

# **Juridical Analysis of Criminal Liability For Perpetrators Of Corruption Crimes Committed By Regional Officials (PN. 3749K/Pid.Sus/2023)**

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## **Abstract**

Corruption committed by regional officials is a form of serious violation of the integrity and public trust in the administration of government. This research aims to analyze juridically the form of criminal responsibility for perpetrators of corruption crimes who serve as regional officials, focusing on the Case Study of the Supreme Court Decision Number 3749K/Pid.Sus/2023. This study uses a normative juridical approach with a qualitative analysis method that examines relevant legal provisions, legal doctrines, and court decisions. The results of the study showed that in the decision, the judge considered the defendant's position as a regional official as a criminal aggravating factor, considering the defendant's strategic position which should be an example in clean and corruption-free governance. Criminal liability is imposed based on the provisions of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption. These findings underscore the importance of integrity in public office and the need for firm and fair law enforcement to provide a deterrent effect to corrupt actors, especially in local government environments.

**Keywords:** Criminal Liability, Corruption, Regional Officials, Judicial Analysis, Court Decisions.

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## Introduction

Corruption is an extraordinary crime that not only harms the state's finances, but also damages the moral, legal, and public trust in government institutions [1]. Corruption committed by regional officials is the main spotlight because the perpetrators have a big responsibility in running the wheels of local government and serving the interests of the community [2]. This phenomenon shows the abuse of power and weak integrity in the bureaucracy, which has a negative impact on the development and welfare of the community [3].

In the context of law enforcement, a firm and fair juridical approach is needed to account for the criminal acts of public officials, especially through court decisions that provide a deterrent effect and become a legal precedent for similar cases [4]. One of the relevant cases is the Supreme Court Decision Number 3749K/Pid.Sus/2023, where the defendant who served as a regional official was sentenced for acts of corruption committed during his tenure.

This research is important to examine the aspect of criminal liability from a positive legal perspective in Indonesia and how judges consider the position of the defendant in imposing a verdict. Previous studies by academics such as Fitria Ramadhani Siregar, Lidya Ramadhani Hasibuan, and Suci Ramadhani show that there are still gaps in the practice of criminal accountability for corruption perpetrators from local officials [5]. In addition, Rahul Ardian and Ismaidar also emphasized the need to strengthen the legal system and integrity of law enforcement officials in dealing with corruption cases at the regional level [6].

Corruption in Indonesia is still a serious problem that has not been completely addressed. Based on Transparency International's Corruption Perceptions Index (CPI) 2024, Indonesia obtained a score of 37 on a scale of 0–100, ranked 99th out of 180 countries, and below the average of the Asia Pacific region, which is 44. This score reflects the still high level of corruption perception in the national public sector.

The phenomenon of corruption is more prevalent at the regional level, where the practice of collusion, nepotism, and weak internal control opens up great opportunities for officials to abuse power. A systematic literature review confirms that the effectiveness of anti-corruption policies at the local level is highly dependent on institutional reforms, increased law enforcement capacity, and community involvement. Without certainty of sanctions and strengthening external supervision, structural obstacles such as local political dynamics and the dominance of power networks will continue to hinder efforts to eradicate corruption.

Major corruption cases such as the Pertamina scandal in 2025 which caused state losses of up to Rp968.5 trillion, are a representative example of how corruption can occur even in state companies with strategic status. On the other hand, the emergence of corruption cases in other sectors such as regional officials who commit bribery, collusion, or abuse of the APBD shows that this problem is not limited to just one sector, but spreads widely to all levels of government.

Therefore, focusing on the criminal responsibility of regional officials in corruption crimes, through the study of court decisions such as PN No. 3749K/Pid.Sus/2023, is very important. This kind of analysis not only offers an in-depth understanding of law enforcement practices, but also serves as a means of evaluating legal remedies as well as systemic resistance that takes place in local contexts.

Through this case study, it is hoped that a deeper understanding can be found regarding the application of elements of criminal responsibility in corruption cases and contribute to the development of criminal law in Indonesia.

## Problem Formulation

Based on the background that has been described, the formulation of the problem in this study is as follows:

1. What is the form of criminal responsibility for regional officials who commit corruption crimes in the Supreme Court Decision Number 3749 K/Pid.Sus/2023?
2. What are the legal considerations of judges in imposing a verdict against the regional official?
3. What are the juridical implications of the decision on the enforcement of corruption crimes by public officials in the regions?

## Research Objectives

This research aims to:

1. Analyzing the form of criminal liability applied to regional officials in corruption cases based on Supreme Court Decision Number 3749 K/Pid.Sus/2023.
2. Examining the basics of legal considerations used by judges in imposing criminal sentences on defendants as public officials.
3. Explain the implications of the decision on law enforcement practices and local governance that are clean from corruption.

## Literature Review

### 3.1 Corruption Crimes

Corruption is a crime that not only impacts the state's financial losses, but also threatens social stability, justice, and public trust in state institutions. Corruption is categorized as an extraordinary crime because it is systemic, complex, and involves the abuse of power by public officials or parties with strategic positions [1].

In Indonesia's positive law, the regulation of corruption crimes is listed in Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Article 2 paragraph (1) states that: "Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state's finances or the country's economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine." [2].

Corruption by public officials, including local officials, often occurs due to conflicts of interest, weak internal oversight systems, and low moral integrity of individuals in the government bureaucracy [3]. Transparency International (2024) states that Indonesia's corruption perception index (CPI) is stagnant at 37 out of 100, indicating that governance and the integrity of public officials are still weak [4].

In addition, in the criminal law literature, acts of corruption have subjective and objective elements, namely malicious intent (*mens rea*) and real unlawful acts (*actus reus*). In the context of public officials, corruption is often associated with the abuse of office authority, as explained by Muladi (2022), that: "Corruption is basically an abuse of power, in which the perpetrator uses his authority illegally for personal gain." [5]

Corruption crimes committed by regional officials are in the spotlight because they have direct authority over the use of public budgets and strategic policies in the regions. Therefore, when corruption is committed by a local official, the impact is far-reaching—not only harming the state, but also hindering development and undermining public trust in local government [6].

### 3.2 Criminal Liability

Criminal liability is a basic principle in criminal law that determines whether a person can be held accountable for an unlawful act he committed. In the doctrine of criminal law, a person can only be subject to criminal sanctions if he meets three main conditions, namely: the

existence of an act that meets the elements of delinquency (*actus reus*), mistakes or wrong mental attitudes (*mens rea*), and the ability to be legally responsible [1].

According to Moeljatno (2022), criminal liability reflects the relationship between the perpetrator and the criminal act committed, and whether he can legally be punished for the act. The element of "guilt" (*schuld*) is an important foundation, because modern criminal law rejects punishment without guilt (*geen straf zonder schuld*) [2].

Furthermore, Simons (in Muladi, 2023) stated that there are four forms of errors that can be imposed in criminal liability, namely:

- a. *Dolus* (intentional)
- b. *culpa* (negligence)
- c. negligence (heavy default)
- d. and recklessness (serious indifference) [3].

In the context of public officials or regional officials, criminal responsibility is not only seen from the formal legal element, but also moral and administrative elements, considering that officials have legal and ethical obligations attached to their positions. Therefore, acts of corruption committed by regional officials not only meet the elements of delinquency based on the law, but also reflect betrayal of the public trust [4].

Judges in deciding corruption cases, especially those involving public officials, often refer to the principle of individual criminal responsibility, but also consider the position of office as a weighting factor in imposing a crime (Article 52 of the Criminal Code) [5]. This was affirmed in Supreme Court Decision No. 3749K/Pid.Sus/2023, where the panel of judges imposed a severe penalty on the basis of abuse of authority carried out systematically and structurally by the defendant as a regional official.

In recent studies, such as those conducted by Ardian and Ismaidar (2024), it has been explained that the criminal responsibility of public officials in corruption cases often faces political and legal obstacles, especially in the investigation and prosecution stages. Therefore, a more transparent legal mechanism is needed, as well as protection for law enforcement officials so that they can carry out their duties independently [6].

### 3.3 Corruption by Regional Officials

Corruption by local officials is one of the most destructive forms of power abuse, because the perpetrators hold strategic positions in local governance. Regional officials such as regional heads, heads of agencies, or members of the DPRD have authority in decision-making, regional financial management, and the implementation of public policies. When this authority is abused for personal or group interests, the act fulfills the element of abuse of office which leads to corruption [1].

According to Law Number 23 of 2014 concerning Regional Government, regional officials are given autonomy to regulate and manage government affairs in their respective regions. However, this autonomy is often abused due to weak oversight and low public accountability. Data from the Corruption Eradication Commission (KPK) shows that until 2024, there are more than 380 regional heads who have been entangled in corruption cases since regional autonomy was enforced [2].

The types of corruption that are most often committed by local officials include:

- a. embezzlement and misuse of the APBD,
- b. bribes in the procurement of goods and services,
- c. buying and selling departments,
- d. and the illegal use of grants or social assistance [3].

According to research by Ramadhani et al. (2023), the factors that cause corruption by local officials include weak individual integrity, a culture of political patronage, and a lack of external supervision by the community and local legislative institutions [4]. Corruption at the

local level has become more difficult to detect due to closed local power networks and often involves collusion between executive and legislative officials.

Juridically, regional officials who commit corruption can be charged with Article 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, which regulates the abuse of authority in office that can harm state finances. The Supreme Court Decision No. 3749K/Pid.Sus/2023 is a concrete example of how the panel of judges uses the consideration of the perpetrator's position as a criminal aggravating factor because it has a major impact on public trust [5].

Siregar and Hasibuan (2024) also emphasized that law enforcement against corruption of regional officials must be accompanied by reform of the bureaucratic system and increased public participation in budget supervision. Without these steps, regional autonomy has the potential to expand corrupt practices rather than increase the effectiveness of government [6].

### 3.4 Juridical Analysis of Court Decisions

Juridical analysis of court decisions is a scientific effort to examine how legal norms are applied by judges in resolving a criminal case, especially corruption. This approach examines the compatibility between legal basis, legal facts, and judges' considerations in making decisions. In the context of corruption cases committed by regional officials, juridical aspects that are important to be analyzed include: elements of criminal acts, criminal liability, the application of criminal sanctions, and considerations that aggravate or mitigate punishment [1].

In Supreme Court Decision Number 3749K/Pid.Sus/2023, the defendant is a regional official who is legally and convincingly proven to have committed a crime of corruption that harms the state's finances. The judge considered that the defendant had abused the authority of office for personal gain, violating the principles of clean and accountable governance. The act was punished based on Article 3 of Law No. 31 of 1999 jo. Law No. 20 of 2001, which regulates the abuse of authority that is detrimental to the country's finances or economy [2].

This decision also shows the application of *the principle of "equality before the law"* which is substantive justice. The judge not only considers the formal legal aspect, but also pays attention to the defendant's position as a public official, who should be an example in public service. Therefore, the status of office is used as a criminal aggravating factor in accordance with Article 52 of the Criminal Code, which allows for heavier penalties against perpetrators who abuse their position to commit crimes [3].

According to Hasibuan and Ramadhani (2023), judges in corruption cases of public officials must balance legal certainty, legal justice, and legal utility, as well as progressive legal principles that place judges as protectors of social justice values [4]. In practice, the analysis of court decisions also reflects how the criminal justice system works, including the integrity of the public prosecutor, the defense and the quality of the evidence presented.

In a study conducted by Siregar and Ismaidar (2024), it was found that consistency in imposing additional penalties such as revocation of political rights, restitution of state losses, and payment of compensation, is still a challenge in corruption cases at the Supreme Court level [5]. Therefore, juridical analysis of court decisions is important to encourage transparency and accountability in the law enforcement process.

### 3.5 Previous Studies

Research related to corruption by regional officials has been widely conducted by legal academics, both in normative and empirical contexts. These studies are an important foundation to understand the patterns, motives, and problems in law enforcement against corruption perpetrators in the local government sector.

Research by Lidya Ramadhani Hasibuan and Suci Ramadhani (2023) examined *"Criminal Responsibility of Public Officials in Corruption Crimes in North Sumatra"*, which

found that low personal integrity and weak regional internal supervision systems are the dominant factors for corruption by regional officials. They highlight inconsistencies in the imposition of additional penalties by the courts, such as the revocation of political rights or state damages orders [1].

A study by Fitria Ramadhani Siregar (2022) entitled *"Juridical Analysis of the Application of Additional Penalties in Corruption Cases of Regional Heads"*, emphasizes that in many court decisions, judges have not fully maximized the application of additional penalties, even though the perpetrators are proven to have abused authority in office. Fitria emphasized the need for harmonization between the Criminal Code, the Corruption Law, and judicial practices to strengthen the deterrent effect [2].

Research by Rahul Ardian and Ismaidar (2024) entitled *"Legal Evaluation of Corruption Crimes by Regional Heads: A Case Study in Sumatra"*, concluded that in addition to a repressive approach, handling corruption must also be accompanied by bureaucratic governance reform. They highlighted the need to strengthen external oversight institutions and the independence of law enforcement officials in the regions [3].

In the methodological context, the three studies above use a normative juridical approach with a study of documents on court decisions. However, most have not specifically reviewed the *Supreme Court Decision Number 3749K/Pid.Sus/2023*, which in this study is the main object to be analyzed in depth. Therefore, this study has novelty in providing a specific juridical analysis of the criminal liability of regional officials in the case.

## Discussion

### 4.1 Corruption Crimes by Regional Officials

Corruption is one of the *extraordinary crimes* that has a wide impact on state finances, public services, and public trust in the government (Effendi, 2023). When carried out by local officials, corruption becomes increasingly severe because the perpetrators abuse the authority given by the state for personal interests.

In Decision No. 3749K/Pid.Sus/2023, the perpetrator is a local government official who is proven to have embezzled the regional budget and received bribes from project partners. This action violates Articles 2 and 3 of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption.

### 4.2 Criminal Liability

Criminal liability for local officials is carried out based on general principles in criminal law, namely the existence of mistakes (*schuld*), unlawful acts (*wederrechtelijkheid*), and the ability to be responsible (*toerekeningsvatbaarheid*) (Simons, 2022). In this case, all of these elements were fulfilled because the perpetrator consciously and deliberately committed an act that was detrimental to the state.

The Supreme Court judge in the decision sentenced him to 7 years in prison and a fine of Rp500 million subsidy for 6 months of imprisonment, and imposed state compensation of Rp3.8 billion. This decision shows the application of criminal responsibility in accordance with positive law, but there is still room for evaluation related to the deterrent effect and socio-political sanctions.

### 4.3 Juridical Analysis of Court Decisions

From a juridical point of view, the Supreme Court's decision has fulfilled formal and material rules. However, aspects of restorative justice and systemic prevention are still not optimized. The absence of additional sanctions in the form of revocation of political rights, for example, is an important note because the perpetrator still has the potential to be active again in the political world after serving a sentence.

This ruling also raises questions about the consistency of rulings against other regional officials with similar cases, which often show criminal disparities. This is highlighted in

academic studies that there needs to be a standard for criminal sentencing so that a sense of public justice can be achieved equally (Hasibuan, 2024).

#### 4.4 Criminological and Sociological Aspects

Criminologically, corruption by local officials is often influenced by weak internal supervision, a permissive culture of irregularities, and loopholes in the procurement system of goods and services. From a sociological perspective, corruption is carried out due to political pressure and group interests, which are intertwined with the weak moral integrity of individuals (Siregar et al., 2023).

#### 4.5 Implications for Local Government

Corruption cases by local officials such as in this decision have wide implications for the local government system. In addition to financial losses, there is also an impact on the decline in the quality of public services, the destruction of public trust, and the deterioration of the image of government institutions. Therefore, criminal sanctions must be accompanied by efforts to prevent and reform regional governance.

### Conclusion

Based on the results of the analysis of *the Supreme Court Decision No. 3749K/Pid.Sus/2023*, it can be concluded that:

1. Criminal liability for regional officials who are proven to have committed corruption crimes has been applied in accordance with the provisions of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption, where the perpetrators are subject to imprisonment and fines as well as additional penalties in the form of compensation for state financial losses.
2. From the juridical aspect, the judge in the decision has considered the elements of unlawful acts, abuse of office, and the consequences of the act on state finances, so that criminal liability is decided proportionately. However, the implementation of additional crimes such as the revocation of political rights is still inconsistent and needs to be strengthened as a form of deterrent effect for perpetrators from public officials.
3. Regional officials have a strategic position in the administration of government, so that when committing corruption, the impact is not only on state losses but also on reducing public trust. Therefore, the imposition of criminal sanctions against regional officials who commit corruption must consider the function of public office and the value of substantive justice.
4. This study emphasizes the importance of harmonization between criminal law norms and judicial practices, so that criminal accountability truly provides a deterrent effect, while strengthening clean and transparent local governance.

### Suggestion

1. For Law Enforcers (Prosecutor's Office, KPK, and Judges)  
It is recommended that law enforcement officials be more consistent in applying the principles of justice and legal certainty in deciding corruption cases, especially those involving regional officials. Law enforcement must be based on objective juridical analysis, without the influence of political pressure or the position of the perpetrator.
2. For Local Governments  
Local governments need to strengthen the internal supervision system and encourage transparency and accountability in the management of the public budget, so that the potential for corruption by officials can be minimized. Prevention efforts must start from clean governance and integrity.

3. For Legislators and Policymakers  
It is necessary to revise and harmonize regulations related to criminal responsibility for corruption by public officials, especially in determining the form of error and malicious intent (*mens rea*) of public officials in criminal acts. This is important to avoid multi-interpretation in the application of punishment to state officials.
4. For Academics and Researchers  
It is recommended to conduct a further study of the disparity in court decisions in corruption cases involving local officials, as well as explore alternative approaches such as *restorative justice* in the context of public corruption.
5. For District Offices  
Public officials in the regions must understand that their position as state apparatus requires legal accountability if they are involved in criminal acts. Therefore, it is important to build a work ethic with integrity and stay away from conflicts of interest in the implementation of duties.

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