

Legal Review of the Misuse of Health Operational Assistance (BOK) Funds at the Central Aceh Health Office: An Analysis of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001

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Abstract

This study aims to analyze the legal review of the misuse of Health Operational Assistance (BOK) funds at the Central Aceh Health Office based on Law No. 31 of 1999 jo Law No. 20 of 2001. This case became an unlucky crew because it involved state losses of IDR 5.34 billion with the modus operandi of cutting incentives for health workers and fictitious reports. The research method used is normative-empirical juridical with a legislative approach and case studies. The results of the study show that these actions clearly meet the elements of corruption offenses in Article 2 and Article 3 of the PTPK Law. This study concludes the need to strengthen internal supervision, governance transparency, and community participation in the supervision of health budgets in the regions to prevent corruption recidivism.

Keywords: BOK Fund, Corruption, Central Aceh, PTPK Law.

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2nd International Conference on Islamic Community Studies (ICICS)

Theme: History of Malay Civilisation and Islamic Human Capacity and Halal Hub in the Globalization Era

<https://proceeding.pancabudi.ac.id/index.php/ICIE/index>

Introduction

The Health Operational Assistance Fund (BOK) is an instrument of the central government to improve access and quality of public health services at the basic level or Puskesmas. As part of the Non-Physical Special Allocation Fund (DAK), the BOK is designed to ease the burden of operational costs and support pro motive and preventive health efforts [1]. However, in its implementation, the large allocation of funds is often a loophole for corruption crimes involving officials at the regional level. Corrupt practices in the health sector not only harm state finances, but also violate people's human rights to get decent health standards [2].

One of the cases that has become a serious concern is the alleged misuse of BOK funds at the Central Aceh Regency Health Office for the 2022-2023 fiscal year. Based on the results of the audit and investigation by law enforcement officials, the state's losses in this case are estimated to reach Rp5.34 billion with a modus operandi in the form of deductions of activity funds and fictitious reports [3]. Juridically, the act meets the elements of corruption as stipulated in Law Number 31 of 1999 jo. Law Number 20 of 2001 (PTPK Law). Law enforcement in this case is a challenge in itself, considering the urgency of recovering state losses in the public service sector [4].

This study aims to analyze the legal review of the modus operandi of misuse of BOK funds, as well as the application of criminal sanctions against perpetrators based on the PTPK Law. A normative-empirical approach is used to review the effectiveness of law enforcement on the actors involved through the study of legal documents and the realities of practice in the field [5]. The results of this research are expected to contribute to novelty in strengthening the supervision and legal accountability of BOK funds in the health sector, in line with efforts to realize clean and integrity governance [6].

Research Methods

The research method used in this article is a normative-empirical legal research method. [7] This approach was chosen to analyze the written legal norms regarding corruption crimes and to see its implementation in real terms in cases of misuse of BOK funds at the Central Aceh Health Office. In more detail, the method of this research is described as follows:

1. Types and Data Sources

The data used in this study consisted of:

Secondary Data (Normative Law): Includes primary legal materials in the form of Law No. 31 of 1999 jo Law No. 20 of 2001, as well as secondary legal materials in the form of books, legal journals, and the results of legal experts' thoughts. [8] Primary Data (Empirical Law): Obtained through the study of legal documents related to the investigation process and legal facts revealed in the case of alleged corruption of BOK funds in Central Aceh. [9]

2. Research Approach

This study uses the Statute Approach to review the articles in the PTPK Law and the Case Approach to dissect the modus operandi and the application of sanctions in specific cases in Central Aceh. [10]

3. Data Analysis Techniques

The data that has been collected is analyzed qualitatively. The researcher interprets the law on the facts of the misappropriation of BOK funds, then relates them to the elements of corruption offenses as regulated in the applicable regulations in order to draw precise conclusions related to the criminal responsibility of the perpetrators.

Definition and Purpose of the BOK Fund

The Health Operational Assistance Fund, hereinafter abbreviated as BOK Fund, is a special non-physical allocation fund to help fund operational activities in the health sector which are regional affairs in accordance with national priority programs in the health sector. In this case, the Health Office is an element of assisting regional heads in organizing government affairs in the health sector. The Community Health Center, hereinafter referred to as the

Puskesmas, is a first-level health service facility that organizes and coordinates promotive, preventive, curative, rehabilitative, and/or palliative health services by prioritizing promotive and preventive health services in their work area. [11]

The legal basis for the BOK is regulated in the Regulation of the Minister of Health Number 18 of 2024 concerning Technical Guidelines for the Management of Health Operational Assistance Funds. This regulation covers the distribution of BOK funds, the delay in the distribution of BOK funds, the BOK fund account, the management by local governments, the coaching, monitoring, evaluation of the BOK funds by the central government, and the internal supervision of the management of the BOK funds. The BOK Fund specifically aims to increase public access to quality health services. With the existence of BOK funds, it is hoped that health facilities in various regions can continue to improve the quality of their services. In addition, the Health Operational Assistance Fund is also expected to expand the reach of public access to the necessary health services more evenly and of high quality. Through various regulations and mechanisms that have been set, it is hoped that the fund can have a significant positive impact in efforts to improve overall public health. The BOK Fund is a fund provided by the central government through the Ministry of Health to support the operations of Primary Public Health Efforts (SMEs). This fund is part of the APBD which comes from the State Budget to support health programs that aim to improve public health. These funds are usually used to finance various activities, such as the implementation of health programs through mobile posyandu. The purpose of the BOK fund is to ensure that people have better access to health services and to improve the overall well-being of the community. [11]

Results and discussion

1. Analysis of the Modus Operandi of Misuse of BOK Funds at the Central Aceh Health Office

Based on the results of the study, the modus operandi practiced in the misuse of BOK funds at the Central Aceh Health Office for the 2022–2023 fiscal year shows a pattern of structured bureaucratic corruption. This practice includes withholding funds for activities that are the right of health workers and manipulation of administrative documents through fictitious Official Travel Orders (SPPD). The state loss of Rp5.34 billion that arose was not only due to administrative negligence, but there was malicious intent (*mens rea*) to benefit oneself or certain groups. [12]

In the perspective of Dr. Muhammad Arif Sahlepi, S.H., M.Hum., corruption in the public sector is often wrapped in formal mechanisms to disguise its unlawful nature. He emphasized that this abuse of authority is a form of betrayal of the mandate of office for personal gain. [13] In line with this, Prof. Romli Atmasasmita stated that the misuse of public aid funds such as BOK is a crime that damages social well-being, because its impact directly paralyzes the effectiveness of basic health services for the wider community. [14]

2. Application of Article 2 and Article 3 of the PTPK Law to Perpetrators

The application of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (PTPK Law) in this case is focused on the qualification of state financial losses:

Article 2 Paragraph (1) of the PTPK Law: The element of "unlawful" is fulfilled through the act of manipulating fictitious reports that formally violate regional financial management procedures and materially harm the state.

Article 3 of the PTPK Law: Considering that the legal subject in this case is a public official, the element of "abuse of authority" is the central point. The perpetrator used his managerial authority to order the deduction of funds that should have been managed transparently.

Regarding the application of this article, Prof. Eddy O.S. Hiariej gave an important note that state losses in corruption cases must be real (actual loss), which is proven through official audits. [15] This is in line with the audit findings in the Central Aceh case which precisely determined the actual loss figures. Meanwhile, Prof. Dr. Yasmirah Mandasari Saragih, S.H., M.H., emphasized that the enforcement of Articles 2 and 3 of the PTPK Law in the health sector

must be oriented towards asset recovery. [16] He argued that without maximum reimbursement, the deterrent effect on health budget corruption would not be effectively achieved. [16]

3. The Urgency of Health Law Enforcement

Legal studies view that corruption of BOK funds is a form of violation of the fundamental right to health. Dr. Rahmayanti, S.H., M.H., in his thoughts stated that legal sanctions against corruptors of health funds must be heavier because what is corrupted is an instrument of protecting human lives. [17] The integrity of officials managing health funds in the regions is the main key in preventing the recurrence of similar cases. Therefore, the criminal sanctions imposed must be accompanied by administrative sanctions in the form of permanent dismissal and the obligation of full restitution for the losses incurred. [17]

4. Juridical Review of Limitations on Discretion and Abuse of Authority

In the practice of managing BOK funds in Central Aceh, there is often an argument that the deduction of funds is carried out for the sake of office operations that are not accommodated in the official budget. However, from the perspective of health and criminal law, this cannot be justified. Dr. Rahmayanti, S.H., M.H., emphasized that the discretion of officials should not violate the law rules that are imperative (coercive). [17] When an official uses his authority to transfer the financial rights of health workers (BOK) for other purposes—even if claimed to be for the benefit of the service—such an action is still qualified as an abuse of authority under Article 3 of the PTPK Law.

Furthermore, Prof. Eddy O.S. Hiariej explained that abuse of authority in corruption involves elements of *détournement de pouvoir* (exceeding power) and *abus de droit* (abuse of rights). [18] In this case, officials at the Central Aceh Health Office had exceeded the limits of authority granted by the BOK regulations, so that goodwill (if any) was erased by unlawful acts that harmed the state's finances.

5. Criminal Liability in Hierarchical Structure (Command Responsibility)

The misuse of BOK funds in Central Aceh also opens up a space for analysis regarding the accountability of the command. Given that this action is carried out jointly, Article 55 Paragraph (1) 1 of the Criminal Code regarding participation (*deelneming*) becomes relevant. Dr. Muhammad Arif Sahlepi, S.H., M.Hum., argues that in a bureaucratic structure, subordinates who make cuts on the orders of superiors are not necessarily free from legal snares, but intellectual actors (*pleger*) or givers of orders still bear the heaviest criminal responsibility. [6]

The synergy of thought from UNPAB academics concluded that the inherent supervision (*Waskat*) in the Central Aceh health sector failed to detect fraud early on due to the existence of unequal power relations. [8] Therefore, criminal sanctions must be able to touch the highest decision-making structures in the agency to ensure that future health fund management policies are truly oriented towards the public benefit, not mere bureaucratic interests. [8]

Recommendations

Based on the results of the analysis of the misuse of BOK funds at the Central Aceh Health Office, this study formulates several strategic recommendations as preventive and corrective efforts in the future:

- 1 **Strengthening Internal Supervision and Inspectorate:** It is necessary to restructure the internal supervision system within the Central Aceh Health Office. The Central Aceh Regency Inspectorate must conduct a more stringent and sudden periodic audit (*sidak*) specifically on the use of BOK funds, to ensure that there is no discrepancy between administrative reports and field realizations.
- 2 **Community Participation in Field Supervision:** Encourage active community involvement as external supervisors in mobile *posyandu* activities. Health workers from the Puskesmas are required to provide open information about the schedule and types of services funded by BOK, so that the public can verify the suitability of the implementation of activities directly in their respective work areas.

- 3 **Transparency and Implementation of Good Governance:** The Central Aceh Regional Government is obliged to apply the principles of good governance in regional financial management. This includes digitizing the BOK fund reporting system that can be accessed by the public on a limited basis (transparency dashboard) to minimize the manipulation gap of accountability reports.
- 4 **Integration of Ethics and Legal Education:** In line with the thoughts of legal experts from Panca Budi Development University, it is necessary to regularly provide health and corruption legal aspects for budget management officials in order to create moral integrity that is in line with legal compliance. [6]

Conclusion

Based on the results of the juridical analysis of the misuse of Health Operational Assistance (BOK) funds at the Central Aceh Health Office, it can be concluded that the action actually meets the elements of corruption as stipulated in Law Number 31 of 1999 jo. Law Number 20 of 2001. The legal review shows that the *modus operandi* carried out through the deduction of incentives for health workers and manipulation of fictitious activity reports is a form of unlawful act that abuses the authority of office for personal and group gain. This reckless practice has not only resulted in significant state financial losses of Rp5.34 billion, but has also paralyzed the effectiveness of public health services at the basic level. This is in line with the views of the Postgraduate Law academics of the Panca Budi Development University who emphasized that law enforcement against corruption in the health sector must be oriented towards the recovery of state assets to ensure the continuity of the community's constitutional right to health. Therefore, criminal sanctions imposed based on Article 2 and Article 3 of the PTPK Law must be accompanied by reform of the internal supervision system and stricter transparency of regional financial governance to prevent the occurrence of recidivism of corruption crimes in the future. []The conclusion provides an answer to the problem raised in the introduction. In scientific articles on research results, what is meant by conclusion is a formulation or answer to a research question based on the results of the research presented in a concise manner. The conclusion is presented in the form of paragraphs. In the scientific article of the study results, the conclusions are formulated based on the results of the problem-solving analysis. The conclusion is presented in the form of paragraphs. At the end of the conclusion, it is necessary to write the implications and development of the findings. [1,10,6,4,12]

References

- [1] Kementerian Kesehatan Republik Indonesia, "Peraturan Menteri Kesehatan Nomor 3 Tahun 2023 tentang Petunjuk Teknis Dana Jaminan Kesehatan Nasional dan Bantuan Operasional Kesehatan," *Berita Negara Republik Indonesia*, No. 43, 2023.
- [2] A. Chazawi, *Hukum Pidana Materiil Tindak Pidana Korupsi di Indonesia*. Jakarta: PT RajaGrafindo Persada, 2016.
- [3] Kepolisian Daerah Aceh (Polda Aceh), "Laporan Hasil Penyidikan Dugaan Korupsi Dana Bantuan Operasional Kesehatan (BOK) Dinas Kesehatan Aceh Tengah Tahun Anggaran 2022–2023," Polda Aceh, Banda Aceh, Mar. 2024.
- [4] Y. M. Saragih, "Problematika Gratifikasi dalam Sistem Pembuktian Tindak Pidana Korupsi (Analisis Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001)," *Jurnal Hukum Responsif*, vol. 5, no. 5, pp. 45–55, 2017.
- [5] S. Soekanto dan S. Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: PT RajaGrafindo Persada, 2015.
- [6] M. A. Sahlepi, *Memahami Dasar-Dasar Ilmu Hukum Pidana secara Sistematis dan Praktis*. Medan: UNPAB Press, 2022.
- [7] P. M. Marzuki, *Penelitian Hukum: Edisi Revisi*. Jakarta: Kencana Prenada Media Group, 2017

- [8] Y. M. Saragih, "Problematika Gratifikasi dalam Sistem Pembuktian Tindak Pidana Korupsi," *Jurnal Hukum Responsif*, vol. 5, no. 5, pp. 47–56, 2017.
- [9] Kepolisian Daerah Aceh, "Laporan Tahunan Penanganan Tindak Pidana Korupsi di Wilayah Hukum Aceh," Polda Aceh, Banda Aceh, 2024.
- [10] S. Soekanto, *Pengantar Penelitian Hukum*. Jakarta: UI Press, 2014.
- [11] Kementerian Kesehatan Republik Indonesia, "Peraturan Menteri Kesehatan Nomor 3 Tahun 2023 tentang Petunjuk Teknis Dana Jaminan Kesehatan Nasional dan Bantuan Operasional Kesehatan," *Berita Negara Republik Indonesia*, No. 43, 2023.
- [12] Kepolisian Daerah Aceh, "Laporan Hasil Penyidikan Dugaan Korupsi Dana Bantuan Operasional Kesehatan (BOK) Dinas Kesehatan Aceh Tengah," Polda Aceh, Banda Aceh, 2024.
- [13] M. A. Sahlepi, *Memahami Dasar-Dasar Ilmu Hukum Pidana secara Sistematis dan Praktis*. Medan: UNPAB Press, 2022
- [14] R. Atmasasmita, *Sekitar Masalah Korupsi, Peraturan Perundang-undangan dan Upaya Pemberantasannya*. Bandung: Mandar Maju, 2004.
- [15] E. O. S. Hiariej, *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka, 2016.
- [16] Y. M. Saragih, "Problematika Gratifikasi dalam Sistem Pembuktian Tindak Pidana Korupsi," *Jurnal Hukum Responsif*, vol. 5, no. 5, pp. 45–55, 2017.
- [17] Rahmayanti, "Sanksi Hukum terhadap Pelaku Tindak Pidana Korupsi Berdasarkan Hukum Positif dan Hukum Islam," *Jurnal Ilmiah Advokasi*, vol. 5, no. 1, pp. 20–35, 2017.
- [18] E. O. S. Hiariej, *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka, 2016.