

is the criminal act of corruption of Village Funds in Crabak Village, Slahung District, Ponorogo Regency, which was carried out by the Village Head with the initials DW, who abused his authority to manage and manipulate Village Funds for the 2019 and 2020 Fiscal Years, thereby harming state finances.

1. There was an error

In this case, DW as the Head of Crabak Village was legally and convincingly proven to have committed a criminal act in the form of corruption related to the misuse of Village Funds. DW not only controlled the process of disbursement and use of Village Funds himself without involving the treasurer and the Activity Management Team, but also made fictitious accountability reports, falsified notes and supplier identities, and marked up village development activities, resulting in discrepancies between the RAB, SPJ, and realization in the field. His actions were deemed to fulfill the elements of a criminal act of corruption as in the Public Prosecutor's indictment, and in the end the Panel of Judges at the Surabaya High Court declared DW guilty of committing a criminal act of corruption as in the subsidiary indictment, namely abusing authority due to position resulting in state financial losses.

2. Ability to take responsibility

Based on the legal identity and facts of the trial, DW is an adult male who has served as Village Head since 2018. There is no indication that the defendant suffers from a mental disorder or is in a condition that causes him to be unable to understand the nature of his actions or control them according to legal standards. Throughout the examination process at the trial, DW was present, provided testimony, and played an active role in his defense, so that it can be legally concluded that he has the capacity to be responsible (toerekeningsvatbaarheid). Thus, DW subjectively meets the requirements as a legal subject who can be held criminally responsible for his actions.

When the three elements above are met, namely the existence of an error in the sense of an unlawful act regulated in the law, the existence of the ability to be responsible, and the absence of a reason for forgiveness, then the perpetrator of the crime is obliged to be responsible for his actions before the law. In the DW case, the crime committed not only caused a loss to state finances of Rp343,800,596.60 according to the results of the BPKP audit, but also harmed the interests of the village community because the Village Fund which should have been used for development, services, and community empowerment had been misappropriated for personal interests and was not fully realized in the form of physical activities as planned.

The theory of criminal responsibility when linked to the DW case shows that all elements of criminal responsibility are fulfilled. The Public Prosecutor in his indictment and charges initially assessed that DW's actions fulfilled the elements

of Article 2 paragraph (1) in conjunction with Article 18 of the Corruption Law, namely "unlawfully enriching oneself or another person or a corporation that is detrimental to state finances", by demanding a prison sentence of 5 years and 6 months, a fine of Rp. 200,000,000 subsidiary imprisonment, and an additional penalty in the form of compensation in the amount of the state's losses. However, in the appeal decision, the Surabaya High Court stated that DW was not proven guilty according to the primary charge of Article 2, but was proven according to the subsidiary charge, namely abusing authority due to position as per Article 3 of the Corruption Law and imposed a prison sentence of 4 years, a fine of Rp. 100,000,000 subsidiary imprisonment, and an additional penalty in the form of payment of compensation with a scheme as regulated in Article 18 of the Corruption Law.

The concept of criminal responsibility cannot be separated from efforts to determine whether a perpetrator can be held responsible for the actions he has committed according to the law.²³ Criminal liability essentially answers the question of whether a person is worthy of being punished, namely when his actions clearly violate the provisions stipulated in the law and fulfill the elements of the crime charged. In the Village Fund corruption case in Crabak Village, Slahung District, Ponorogo Regency, the issue of criminal liability becomes very relevant, because DW as the Village Head is suspected of abusing his authority in managing the Village Fund for the 2019 and 2020 Fiscal Years for personal gain, resulting in state financial losses and harming the interests of the village community.

Provisions regarding criminal liability function as rules that determine how the state recognizes and assesses acts that violate legal obligations, so that criminal sanctions can be rationally imposed on the perpetrator.²⁴ In the case of DW, actions prohibited by law such as taking over the entire management of Village Funds without involving the treasurer and TPK, using fictitious accountability reports, falsifying invoices and supplier identities, and marking up the budget are accounted for by him as a legal subject, because he is the one who has the authority and controls the series of actions.

Criminal responsibility cannot be imposed if there is no fault (*schuld*) on the part of the perpetrator. A person who has not committed a crime cannot be punished, and even if they commit an act that formally meets the definition of a crime, it must still be assessed whether they can be held personally

²³Tommy J. Bassang, Responsibility of Perpetrators of Criminal Acts of Deelneming. Lex Crimen, Vol. 4, No. 5, 2015.

²⁴AR Suhariyono, Determination of Criminal Sanctions in a Law. Indonesian Legislation Journal, Vol. 6, No. 4, 2018, pp. 615-666.

responsible.²⁵ In the DW case, the misconduct in the management of Village Funds did not occur due to ordinary administrative negligence, but rather through a series of conscious actions: controlling the disbursed funds, eliminating the role of the treasurer and TPK, preparing LPJ that did not match the realization, and using fake notes and documents to cover up budget irregularities. These actions indicate a reprehensible mental attitude and deliberate (dolus) to abuse authority, so that from a legal perspective it can be considered a mistake that deserves to be accounted for.

According to Moeljatno, criminal responsibility or wrongdoing in criminal law requires at least three elements: first, the perpetrator has the capacity to be responsible; second, there is an unlawful act accompanied by a reprehensible mental attitude (intentional or negligent); and third, there is no justification or excuse that eliminates criminal responsibility.²⁶ These three requirements, when related to the DW case, appear to be fulfilled. DW is an adult, has served as Village Head since 2018, and is not experiencing any mental disorder or special circumstances that prevent him from understanding and controlling his actions. Therefore, from a legal standpoint, he can be held accountable. His actions are clearly unlawful because they violate the Corruption Law, Minister of Home Affairs Regulation No. 20 of 2018, and the Ponorogo Regent Regulation concerning village financial management, and have caused state losses of Rp343,800,596.60, according to the BPKP audit. Furthermore, the judicial process did not find any justification or excuse, such as a valid official order, an emergency, or a mental disorder that could erase his guilt. Therefore, from a criminal responsibility doctrine perspective, DW meets the qualifications as a perpetrator who can and should be held legally accountable for the criminal act of corruption of Village Funds that is the object of this research.

3.2. Judges' Considerations in Handing Down Verdicts Against Perpetrators of Village Fund Corruption Crimes

A judge's considerations are the basis or rationale used by a judge in rendering a decision in a criminal case. Before rendering a decision, the judge must consider all important aspects revealed during the trial. The judge assesses the requirements for criminal responsibility, both subjective and objective. Objective elements relate to the perpetrator's actions, while subjective elements include the presence of fault, the ability to take responsibility, and the lack of justification. In addition, the judge also assesses other objective requirements,

²⁵ Mochamad Ramdhani Pratama and Mas Putra Zenno Januarsyah. Implementation of the Corporate Criminal Responsibility System as Subjects of Criminal Acts in the Corruption Eradication Law. *Jurnal Wawasan Yuridika*, Vol. 4, No. 2, 2020, pp. 240-255.

²⁶ Deni Hendrawan, Analysis of Subjective Elements as Elements of Criminal Responsibility in Corruption Crimes. *Tadulako Master Law Journal*, Vol. 3, No. 2, 2019, pp. 153-169.

such as the suitability of the action to the definition of a criminal offense, its unlawful nature, and the fulfillment of the elements of proof.²⁷

As the primary stakeholder in the judicial process, judges are always required to prioritize professionalism to uphold the law and a sense of justice in every decision. Judges' decisions must be accountable to God Almighty and to the public, especially those seeking justice. Decisions that lack independence, for example due to collusion, corruption, or nepotism (KKN), or decisions that are unprofessional, do not provide legal certainty, ignore a sense of justice, or are difficult to enforce, will damage public trust and undermine the authority of the judiciary.²⁸

The freedom granted by the state to judges includes the freedom to examine and adjudicate cases, freedom from intervention by any party, freedom to interpret the law, and the freedom to explore the values of social justice to protect the rights of the people. This also includes the freedom to deviate from written provisions if necessary to fulfill the prevailing sense of justice. However, this freedom is not unlimited, as its application must not conflict with legal principles, must continue to guarantee the protection of human rights, and must be used to achieve true justice.²⁹

A judge's or court's decision is a crucial element needed to clarify a criminal case and provide legal certainty for the defendant regarding his or her status, allowing him or her to determine the next steps regarding the decision, whether to accept, appeal, cassation, or seek clemency. From the perspective of the judge examining the case, the decision is the culmination of the reflection of the values of justice. The decision is the result of the search for the ultimate truth, the protection of human rights (HAM), and the application of law and facts logically, qualitatively, based on evidence, and reflects the ethical, mental, and moral integrity of the judge who rendered it.³⁰

Evidence is an aspect that judges must pay close attention to when examining a case, as the results of the evidence will form the basis for their decision. The evidentiary stage is a crucial part of the trial process, as it aims to ensure that the events or facts presented actually occurred, ensuring that the decision rendered is appropriate and fair. A judge cannot render a decision until they are certain of the truth of the facts, that is, after the existence of an event demonstrating a legal relationship between the parties.

²⁷Laka Dodo Laia, Klaudius Ilkam Hulu, and Feriana Ziliwu. Judge's Considerations in Sentencing Narcotics Abusers According to the Gunungsitoli District Court Decision Number 184/pid. sus/2018/pn. Gst. Jurnal Education and Development, Vol. 10, No. 3, 2022, pp. 744-753.

²⁸Syarif Mappiasse, 2015, Legal Logic of Judge's Decision Considerations, Jakarta, p. 1

²⁹PAF Lamintang & Theo Lamintang, Special Offenses for Crimes Violating Moral Norms and Role Modeling Norms, Jakarta, 2011, p. 1

³⁰Lilik Mulyadi. Criminal Procedure Law, Citra Aditya Bakti, Bandung 2017, pp. 152-153

An explanation of the basis for a judge's considerations requires a prior understanding of the judge's duties. These duties include rendering decisions on each case or conflict submitted, establishing legal relationships, assessing behavior, and determining the legal standing of the parties. Efforts to resolve disputes impartially based on applicable law require judges to be independent and free from influence from any party, especially when making decisions.³¹

The purpose of sentencing plays a crucial role in every sentencing decision, although in practice, many judges' decisions remain tied to a systematic legal mindset. This is reflected in the tendency of judges to reduce events to only those legal aspects deemed relevant, resulting in a disproportionate focus on factors related to the defendant's condition.³²

Next, several considerations will be presented by the Panel of Judges in issuing the verdict:

1. Considering, that the Panel of Judges first assesses whether based on the legal facts of the trial, the Defendant Danang Wijayanto, as the Head of Crabak Village, has indeed committed the acts charged, namely unlawfully enriching himself and/or others to the detriment of state finances through misappropriation of Village Funds for the 2019–2020 Fiscal Year. This assessment is carried out by examining all evidence, witness statements, experts, letters, BPKP audit results, as well as the Defendant's confessions and denials.
2. Considering that the Corruption Law does not provide a specific definition of "any person," the Panel affirms that it refers to a natural person (natuurlijke persoon) who is capable of criminal responsibility. In this case, DW, as identified in the indictment and confirmed by him during the trial, is a Village Head with full authority in managing Village Funds, and is therefore a subject who can be held criminally responsible.

In addition to the aggravating factors for the defendant, the Panel of Judges also considered that there were a number of mitigating circumstances in the sentence against Defendant DW. These mitigating factors included the defendant's polite behavior during the trial and his good faith in depositing some money as restitution for state losses amounting to Rp60,000,000.00. The defendant had also never been convicted before, so he was still considered to have the opportunity to improve himself after serving his sentence. In addition, as a head of a family with family responsibilities, the Panel considered that the sentencing must still consider humanitarian aspects without ignoring the gravity

³¹Wildan Suyuthi Mustofa, Judge's Code of Ethics, Second Edition, Jakarta: Prenadamedia Group, 2013, p. 74

³²Edi Santoso, Sri Kusriyah, and Rakhmat Bowo Suharto, The Existence of Criminal Law Products in Dynamics Law Enforcement to Counter the Gambling Crime, Law Development Journal Volume 4 Issue 2, Published Master of Law, Faculty of Law UNISSULA Semarang, 2022, p. 268.

of his mistakes. The defendant's cooperative attitude during the legal examination process was also a factor considered as a mitigating circumstance.

According to the author, the Panel of Judges' considerations in handing down the verdict in this case reflect the principle of legal certainty as formulated by Gustav Radbruch. The verdict demonstrates the firm and consistent application of the law, because the Panel imposed a sentence based on proof that the elements of Article 3 in conjunction with Article 18 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption were fulfilled. The fulfillment of these elements was proven through a series of valid evidence including witness statements, Village Fund accountability documents, BPKP audit results, and expert examinations, all of which demonstrated abuse of authority and state losses.

4. Conclusion

1. The criminal liability of the perpetrator of the Village Fund corruption crime in Decision 67/Pid.Sus-TPK/2025/PT SBY shows that all elements of guilt according to criminal law doctrine are fulfilled in the defendant DW. As the Head of Crabak Village, DW consciously abused his authority by controlling the disbursement and use of Village Funds himself, removing the role of the treasurer and TPK, preparing fictitious accountability reports, using fake supplier notes and identities, and conducting mark-ups and fictitious activities, resulting in a state financial loss of Rp343,800,596.60. DW has the ability to be responsible because he is an adult, physically and mentally healthy, and understands the functions of his position; there was an unlawful act that was carried out intentionally (dolus) and not merely administrative negligence; and no justification or excuse was found that could eliminate his criminal liability. Therefore, the Surabaya High Court's application of Article 3 in conjunction with Article 18 of the Corruption Law, which found DW guilty of subsidiary charges and sentenced him to imprisonment, a fine, and restitution, demonstrates that his actions meet the criteria for criminal prosecution. This ruling affirms the function of criminal liability as an instrument to ensure the rule of law, protect state finances, and restore public trust in the integrity of Village Fund management.

2. The Judge's considerations in handing down the verdict against the perpetrator of the Village Fund corruption crime in Decision Number 67/Pid.Sus-TPK/2025/PT SBY essentially demonstrate the application of judicial authority in line with the objectives of criminal punishment and the principle of legal certainty. The Panel of Judges first systematically assessed the requirements for criminal responsibility, starting from the fulfillment of the element of "every person", the existence of an unlawful act, abuse of authority, acts of enriching oneself or others, to the occurrence of state financial losses as formulated in Article 3 in conjunction with Article 18 of the Corruption Law, all of which were proven through the testimony of witnesses, experts, letters,

instructions, the results of the BPKP audit, and the testimony of the defendant. On the other hand, the Judge also considered the humanitarian aspect by including mitigating circumstances, such as a cooperative attitude, no previous convictions, and good faith in returning some of the state losses, without ignoring the aggravating factors of abuse of public office and large state losses. This combination reflects the application of positive law that is firm but remains sensitive to a sense of justice and provides protection for the interests of the community.

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