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Free Verdict Against Executors of Illegal Fees as Corruption Crimes

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Abstract

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Illegal levies are the designation of all forms of levies that are unofficial, which have no legal basis, so the act of levies is referred to as illegal levies. One of the criminal acts of corruption that occurs in people's lives is illegal fees. An example of a criminal case of illegal fees is the case in Decision Number: 46/Pid.Sus-TPK/2018/PN.Tjk in that case the defendant was acquitted. Judging from the judge's decision that acquitted the defendant, the authors conducted research on the identification of illegal fees as a criminal act of corruption and what was the basis for the considerations of the Panel of Judges in passing an acquittal in cases of criminal acts of corruption based on Decision Number: 46/Pid.Sus-TPK/2018/PN. Tjk. The problem with this research is the identification of extortion as a criminal act of corruption. and what are the basic considerations of the Panel of Judges in passing an acquittal in a corruption case based on Decision Number: 46/ Pid.Sus -TPK/2018/PN. Tjk

The research method used is normative juridical research method, sources of primary and secondary legal materials. From this study it can be concluded that illegal fees can be categorized as a criminal act of corruption, this action is



regulated in Article 12 letter e of Law Number 31 of 1999 which has been amended and added to Law Number 20 of 2001 concerning Eradication of Corruption Crimes. That the basis for the judge's considerations in deciding that the corruption case was free of Decision Number: 46/Pid.Sus-TPK/2018/PN.Tjk Defendant did not meet the elements of "benefiting oneself or others" and the element of "receiving gifts or promises" as charged in the Alternative indictment by the Public Prosecutor, so that the defendant is not legally and convincingly proven guilty of committing a criminal act of corruption.

A. Introduction

Corruption is an extraordinary crime that endangers stability, security, and economic development in Indonesia.¹ At this time, corruption in Indonesia is increasing, many state officials are involved in corruption so that it is not only detrimental to state finances but has also violated the social and economic rights of society at large.² Corruption is an immoral, bad, fraudulent, unlawful act committed by a person or corporation by abusing one's position to enrich oneself or a group or other person which results in harm to the country's economy.

From a legal perspective, the definition of corruption has been explained in Law Number 31 of 1999, which has been amended and added to Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The 13 point articles in the PTPK Law explain the definition of corruption. Based on these articles, corruption is formulated into thirty types of corruption. The 30 types can be grouped into seven types of corruption: losses to state finances, bribery, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement, and gratuities.³ These articles explain in detail the actions that can be subject to criminal sanctions for corruption.

The main problem of law enforcement in developing countries, especially Indonesia, is not the law itself, but rather the quality of the people who enforce the law itself.⁴ Criminal acts of corruption are committed by state officials and state administrators with other parties such as family, cronies and business people, thus damaging the foundations of social, national and state life and endangering the existence of the state.⁵ In the Big Indonesian Dictionary (KBBI) states that taking or quoting something is unlawful if done without permission. Therefore, extortion

¹ Husin Wattimena, 'Perkembangan Tindak Pidana Korupsi Masa Kinidan Pengembalian Kerugian Keuangan Negara', (2016) Tahkim Vol. XII No.2, Tahun.

² Tri Wahyu Widiastuti, 'Korupsi dan Upaya Pemberantasannya', (2009) Wacana Hukum Vol VIII No. 2, 107.

³ M. Syamsa Ardisasmita, Definisi Korupsi Menurut Perspektif Hukum dan E-Announcement untuk Tata Kelola Pemerintahan yang Lebih Terbuka, Transparan dan Akuntabel, makalah dalam Seminar Nasional "Upaya Perbaikan Sistem Penyelenggaraan Pengadaan Barang/Jasa Pemerintah" oleh Deputi Bidang Informasi dan Data Komisi Pemberantasan Korupsi di Jakarta pada tgl. 23 Agustus 2006, hlm. 4.

⁴ Siswadi, 'Kedudukan Advokat Sebagai Penegak Hukum Serta Peran Advokat Dalam Proses Hukum Di Sistem Peradilan Pidana Indonesia,' (2018) IUS CONSTITUTUM vol. 1 No. 3.

⁵ Irene Svinarky, 'Pemberantasan Tindak Pidana Korupsi Terhadap Pungutan Liar (Pungli)', (2016) Jurnal Cahaya Keadilan Vol.4 No.2.

is an act of asking someone for something (such as money or other goods) without their consent or without following the rules set.⁶

Illegal levies have become one of the crimes familiar to the public, even though in the Criminal Code there is nothing found regarding illegal levies or extortion offenses. However it can be implicitly found in the origins of the Criminal Code.⁷ Extortionists can also be charged under Law no. 31 of 1999 jo. UU no. 20 of 2001 concerning the Eradication of Corruption Crimes and other laws and regulations. Extortion is a form of abuse of authority aimed at facilitating an affair or fulfilling the interests of the levy payer. Civil servants or state administrators with the authority often ask for extortion in facilitating the production of population documents, such as making family cards (KK), identity cards (KTP), driving licenses (SIM), marriage certificates, and others. This was done for the reason that the making of the population document was smooth and fast. The existence of illegal levies has become an institutionalized culture, a social disease that has become entrenched from the highest echelon level down to the small community.

Extortion is an act as a social phenomenon that already exists in Indonesia.⁸ Corruption is a serious problem because corruption can endanger the stability and security of society, undermine democratic values and morality, endanger economic, social and political development, and create massive poverty.⁹

Frans Magnis Suseno explained that corruption practices in Indonesia had reached the most dangerous state and nation life.¹⁰ Until now, the quality of public services provided by the government, including in the judiciary, is still characterized by services that are difficult to access, complicated procedures, unclear costs, and the practice of extortion, which are indicators of the low quality of public services in Indonesia.

Besides that, there is a tendency for injustice in public services where people who are classified as poor will find it difficult to get services. On the other hand, those who have money can easily get everything they want.¹¹ This action causes people to give up when dealing with corrupt public services; this is one of the factors that cause people to tend to be tolerant of extortion, bribery and extortion in the administration of public services.

One example of a case related to criminal acts of corruption is the Head of Pekon Air Kubang on behalf of Mulyadi; on May 16 2017 Mulyadi as the Head of Pekon Air Kubang was exposed to a Hand-Catching Operation (OTT) by the Tanggamus Police. The incident occurred at the Air Kubang Pekon Office, Air Naningan District, Tanggamus Regency. Mulyadi was suspected of committing extortion or accepting bribes from a resident who wanted to obtain a marriage certificate of Rp1.800.000,- (one million eight hundred thousand rupiah). For this action,

⁶ Hidayatulloh, Mohammad Riyan. "PENERAPAN SANKSI PIDANA TERHADAP PUNGUTAN LIAR OLEH PENYELENGGARA PARKIR ILEGAL." *JURNAL LEGISIA* 15.1 (2023): 36-49. DOI: <https://doi.org/10.58350/leg.v15i1.250>

⁷ Rampengan, Jonatan J. "TINJAUAN HUKUM MENGENAI PUNGUTAN LIAR OLEH APARAT PEMERINTAH YANG TERJADI DI MASYARAKAT." *LEX PRIVATUM* 11.1 (2023)

⁸ Laurensius Arliman, 'Penanganan Perkara Tindak Pidana Pungutan Liar oleh Penyidik Direktorat Krimnal Khusus' (2020) Kanun Jurnal Ilmu Hukum Vol. 22 No. 1.

⁹ KPK RI, Modul Materi Tindak Pidana Korupsi, <https://aclc.kpk.go.id/wp-content/uploads/2019/07/Modul-tindak-pidana-korupsi-aclc-KPK.pdf>. Diakses pada Rabu, 15 April 2020.

⁹ KPK RI, Modul Materi Tindak Pidana Korupsi, <https://aclc.kpk.go.id/wp-content/uploads/2019/07/Modul-tindak-pidana-korupsi-aclc-KPK.pdf>. Diakses pada Rabu, 15 April 2020.

¹⁰ Ridwan, 'Upaya Pencegahan Tindak Pidana Korupsi Melalui Peran Serta Masyarakat,' (2014) Kanun Jurnal Ilmu Hukum No. 64, Th. XVI.

¹¹ Maroni, *Hukum Birokrasi Peradilan Pidana*, (Aura, 2018), 15.

Mulyadi was charged with alternative charges, namely the First Charge for violating Article 12 letter e Jo. Article 12A Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes, or the second charge of violating Article 11 Jo. Article 12A Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes.

The Panel of Judges considered that there was no fact that Mulyadi received gifts or promises in the process of making a marriage license, because all of the Alternative charges were not proven, the defendant must be declared legally and convincingly not proven to have committed the criminal act of corruption as charged by the Public Prosecutor, and the defendant must be acquitted of the charges.

The judge's decision is a general question, what is the basis for the judge's considerations in passing the acquittal against Defendant Mulyadi and whether the decision reflects a sense of justice. Judges in making decisions must pay attention to all aspects, starting from the need for caution and avoiding as little as possible inaccuracy, both formal and material to the technical skills in making it. The novelty of this research is a crime regarding public services provided by the government including in the field of justice with services that are difficult to access, complex procedures, unclear costs, and the practice of extortion which is an indicator of the low quality of public services, as stated in the Decision. Number: 46/ Pid. Sus -TPK/2018/PN. Tjk

Based on the background above, the issue to be discussed in this research is identifying extortion as a criminal act of corruption? And what is the basis for the consideration of the Panel of Judges in passing an acquittal in a corruption case based on Decision Number: 46/Pid.Sus-TPK/2018/PN. Tjk?

B. Discussion

Illegal levies are acts committed by a person or civil servant or state official by asking for payment of an amount of money that is not in accordance with or not based on the regulations relating to the payment. This is often equated with extortion.¹² In carrying out their duties; officials often withdraw extra money from services provided to members of the public for personal gain.¹³

Acts of corruption can be categorized into seven, namely seven types of criminal acts of corruption, namely losses to state finances, bribes, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement, and gratuities. Extortion is often equated with bribery or extortion. Ordinary people often equate these three actions. In reality the action is different. Illegal levies can be said as a criminal act of corruption in the category of extortion.

The issuance of Law Number 31 of 1999 which has been amended and added to Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, is expected to be able to meet and anticipate developments in the legal needs of society in order to prevent and

¹² Chairuni Nasution, ed.al, 'Pertanggung Jawaban Pidana Terhadap Pelaku Pungutan Liar pada Dinas Pendidikan Medan Labuhan Tinjauan Putusan Nomor 42/Pid-Sus.TPK/2017/PN-MDN' (2019) Jurnal Mutara Hukum Vol. 2 No. 1.

¹³ Samodra Wibawa, ed.al, 'Efektivitas Pengawasan Pungutan Liar Di Jembatan Timbang' (2013) Jurnal Ilmu Administrasi Negara Vol. 12 No. 2.

effectively eradicate every form of the criminal act of corruption.¹⁴ The law distinguishes between bribes and extortion. The definitions of extortion, bribery and extortion are as follows

Extortion or extortion is included in the category of office crimes, wherein the concept of office crime it is explained that officials for the benefit of themselves or others, abuse their power to force someone to give something, to pay or receive payment with a discount, or to do something for themselves Alone¹⁵. Examples of extortion are the services for making ID cards, marriage certificates, and driver's licenses.

The definition of bribery connotes the existence of promises, lures or giving improper benefits by someone to officials or civil servants, directly or indirectly with the intention that the civil servants or officials do or do not act in accordance with their lawful duties.¹⁶ Examples of criminal acts of bribery are building buildings without an Environmental Impact Analysis (AMDAL), illegal logging (illegal logging).

The definition of extortion is an act carried out by civil servants or state administrators (playing an active role) extorting certain people or corporations that require services, with the intent to unlawfully benefit oneself or others or by abusing one's power by forcing someone to give something, pay or accept payment with a discount, or to do something for oneself.¹⁷ Examples of extortion include illegal ticketing, buying and selling of Investigation Termination Warrants (SP3).

Illegal levies are regulated in the Corruption Crime Eradication Act in Article 12 letter e which reads:

"A civil servant or state administrator who, with the intention of unlawfully benefiting himself or others, or by abusing his power, forces someone to give something, pay, or receive payment with a discount, or to do something for himself."

If we examine the provisions regarding criminal acts of corruption contained in Article 12 letter e, several elements will be found as follows:¹⁸

- a. Civil Servants or State Administrators
- b. With the intention of unlawfully benefiting oneself or others
- c. Abuse of power
- d. Forcing someone
- e. Giving something, paying, receiving payment with a discount, or doing something for the relevant civil servant or state administrator.

What is meant by a Civil Servant includes:

- 1) Civil Servants as referred to in the Law on Civil Service;
- 2) Civil Servants as referred to in the Criminal Code;
- 3) People receive salaries or wages from state or regional finances;

¹⁴ Gregorius Aryadi dan Yohanes Sri Pudyatmoko, 'Penerapan Kumulasi Sanksi Eksternal dalam Penegakan Hukum Pidana Korupsi oleh Pejabat Pemerintahan di Kabupaten Sleman', (2020) Refleksi Hukum Vol. No.2, 156.

¹⁵ Moh. Toha Solahuddin, 'Pungutan Liar (Pungli) dalam Perspektif Tindak Pidana Korupsi', (2016) Majalah Paraiatte Vol. 26 edisi Triwulan III.

¹⁶ Muladi, *Tindak Pidana Suap sebagai Core Crime Mafia Peradilan dan Penanggulangannya*, makalah dalam Seminar Nasional "Suap, Mafia Peradilan, Penegakan Hukum dan Pembaharuan Hukum Pidana" Kerjasama FH UNDIP dengan KY di Semarang pada tgl. 16 Januari 2015, hlm 2.

¹⁷ Pusat Edukasi Antikorupsi, *Perbedaan Gratifikasi, Uang Pelicin, Pemerasan dan Suap*, https://aclc.kpk.go.id/materi/berpikir-kritis-terhadap-korupsi/infogra_fis/perbedaan-gratifikasi-uang-pelicin-pemerasan-dan-suap, diakses pada tanggal 11 Juni 2020, pukul 02.54 wib.

¹⁸ R. Wiyono, *Pembahasan Undang-Undang Pemberantasan Tindak Pidana Korupsi*, (Sinar Grafika, 2012), 108.

4) People who receive salaries or wages from a corporation that receives assistance from state or regional finance; or

5) People who receive salaries or wages from other corporations that use capital or facilities from the state or society.

Meanwhile, what is meant by state administrators are those referred to in Article 2 of Law Number 28 of 1999 concerning State Administrators who are clean from collusion, corruption and nepotism. Article 2 of Law Number 28 of 1999 stipulates that state administrators include:

1) State officials at the highest state institutions;

2) State Officials at State High Institutions; 3) Minister;

4) Governor;

5) Judge;

6) Other State Officials in accordance with the provisions of the applicable laws and regulations;

7) Other officials who have strategic functions in relation to the administration of the state in accordance with the provisions of the applicable laws and regulations.

The element of "with the intention of unlawfully benefiting oneself or others" in criminal law is called the *bujkomen ogmerk* or further purposes that do not need to have been achieved when the perpetrator of the crime has finished committing the crime.

What is meant by "abuse of power" is to use power for purposes other than the purpose for which the power is given.

What is meant by "forcing someone" is an act in such a way as to cause fear in another person. This fear, both because of physical pressure and psychological pressure.

A new civil servant or state administrator can be said to have committed the criminal act of corruption as referred to in Article 12 letter e, if someone forced by the civil servant or state administrator has given something, paid, received payment with a discount or done something for the civil servant or administrator. the country concerned. If a person who is coerced has not fulfilled what is desired by a civil servant or state administrator, then the civil servant or state administrator concerned cannot be declared to have committed a criminal act of corruption as referred to in Article 12 letter e.

Criminal witnesses for the perpetrators of corruption as stipulated in Article 12 letter e are sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a minimum fine of Rp. 200,000,000 .00 (two hundred million rupiah) and a maximum of IDR 1,000,000,000.00 (one billion rupiah).

Illegal levies and corruption are essentially the same action because they both use power to make themselves rich which is against the law.¹⁹

Basis for Considerations of Judges in Handing Down Free Verdicts in Corruption Crime Cases (Study of Decisions Number: 46/Pid.Sus-TPK/2018/PN.Tjk)

Judges are one of the main joints in upholding law and justice in a rule of law country. A judge is expected to act wisely, uphold the values of justice and material truth, be active and dynamic, based on positive legal instruments, perform logical reasoning in accordance with and in harmony with theory and practice so that everything begins with the decision he will make which can be accounted for from a scientific perspective. the law itself, the basic rights of the

¹⁹ Wayan Arsa Yogi Wiguna, ed.al, 'Tinjauan Yuridis Terhadap Tindak Pidana Pungutan Liar (Pungli)' (2020) Jurnal Preferensi Hukum Vol. 1 No. 2.

accused, society and the state, themselves, and for the sake of justice based on Belief in the One and Only God.²⁰

A court decision is a judge's statement uttered in an open court session, which can be in the form of punishment or acquittal or release from all lawsuits in matters and according to the manner regulated by law. The judge's decision is the end of the criminal trial process in the examination stage in the district court.

A defendant can be sentenced with criminal sanctions if he has been legally and convincingly proven to have committed the act he was charged with. Proving is done to find out whether the defendant is guilty or vice versa, then there is evidence in the trial which then the judge can examine and decide on the case. The evidentiary system in criminal cases refers to the Criminal Procedure Code. This evidentiary system adheres to a negative proving system where the guilt or innocence of the accused is determined by the judge's conviction based on legal means and means of evidence according to law²¹.

According to Eddy Rifai, the basis for the judge's consideration in imposing a decision is based on criminal charges whether the act committed has fulfilled the elements of a criminal act (juridical), if the act has fulfilled the elements of a criminal act then the judge will impose a sentence, if the act does not meet the elements then the judge decides to acquit and if the act fulfills the elements but is not a criminal act, the judge decides to release the decision. The judge in passing the decision saw the mitigating and aggravating reasons for the defendant (non-juridical). Regarding the imposition of how long the defendant was in prison or how much the fine was imposed on the defendant based on the existing threats.²² Based on the provisions of Article 191 Paragraph (1) and Paragraph (2) and Article 193 Paragraph (1) of the Criminal Procedure Code, criminal decisions are divided into three types, namely criminal decisions, acquittal decisions, and acquittal decisions.

The Criminal Code does not mention the terms justification and excuse. The third chapter of the first book of the Criminal Code only mentions the reasons for abolishing punishment. Achmad Soema gave an explanation of the reasons for abolishing punishment divided into: a. Justification reasons, namely reasons that eliminate the unlawful nature of the act, so that what was done by the defendant then becomes an appropriate and correct action.

b. Reasons for forgiveness, namely reasons that eliminate the guilt of the accused. The actions committed by the defendant are still unlawful, so they are still criminal acts, but they are not punished, because there is no mistake.

c. The reason for removing the prosecution, here the problem is neither justifying nor forgiving reasons, so there is no thought about the nature of the act or the nature of the person who committed the act, but the government considers that on the basis of utility or benefit to society, it is better not to prosecute.

Eddy Rifai said that the reasons for erasing and justifying reasons in the crime were first regulated in Article 44 of the Criminal Code, the reason a person cannot be accounted for lies in that person (inwedig), namely the growth of the soul is imperfect or disturbed due to illness. The two reasons for not being accountable for someone lie outside that person (uitwendig), found in Articles 48 to 51 of the Criminal Code. The three powers of coercion (overmacht) are

²⁰ Lilik Mulyadi, *Op.cit*, hlm. 65.

²¹ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali*, (Sinar Grafika, 2005), 280.

²² Hasil wawancara dengan Eddy Rifai selaku Dosen Fakultas Hukum, Tanggal 14 September 2020.

regulated in Article 48 of the Criminal Code. The four forced defenses (noodweer) are regulated in Article 49 of the Criminal Code. Fifth, because of implementing the law, regulated in Article 50 of the Criminal Code. Finally, due to carrying out a position order, it is regulated in Article 51 of the Criminal Code.²³

According to Jaini Basir, in making a decision, the judge may not impose a sentence except with at least two valid pieces of evidence. The judge must really pay attention to and evaluate the suitability of the testimony of one witness and another witness, the suitability between the testimony of the witness and other evidence, as well as everything that can support whether the statement can be trusted or not.²⁴

Legal considerations are the crown of a decision, and this section is the responsibility of the judge for his decision. The judge's decision is very useful for the defendant to obtain legal certainty regarding his status, so that the defendant can prepare the next steps towards the decision.

The general description of the corruption case in decision number 46/Pid.Sus-TPK/2018/PN.Tjk is a corruption case with the defendant named Mulyadi Bin Sukirman, place of birth on Panggung Island, age 41, date of birth October 21, 1971, male gender, Indonesian nationality, Islamic religion, residence in Sukarame Hamlet RT/RW 002/003 Village of Air Kubang, Air Naningan District, Tanggamus Regency, occupation of village head of water village. In this decision, the Tanjung Karang Corruption Court Judge handed down an acquittal against the accused Mulyadi. The actions committed by the Defendant Mulyadi violated as regulated and were subject to criminal penalties in Article 12 letter e jo Article 12 A of the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by the Law of the Republic of Indonesia Number 20 of 2001 regarding Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes. Or the actions of the Defendant Mulyadi have violated as stipulated and punishable under Article 11 in conjunction with Article 12 A of the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes.²⁵

The public prosecutor charged the Defendant Mulyadi with Article 12 letter e Jo Article 12 A of the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Laws Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as the First Indictment because the accused Mulyadi Bin Sukirman was legally and convincingly proven guilty of committing the crime of corruption "with the intention of unlawfully benefiting himself or others, or by abusing his power to force someone give something, pay, or receive payment with a discount, or to do something for himself", and the Public Prosecutor demanded that the defendant be imprisoned for 8 (eight)

²³ Lordamanu Bolqi, *Alasan Penghapus Pidana dalam KUHP dan luar KUHP*, 3 Agustus 2019, <https://www.doktorhukum.com/alasan-penghapus-pidana-dalam-kuhp-dan-luar-kuhp/>

²⁴ Hasil wawancara dengan Jaini Basir, Hakim Tindak Pidana Korupsi Pengadilan Negeri Tanjung Karang, 1 September 2020.

²⁵ Putusan Pengadilan Tindak Pidana Korupsi Pada Pengadilan Negeri Tanjung Karang tanggal 30 April 2019, Nomor: 46/Pid.Sus-TPK/2018/PN.Tjk.

months in prison with an order for the accused to be immediately detained and a fine of Rp. 50,000,000.- (five tens of millions of rupiah) Sub sidiar 6 (six) months confinement.

Risky Fany said that actions that can be categorized as criminal acts of corruption are actions that cause state financial losses; acts that do not cause losses to state finances such as extortion or bribery; obstruction of justice; and acts of gratification.²⁶ In this corruption crime case, the Public Prosecutor considered that this case did not cause any loss to state finances, so the Public Prosecutor charged the Defendant Mulyadi with Article 12 letter e in conjunction with Article 12 A of the Law on the Eradication of Corruption Crimes or Article 11 in conjunction with Article 12 A Law on Corruption Eradication. Article 12 letter e is an article on corruption in the form of extortion or extortion, and Article 11 is an article on corruption in the form of bribes.

The basis for the judge's considerations in deciding this case can be used as material for analysis on how the basis for consideration of the Panel of Judges in imposing an acquittal in the corruption crime case is Decision Number 46/Pid.Sus-TPK/2018/PN.Tjk, also to see how the acquittal is reflected a sense of justice. The judge has several considerations where these considerations result in an acquittal, namely the elements of Article 12 letter e jo Article 12 A of the Corruption Eradication Law are not fulfilled. Or Article 11 in conjunction with Article 12 A of the Law on Corruption Eradication, the judges' considerations in this case are:

The Panel of Judges will consider the first Alternative indictment as stipulated in Article 12 letter e Jo Article 12 A of the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes, the elements of which are as follows:

1. Elements of civil servants or state administrators.
2. Elements with the intention of benefiting oneself or others.
3. The element of unlawfully, or by abusing one's power to force someone to give something, pay, or receive payment with a discount, or to do something for himself.

ad. 1. Civil servants or state administrators.

The Panel of Judges is of the opinion that the formulation of the elements of "Civil Servants or State Organizers" has been fulfilled. The defendant Mulyadi Bin Sukirman served as the Head of Air Kubang Pekon based on the Decree (SK) of the Tanggamus Regent Number: B.364/11/10/2016 dated 21 December 2016 concerning Dismissal and Appointment of Village Heads in Tanggamus Regency. The defendant served as the Head of Pekon Air Kubang Kec. Water Naningan Kab. Tanggamus TMT January 20 2017 based on the Decree (SK) of the Regent of Tanggamus, with the task of organizing village government, carrying out village development, community development and community empowerment. Ad. 2. With the intention of benefiting oneself or others.

According to the Panel of Judges, the element "with the intention of benefiting oneself or others" was not met. Based on the facts at trial, the Panel of Judges did not find the fact that the defendant Mulyadi Bin Sukaraman had benefited or benefited other parties in the process of making the marriage license. Witness Dilli Murtiningsih's testimony at the trial stated that she had met the Pekon Head to ask about the cost of getting married and recorded the conversation using a cellphone, the Panel of Judges was of the opinion that the testimony of witness Dilli Murtiningsih was the testimony of an independent witness because it was not supported by the statements of other witnesses and other evidence as well as the results the recording of the

²⁶ Hasil wawancara dengan Risky Fany, Jaksa di Kejaksaan Tinggi Lampung, 31 Agustus 2020

conversation also could not be heard at trial, so the Panel of Judges was of the opinion that the testimony of witness Dilli Murtiningsih had no evidentiary power.

Because one of the elements of Article Article 12 letter e jo Article 12 A of the Republic of Indonesia Law Number 31 of 1999 which has been amended and supplemented by the Republic of Indonesia Law Number 20 of 2001 concerning Amendments to the Republic of Indonesia Law Number 31 of 1999 concerning Eradication If the Corruption Crime is not fulfilled, then the Defendant must be declared legally and convincingly not proven to have committed the crime as charged in the First Alternative indictment, so that the Defendant must be acquitted of the indictment.

The Panel of Judges will consider the Second Alternative indictment as stipulated in Article 11 in conjunction with Article 12 A of the Republic of Indonesia Law Number 31 of 1999 which has been amended and supplemented by RI Law Number 20 of 2001 concerning Amendments to RI Law Number 31 of 1999 regarding the Eradication of Criminal Acts of Corruption, the elements of which are as follows:

1. Civil Servants or State Administrators;
2. Receiving gifts or promises;
3. He knows or reasonably suspects that the gift or promise is given because of his power or authority related to the position or according to the mind of the person giving the gift or promise is related to the position. ad. 1. Civil Servants or State Administrators

The element of "Civil Servant or State Administrator" in this second Alternative indictment is the same and identical to the element of a Civil Servant or State Administrator in the First Alternative Indictment, thus the element of a Civil Servant or State Administrator has been fulfilled.

Ad.2. Accepting gifts or promises.

The Panel of Judges is of the opinion that the element of "Receiving gifts or promises" is not fulfilled. The Panel of Judges did not find the fact that the defendant Mulyadi Bin Sukaraman had received gifts or promises in the process of making the marriage permit. At the time the OTT occurred, the map containing the files and envelopes had not been transferred or changed hands to the Defendant as the Pekon Head, but was only placed on the desk of one of the Pekon staff. The Panel of Judges was of the opinion that the provision of an amount of Rp. 1,800,000 (one million eight hundred thousand rupiah) for the cost of obtaining a marriage license given by witness Ade Ali Mukti to witness Dilli Murtiningsih was an initiative of witness Dilli Murtiningsih himself without prior communication with the defendant .

Because one of the elements of Article 11 in conjunction with Article 12 A of the Republic of Indonesia Law Number 31 of 1999 which has been amended and supplemented by the Republic of Indonesia Law Number 20 of 2001 concerning Amendments to RI Law Number 31 of 1999 concerning the Eradication of Corruption Crimes is not fulfilled, then the Defendant must be declared legally and convincingly not proven to have committed the crime as charged in the Second Alternative indictment, so that the Defendant must be acquitted of the indictment.

Considering, that because all of the Alternative charges are not proven, the defendant must be declared legally and convincingly not proven to have committed the crime of Corruption as charged by the Public Prosecutor, and the defendant must be acquitted of these charges.

The Tanjung Karang Corruption Crime Panel of Judges in Decision Number: 46/Pid.Sus-TPK/2018/PN.Tjk Pays Attention to Article 191 Paragraph (1) Law Number 8 of 1981

concerning Criminal Procedure Law and Law Number 31 of the Year 1999 concerning the Eradication of Corruption jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes and other relevant laws and regulations. The Panel of Judges declared that the Defendant Mulyadi Bin Sukirman had not been proven legally and convincingly guilty of committing the crime as charged in the Alternative Charges; Acquitting therefore of the Defendant from all charges of the Public Prosecutor; Restore the rights of the Defendant in terms of ability, position, dignity and worth Nuki stated that in the decision above, the Panel of Judges did not find any facts that the Defendant Mulyadi had committed a criminal act of corruption as charged by the Public Prosecutor, at the time the OTT map containing the envelope had occurred had not been transferred or changed hands to the Defendant as the Village Head but only was placed on the table of one of the village staff, namely the table of witness Aniroh so that it cannot be said that the defendant committed a criminal act of corruption, there were differences in the evidence in the form of an envelope that was shown at trial and the evidence in the form of a recorded conversation between the defendant and Witness Dilli which was recorded on Sakai Dilli's cell phone could not be heard at trial, and the defendant was also not aware of a request for an amount of money so that the Defendant Mulyadi had nothing to do with this matter.

Judges as executors of a judicial power have the authority to make decisions based on their thoughts or reasoning in determining what methods are relevant to be applied in a case and a judge must also be guided by the applicable laws and regulations. According to Philipus M. Hadjon, in the process of applying legal principles, operationally technically can be approached in two ways, namely through inductive and deductive legal reasoning.

C. Conclusion

Illegal fees are indeed common in life, extortion can be found in various groups, ranging from upper-class rulers, to lower-class rulers. Illegal levies can be categorized as criminal acts of corruption; this action is regulated in Article 12 letter e of Law Number 31 of 1999 which has been amended and added to Law Number 20 of 2001 concerning Eradication of Corruption Crimes. But in this case, Decision Number: 46/Pid.Sus-TPK/2018/PN.Tjk showed that the actions of the accused did not meet the elements as charged in the Alternative Indictment by the Public Prosecutor, so the defendant was not proven legally legally and convincingly guilty of committing a criminal act of corruption. According to the Panel of Judges, the element "to benefit oneself or others" in Article 12 letter e of the Law of the Republic of Indonesia Number 31 of 1999 Jo. Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes has not been fulfilled; based on the facts at trial the Panel of Judges did not find the fact that the accused, Mulyadi Bin Sukaraman, had obtained an advantage or benefited other parties in the process of making the marriage license. The judge, in deciding a case must pay attention to whether the crime committed by the perpetrator must consider whether the elements of the convicted person have been fulfilled or not.

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