CRIMINAL LIABILITY IN THE CRIME OF CORRUPTION IN LAND ACQUISITION FOR THE CONSTRUCTION

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Abstract

Land acquisition procedures carried out in the context of the construction of the Tapin Dam are qualified as part of land acquisition for the public interest, as referred to in laws and regulations. This qualification is in line with the provisions of 65 of 2006 concerning to Presidential Regulation 36 of 2005, which states that infrastructure development for the benefit of water resources, including dams, is a form of development for the public interest. In this context, the Kalimantan II River Regional Center held land acquisition activities for the construction of the Tapin Dam through the formation of a land acquisition committee as stipulated in the Presidential Regulation. Proof in the Crime of Corruption of land acquisition for the Construction of the Tapin Dam is by proving criminal acts (elements of the article charged), the ability to be responsible, mistakes in the form of intentionality or forgetfulness and the absence of a reason for criminal removal. As for the criminal liability, that the defendant had received land change money from the community that the defendant used for the benefit of his family, so that the defendant was punished criminally and fined. The judge's consideration in Decision No. 10/PID. SUS-TPK/2023/PT BJM regarding the crime of corruption in land acquisition for the construction of the Tapin Dam stated that the defendant was proven to have committed an unlawful act as stipulated in Article 12 letter e of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, which has been amended and supplemented by Law Number 20 of 2001, so that the verdict is considered appropriate. the defendant had made an agreement with the witness Sogianor Bin Ilar (deceased) as the Head of Pipitak Jaya Village and a member of the Land Acquisition Team in the Implementation of Land Acquisition for the Construction of the Tapin Dam as a state administrator, and the defendant as a participant in the investigation, so that the crime occurred.

Keywords: Criminal Liability; Land Acquisition; Corruption

INTRODUCTION

Corruption as a social phenomenon is a reflection of deviant behavior in human social interaction which is considered dangerous and generally receives criticism from the public, even not infrequently from the perpetrators of corruption themselves, as illustrated in the expression "corruptors shout corruptors." The public's response to corrupt practices, viewed from a juridical point of view, is reflected in the regulation of corruption as a criminal act in the national legal system. In the perspective of the political perspective of criminal law in Indonesia, corruption is categorized as an extraordinary crime that requires special and comprehensive handling. Therefore, corruption perpetrators are subject to heavy criminal sanctions as a form of repressive efforts to overcome the destructive impact of these crimes on the state and society (Danil, 2011).

Corruption has serious consequences that have a wide impact on various aspects of the life of the community, nation, and state. Therefore, countering it requires an extraordinary approach that cannot be done with ordinary mechanisms. In this context, corruption prevention and eradication strategies must be implemented consistently, sustainably, and integrated within a comprehensive and systematic policy framework. The implementation of the strategy also requires support from various resources, improving the form of competent human resources and other supporting facilities and optimizing the effectiveness of law enforcement. The goal is to build awareness and foster anti-corruption attitudes and behaviors in the community (Syamsuddin, 2011).

The problem of corruption involves power holders in various fields, such as political, economic, and administrative power. When viewed in terms of the personal qualities of the perpetrators, many of them are individuals with a high level of intellect. As intellectuals, they generally also understand various ways to avoid legal entanglements, which makes tackling corruption increasingly complex (Wijaya, 2016).

Corruption is qualified as an extraordinary crime because of its systemically damaging characteristics and its widespread and profound impact on various aspects of social, economic, and government life. These crimes not only undermine the integrity of state institutions, but also hinder development and undermine public trust in the legal system and democracy. Corruption that occurs systemically and massively not only causes huge losses to state finances, but also disrupts the stability and security of society, as well as undermines the foundations of democracy, ethics, justice, and legal certainty. In addition, corruption also has a negative impact on the social and economic rights of the community at large, so that it can threaten the continuity of national development. Based on this understanding, efforts to eradicate corruption require the application of an extraordinary and unconventional approach. This is due to the complexity and range of the impact of corruption that cannot be effectively overcome through general and standard law enforcement mechanisms (Syamsuddin, 2011).

In an effort to eradicate corruption, a number of legal instruments have been issued as a strong juridical foundation. Among them is Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK), which is an important milestone in strengthening corruption eradication institutions. In addition, the regulation regarding the crime of money laundering as a crime that is closely correlated with corruption is regulated in Law Number 15 of 2002, which was later amended through Law Number 25 of 2003, as well as further updated with the enactment of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. Efforts to eradicate corruption in Indonesia are intensified through various policy instruments. As part of strengthening the legal system, the President also established the Task Mafiai Hukumi in response to irregular practices in law enforcement that have the potential to hinder efforts to eradicate corruption effectively (Lumbuun, 2018).

With the enactment of regional autonomy through Law Number 22 of 1999, which is supported by Law Number 25 of 1999, Law Number 28 of 1999, and Government Regulation Number 110 of 2000, a new phenomenon known as "decentralization of KKN" has emerged. The massive spread of KKN practices cannot be overcome by temporary and inconsistent law enforcement measures, especially if law enforcement officials only take selective action against certain perpetrators. Therefore, the strategy to eradicate corruption, collusion, and nepotism (KKN) must be implemented comprehensively, integrated, and consistent within the framework of sustainable law enforcement, in order to realize optimal law enforcement effectiveness. This approach is crucial in order to achieve the nation's strategic goals, namely the creation of clean governance and an Indonesia that is free from corruption, collusion and nepotism practices (Firm & Aria, 2011).

Law Number 31 of 1999 which took effect on August 16, 1999, which was later amended through Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 and effective since November 21, 2001, regulations related to the eradication of corruption in Indonesia have been strengthened normatively, efforts to eradicate corruption in Indonesia have not shown satisfactory results. The practice of corruption is still ongoing and tends to experience significant expansion. Instead of decreasing, corruption actually shows an increasing trend from year to year, both in terms of the number of cases handled, the amount of state financial losses caused, and in terms of the complexity of its actions. The modus operandi of the perpetrators is also growing with a more sophisticated, structured, and systematic pattern. In fact, corruption has penetrated into various sectors of public life and shows transnational characteristics, crossing the boundaries of state jurisdiction. Therefore, nationally, corruption is not only recognized as an *extraordinary crime*, but also as a transnational crime that requires a special approach and cross-jurisdictional handling (Mulyadi, 2011).

Although a number of cases have been successfully identified and handled by law enforcement officials up to the investigation stage, only a small number are known to have been successfully transferred to the judicial process, raising questions about the effectiveness of the law enforcement system in dealing with this serious corruption. Even when the case reaches the court, it is not uncommon for the perpetrator to be acquitted by the judge. This condition makes it easy for the public to form the perception that corruption in Indonesia is indeed rampant, but the perpetrators rarely receive punishment (Danil, 2011).

The escalation of corruption crimes that have occurred historically since the Old Order, the New Order, and the Reform era, exacerbated by a decentralized but minimally supervised budget management system, has brought serious negative consequences. This impact not only damages the order of life of the nation and the state, but also threatens the future of future generations through the systemic decay of public integrity values. One concrete form of this phenomenon is the practice of budget aglusion between legislative and executive institutions which is carried out in order to smooth the approval and disbursement of the budget in exchange for commissions. In addition, collusion between law enforcement officials and executive officials in covering *up the practice of budget mark-up* through the distribution of project share ownership is a clear example of corruption that has been institutionalized and rooted in the bureaucracy (Iskandar, 2013).

News about the involvement of government officials in corruption crimes ranging from central level officials such as ministers and members of the DPR/DPRD levels I and II, to regional officials such as governors, regents/mayors, and even government officials at the village or nagari level, often adorn the mass media, both print and electronic. This phenomenon reflects the widespread practice of corruption which is no longer limited to a certain level, but has reached all levels of government structure. Corruption has spread widely to all government institutions, including the executive, legislative, and judiciary. This condition indicates that corrupt practices have been systemically rooted in government structures, ranging from state officials at the central level to government officials in regions with smaller administrative scopes. The widespread spread of corruption reflects the overall degradation of bureaucratic integrity.

One of the corruption cases handled is within the jurisdiction of the Banjarmasin District Court is a corruption case related to land acquisition for the construction of the Tapin Dam. One of the defendants in the case was Herman Bin Boleboh, who at that time served as the Head of Pipitak Jaya Village as well as a member of the land acquisition implementation team for the Tapin Dam construction project in 2019.

Based on the Decision of the Corruption Court at the Banjarmasin District Court Number 19/Pid.Sus-TPK/2023/PN.Bjm, the defendant was declared legally and convincingly proven guilty of committing the crime of corruption jointly and the crime of money laundering, in accordance with the cumulative indictment of the Public Prosecutor. Against the verdict, the defendant expressed objection and filed an appeal.

In its ruling, the Banjarmasin High Court decided to make changes to the decision of the Court of First Instance Corruption at the Banjarmasin District Court Number 19/Pid.Sus-TPK/2023/PN/Bjm. In the ruling, the panel of judges stated that the defendant was legally and convincingly proven to have committed or participated in committing acts as a civil servant or state administrator who, with the aim of benefiting himself or others against law, has abused authority by forcing another party to give something, make payments with deductions, or perform certain work for personal gain. This action is an act that is regulated and threatened with criminal punishment based on the provisions of Article 12 letter e of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999, which is further qualified jointly with the provisions of Article 55 paragraph (1) 1 of the Criminal Code (KUHP).

In order to make the formulation of the problem clearer and more focused, the author limits this study to three main questions, namely: What is the process of land acquisition for the construction of the Tapin Dam? What is the mechanism for proving liability to the land acquisition process for the Tapin Dam construction project? What is the judge's consideration in decision Number 10/PID. SUS-

TPK/2023/PT BJM regarding the crime of corruption in land acquisition for the construction of the Tapin Dam?

Based on the formulation The Problem has been stated before, the purpose of the research. They are as follows: Analyze and review Procurement Procession land for the construction of the Tapin Dam; Analyze the proof mechanism Dani Construction criminal in Handling of the Actions related to the land acquisition process for the Tapin Dam construction project; Analyze and review the judge's considerations in Decision Number 10/PID. SUS-TPK/2023/PT BJM related to the crime of corruption in land acquisition for the construction of the Tapin Dam.

METHOD

The research method used in this article is normative legal research, which examines relevant legal materials related to the land acquisition process for the construction of the Tapin Dam in South Kalimantan. This study employs several approaches, including the statutory approach to analyze regulations governing land acquisition for public purposes, specifically Presidential Regulation No. 65 of 2006 on Land Acquisition for Public Purposes. The case law approach is applied to examine judicial decisions, particularly the verdict in Case No. 10/PID. SUS-TPK/2023/PT BJM, which involves corruption in land acquisition. The historical approach is used to trace the development of the legal system in Indonesia in addressing corruption in public infrastructure projects.

The comparative approach is also applied to compare the land acquisition process and legal accountability in similar cases both in Indonesia and abroad. Meanwhile, the conceptual approach is used to explore the concept of criminal liability and legal mechanisms applied to public officials involved in corrupt practices, focusing on the application of laws related to abuse of power and corruption in public development projects. Through these approaches, the research aims to analyze in depth the procedural, legal, and accountability aspects of the corruption case in the land acquisition for the Tapin Dam construction.

RESULTS AND DISCUSSION

Tapin Dam Land Acquisition Process

Referring to the provisions of Article 5 of Presidential Regulation Number 65 of 2006, which is an amendment Presidential Number 36iiof 2005i concerning Land Acquisition for the Implementation Development then intended for the construction of the Tapin Dam are included in the category of land acquisition for the public interest. Therefore, the Kalimantan II River Regional Center carried out the land acquisition process by involving the land acquisition committee, in accordance with the provisions stipulated in the Presidential Regulation.

In order to assist and facilitate the land acquisition, the Kalimantan River Region II Center was formed a Land Acquisition Team for Land Acquisition for the Construction of the Tapin Dam based on the Decree of the Head of the Tapin Regency Land Office Number: 01 of 2019 dated January 2, 2019 concerning the Composition of the Membership of the Land Acquisition Team for the Construction of the Tapin Dam in 2018 in Pipitak Jaya Village and Harakit Village, Piani District, Tapin Regency.

Proof and Criminal Responsibility in the Crime of Corruption in the Procurement of Tapin Dam Land

The concept of criminal liability is related to the legal mechanism that establishes the conditions under which a person can be held criminally accountable for his or her actions, which in particular has important implications for the decision-making process by judges. The judge still has an obligation to consider a situation, even if it is not proven by the Public Prosecutor. On the other hand, if the defendant submits a defense based on reasons that can remove criminal liability, then the judge must explore and delve further into the problem. In this context, the judge must investigate in more detail the special conditions submitted by the Defendant as the basis for the elimination of the error. In fact, if the Defendant does not explicitly file a defense based on the excuse of expungement, the judge must still ensure that there is no such reason on the part of the Defendant when the criminal act is committed. Thus, the judge is obliged to check whether or not there is a reason for the removal of the error, even if it is not used as a defense by the Defendant. This approach marks a significant change in the practice of examining cases in court (Chairul Huda, 2015).

Criminal liability is a form of individual responsibility for the criminal acts that have been committed. Strictly speaking, what is asked for accountability is the criminal act itself. Criminal liability arises as a consequence of the commission of an act that meets the elements of a criminal act. In essence, criminal liability is a mechanism designed by the criminal law system in response to violations of legally agreed norms or prohibitions (Amrani & Ali, 2015).

According to Roeslan Saleh, it is not relevant to ask for criminal responsibility from someone if his actions are not unlawful. Therefore, the existence of a criminal act and the existence of errors related to the act must be ascertained first. In this context, in order for a person to be convicted, two main conditions must be met, namely: (Ikhsan et al., 2024).

1. The individual has committed an act that meets the elements of a criminal act; and
2. The person concerned has the ability to be legally accountable for his actions.
3. The presence of intentionality or forgetfulness;
4. There is no reason for criminal expungement.

According to criminal law experts, the mistake (*schuld*) is formed from a number of elements. In general, it is stated that guilt consists of three elements, namely:

a. The ability of the perpetrator to be responsible.
   1) A certain mental attitude of the perpetrator in relation to his actions in the form of intentionality or forgetfulness.
   2) There is no excuse to erase the mistake or eliminate the criminal responsibility of the perpetrator (Maramis, 2013).

   Discussing criminal liability is inseparable from mistakes. Because without any mistake, a person cannot be held criminally responsible. People are distinguished in the form of Intentionality and Negligence/Forgetfulness (Ikhsan et al., 2024).
b. Intentionality
   According to *memorie van toelichting* the word "intentionally" (*opzettelijk*) is the same as "*wiilen en weten*" (desired and known). This means that at the time of committing an act, the perpetrator wants *(willen)* the act and/or the consequences of his act, also knows or understands (*weten*) these things. (Maramis, 2013)
c. Negligence/forgetfulness.
   The law itself does not explain the definition of culpa and this is left to the science of criminal law. Some experts provide the definition and/or conditions of *culpa* as follows: (Stuttgart, 2011).

Simons requires two things for *culpa*
1) Lack of caution
2) lack of attention face as a possible consequence.

Vani Hameli also mentioned two signals:
3) There are no necessary conjectures.
4) There is no need for caution.

The defendant Herman Bin Boleboh together with the witness Sogianor Bin Ilar (Alm) as the Head of Pipitak Jaya Village and as a member of the land acquisition team for the construction of the Tapin Dam in 2019 and the witness Achmad Rizaldy Bin H. Syamsi (civil servant / teacher of SDN Bakarangan Rantau) (prosecution separately), on Thursday, July 4, 2019 or at least at some time in 2019, located at the Sub-Branch Office of PT. Bank Negara Indonesia (Persero) Tbk Rantau Branch which is located at Jalan Brigjend H.Hasan Basri No.3, Rangda Malingkung, North Tapin District, Tapin Regency, or at least, the act was carried out at a location that is under the jurisdiction of the Corruption Court at the Banjarmasin District Court, which legally has the authority to examine and prosecute the case in question.

Although the defendant is not a civil servant, the defendant has made an agreement or meeting of mind with the witness Sogianor Bin Ilar (deceased) as the Head of Pipitak Jaya Village and a member of the Land Acquisition Team in the Implementation of Land Acquisition for the Construction of the Tapin Dam, as the state organizer so that this is the meeting point where Sogianor Bin Ilar (deceased) as the father and the defendant as the party participating in the medepleger, so that the crime occurred.

The defendant Herman received a gift in the form of compensation money for land acquisition from the witness Achmad Rizaldy through a transfer to the BNI Barabai Branch account in the name of HERMAN with 833950137 account number.

The act in question is a criminal act that is regulated and threatened with criminal punishment based on the provisions of Article 11 of Law Number 31 of 1999 concerning the Eradication of Corruption, as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999, which in its implementation is also associated with the provisions of Article 55i ayati (1i) Code (KUHPi).

The Judge's Consideration in the Corruption Case No. 10/Pid.Sus-TPK /2023/PT. BJM

To prove whether the Defendant as a member of the land acquisition implementation team for the construction of the Tapin Dam in 2019 was indeed committed as intended in decision 10/PID. SUS-TPK /2023/PT BJM is in violation of Article 12 letter (e) of the Corruption Law, for this it is necessary to prove the elements in Article 12 letter (e), including:

State officials or state administrators

According to Article 1 number 1 of Law Number 43 of 1999 concerning Amendments to Law Number 8 of 1974 concerning Personnel Matters, Civil Servants are defined as Indonesian citizens who have met certain requirements, are appointed by authorized officials, are given responsibilities in a position or other state duties, and receive salaries in accordance with the provisions of applicable laws and regulations.

Although Law Number 43 of 1999 concerning Amendments to Law Number 8 of 1974 concerning Personnel Matters has been repealed and replaced by Law Number 5 of 2014 concerning the State Civil Apparatus (ASN Law).

According to the Law on the State Civil Apparatus (UU ASN), Civil Servants (PNS) are Indonesian citizens who have met certain requirements and are appointed on a permanent basis by the Civil Service Supervisory Officer to occupy positions in the government structure. Although the ASN Law does not explicitly use the term 'civil servant' as stated in the Corruption Crime Law (TPK Law) and the Civil Service Principles Law, the difference in terminology does not raise significant problems in the context of corruption criminal law enforcement, especially regarding the provisions of articles that contain the element of 'civil servants'.

However, the definition of Civil Servant is not only limited to the Law on Personnel Principles and State Civil Apparatus. Since the enactment of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, the scope of the meaning of Civil Servants has been expanded. In the law, the term Civil Servant includes various categories, including the following:

1) State civil apparatus as specified in the laws and regulations governing the provisions regarding personnel;
2) Civil servants as referred to in the Criminal Code (KUHP);
3) Any individual who receives a salary or wages sourced from state or regional finances;
4) Individuals who receive salaries or wages from a legal entity (corporation) that receives financing support from state or regional finances; and
5) Individuals who receive salaries or wages from other legal entities that utilize capital or facilities derived from the state or from the community.

The definition of State Administrator as stated in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, which has been amended by Law Number 20 of 2001, refers to the explanation of Article 5 paragraph (2), which refers to the category of state administrator as stipulated in Article 2 of Law Number 28 of 1999 concerning State Administrators who are Clean and Free from Corruption, Collusion, and Nepotism.

Based on the provisions of Law Number 28 of 1999, what is meant by State Administrators is state officials who carry out functions in the executive, legislative, or judicial fields, as well as other officials who have main functions and duties that are directly related to the process of implementing state government, as stipulated in the applicable laws and regulations.

In Law No. 28 of 1999, the State Administrator includes:

1) State Officials at the highest institutions of the State;
2) State Officials at State high institutions;
3) Minister;
4) Governor;
5) Judge;
6) Other State Officials in accordance with the provisions of applicable laws and regulations; and
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.

Based on these elements, the defendant can be said to be another official who has a strategic function in relation to the administration of the State in accordance with the provisions of the applicable laws and regulations.

Intention to benefit oneself or others

By examining the formulation of the provisions regarding the crime of corruption as stipulated in Article 12 letter e, it can be concluded that the element of "unlawful" in the provision serves as a legal basis for assessing the act of enriching oneself, others, or a corporation.

Consequently, even though an act causes losses to the state's finances or the country's economy, if the action is not carried out illegally, then the act of enriching oneself, others, or the corporation cannot be qualified as a criminal act of corruption as referred to in Article 2 paragraph (1) of the Law on the Eradication of Corruption Crimes.

Based on the review of the formulation of the provisions of Article 2 paragraph (1) of the Law on the Eradication of Corruption, it appears that the element of "against the law" is an essential element that becomes a means of realizing the act of enriching oneself, others, or corporations (Wiyono, 2022).

Therefore, juridically, if an act causes losses to the state finances or the state economy but is not carried out unlawfully, then the act of enriching oneself, others, or the corporation cannot be qualified as a criminal act of corruption as referred to in Article 2 paragraph (1) of the law (Wiyono, 2022).

The term "enrichment" refers to actions taken to increase wealth, either for oneself or corporation. This can be done through various mechanisms, such as selling, buying, signing contracts, or transferring funds between bank accounts. However, in order for the act criminal act of corruption as stipulated 2 paragraph (1) of the Law on the Eradication of Criminal Acts iiCorruption, the act must be carried out against the law.

Regarding the elements of enriching oneself, or a corporation, the panel of judges in its legal considerations gave the following description:

Considering that laws and regulations do not explicitly formulate definitions or terminological limitations of the term "enrichment," even though not all forms of income increase or profit acquisition can immediately qualify as an act of self-enrichment;

Also note that in the General Dictionary of the Indonesian Language by W.J.S. Poerwadarminta, the term "enrich" is interpreted as "to make you richer," while the word "rich" itself is interpreted as "to have a lot of wealth." On the other hand, according to Prof. Sudarto, the act of enrichment includes all forms of actions such as taking, transferring funds, signing contracts, and other similar acts that cause the perpetrator to experience an increase in wealth.

Considering that this element contains a meaning that the act carried out by the Defendant is to enrich the perpetrator himself or to another person or a corporation. While what is meant by the meaning of enriching is relative, although objectively it can be said that a person's condition is improving, but subjectively it can be seen that the person is not yet rich.

Considering that the Supreme Court of the Republic/1982 dated August 10, 1982 and Decision No. 275/K/Pid/1983 dated December 15, 1983, in its legal considerations, provided an explanation of the meaning of the term "enrichment" as follows: obtaining the proceeds of corruption even if only partially. Therefore, even though the size is relative, the Assembly is of the opinion that the meaning of "enrich" can be interpreted as that a person's condition is improving.

Considering that based on witness statements, expert testimony and the Defendant's testimony as well as the evidence revealed at the trial are linked to each other, there is a conformity and becomes a fact revealed at the trial.

The legal facts revealed in the trial as reflected in the decision of the Panel of Judges at the first instance show that the defendant had received a number of land replacement funds from the community through the witness Achmad Rizaldy, with a total of Rp954,000,000.00 (nine hundred and fifty-four million rupiah). The funds were then used by the defendant to pay off his personal debts, fulfill his personal interests, and be used for the benefit of his family.

The giving of money from the witness Achmad Rizaldy was the result of the defendant's actions who had helped the witness Sogianor Bin Ilar (deceased) as the Head of Papitak Jaya Village who had the power as the Head of Pipitak Jaya Village and a member of the Land Acquisition Team in the Implementation of Land Acquisition for the Tapin Dam Construction by helping to manage the administration and facilitate the community whose land was affected by the land acquisition from the Tapin Dam land development. and the obvious thing is the act of abusing power that benefits the witness Sogianor Bin Ilar (deceased) as the Head of Papitak Jaya Village and the defendant and witness Achmad Rizaldy.

Unlawfully

The explanation of Article 2 paragraph (1) of the Corruption Law explains that the phrase "unlawfully" includes acts that are contrary to the law in a formal and material sense. This means that even if an act is not explicitly regulated or prohibited in laws and regulations (formal), if the act is considered inappropriate, reprehensible, contrary to the sense of justice, or not in accordance with the social norms that live in society (material), then the act can still be qualified as a criminal act that can be sanctioned.

With the word "maupuni" in the explanation, it is known that the Law No. 31 of 1999 follows 2 (two) teachings against the law as an alternative, namely: (Snoop Doggy, 2022).

1) Teachings are against formal laws, i.e.
2) Teachings are against the material.

In the criminal law literature, there are still differences of opinion regarding the doctrine of unlawful nature. This difference gives birth to two definitions, namely formal unlawful nature (*formele wederrechtelijkheid)* and material unlawful *nature (materiele wederrechtelijkheid)* (Danil, 2011).
An action is categorized as a formal unlawful act if it is contrary to the provisions of laws and regulations or written laws. In this sense, an act is considered unlawful if all the elements formulated in the offense are met. Therefore, there is no longer a need to assess the social acceptability of the act. On the other hand, from the perspective of immaterial jurisprudence (Snoop Doggy, 2022).
Based on witness statements, letter evidence, evidence, expert testimony, and the defendant's testimony, legal facts were obtained that the defendant had received land replacement money from the community through the witness Achmad Rizaldy.

Forcing someone to give something

This element emphasizes that the act of corruption committed is by forcing others to give something, pay for it, or accept payment with a deduction, or do something for the benefit of oneself or others.

Examine the provisions of Article 12 e of the Corruption Law, the object of the coercive act is not his physical, but his will (psychic). In the act of coercion whose object is the will of the person, there must be a direction directed by the will of the maker whose direction is also certain to be contrary to what the will of the person who is forced, but must be fulfilled. If it is not fulfilled, of course there will be an unpleasant consequence for the person who is forced. If in such circumstances the choice of the person who is forced is an unlawful act, then the act loses its unlawful nature (Adam Chazawi, 2022).
Furthermore, the phrase "to give, to receive payment for something, something for oneself" contains an alternative meaning as indicated by the use of the word "or". This shows that these elements can be fulfilled if one of four forms of action occurs, namely:
1) Giving something; or
2) To pay; or
3) Accept payment with deductions; or
4) To do something for himself.

And if one of these acts is fulfilled, it means that it has fulfilled these elements.
Giving something" is the act of giving something as an object that is not only in the form of objects (for example, money) it can also be in the form of rights, authority, opportunities, can also be jobs, facilities, for example, using an official car and so on. The act of paying means handing over a certain amount of money for a certain purpose, either by handing over securities (for example, handing over checks, bills, current accounts, etc.) or by handing over the object, namely money. Actually, the purpose of the formation of the crime of corruption by abusing the power to force people to pay is to avoid payments by people who are not obliged to pay because they are forced by pressure from people in power(Adam Chazawi, 2022).

CONCLUSION

Land acquisition procedures carried out in the context of the construction of the Tapin Dam are qualified as part of land acquisition for the public interest, as referred to in laws and regulations. This qualification is in line with the provisions of Article 5 of Regulation No. 65 of 2006 concerning to Presidential Regulation No. 36 of 2005, which states that infrastructure development for the benefit of water resources, including dams, is a form of development for the public interest.

In this context, the Kalimantan II River Regional Center held land acquisition activities for the construction of the Tapin Dam through the formation of a land acquisition committee as stipulated in the Presidential Regulation. Proof in the Crime of Corruption of land acquisition for the Construction of the Tapin Dam is by proving criminal acts (elements of the article charged), the ability to be responsible, mistakes in the form of intentionality or forgetfulness and the absence of a reason for criminal removal.

As for the criminal liability, that the defendant had received land change money from the community that the defendant used for the benefit of his family, so that the defendant was punished criminally and fined. The judge's consideration in Decision No. 10/PID. SUS-TPK/2023/PT BJM regarding the crime of corruption in land acquisition for the construction of the Tapin Dam stated that the defendant was proven to have committed an unlawful act as stipulated in Article 12 letter e of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, which has been amended and supplemented by Law Number 20 of 2001, so that the verdict is considered appropriate. the defendant had made an agreement with the witness Sogianor Bin Ilar (deceased) as the Head of Pipitak Jaya Village and a member of the Land Acquisition Team in the Implementation of Land Acquisition for the Construction of the Tapin Dam as a state administrator, and the defendant as a participant in the investigation, so that the crime occurred.

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