

IRJILS

Indonesian Research Journal in Legal Studies

Volume 02 No. 02, September 2023

e-ISSN: 2963-1017

**LEGALITY OF THE PUBLIC PROSECUTOR'S ACCUSATIONS
REGARDING THE VERDICT OF CRIME OF CORRUPTION IN THE
PALU STATE COURT**

Moh. Sabrang*¹, Syamsul Haling^{2*}, Samsuria³

¹Law Office Moh. Sabrang and Fatners ToliToli

^{2,3}Universitas Muhammadiyah Palu

Corresponding Author E-mail: * ² syamsulhaling64@gmail.com

ABSTRACT

The formulation of the general prosecutor's indictment for the criminal act of corruption against fishing boats in Tolitoli Regency did not meet the formal requirements and material requirements which required careful, clear and complete details about the qualifications of the perpetrators (plegen, doen plegen, uitlokker) and the actions committed by the suspects (act) so that the prosecutor's charges become obscure (abscur libels). Analysis of the texts proves that there is no correlation between the text, the meaning of the text and the context which qualifies the criminal acts alleged by the public prosecutor against the alleged perpetrators of corruption. In order to prevent formal cancellation of the indictment by the court, the public prosecutor in preparing the indictment must include a clear, accurate and complete description of the actions committed and not related to each other, incomplete and partial, especially material requirements so that the description of the public prosecutor is vague/obscure (obscuur libel) so that the charges are null and void and the court's decision is acquitted.

Keywords: Corruption Crime, Public Prosecutor, Indictment, Acquittal

ABSTRAK

Rumusan dakwaan jaksa penuntut umum kasus tindak pidana korupsi terhadap kapal-kapal nelayan di Kabupaten Tolitoli tidak memenuhi ketentuan syarat formil dan syarat materiil yang mensyaratkan harus cermat, jelas dan lengkap tentang kualifikasi pelaku (plegen, doen plegen, uitlokker) dan perbuatan yang dilakukan para tersangka (act) sehingga dakwaan jaksa menjadi kabur (abscur libels). Analisis teks-konteks membuktikan tidak adanya korelasi teks, makna teks dengan konteks yang mengkualifisir perbuatan pidana yang dituduhkan jaksa penuntut umum terhadap tersangka pelaku tindak pidana korupsi. Untuk mencegah terjadinya pembatalan surat dakwaan secara formil oleh pengadilan, maka jaksa penuntut umum dalam menyusun surat dakwaan harus mencantumkan uraian secara jelas, cermat dan lengkap baik mengenai perbuatan yang dilakukan dan tidak memiliki keterkaitan satu sama lain, tidak utuh dan terkesan parsial terutama syarat materiil sehingga uraian jaksa penuntut umum kabur/samar-samar (obscuur libel) sehingga tuntutan batal dan putusan pengadilan bebas.

Kata Kunci: Tindak Pidana Korupsi, Jaksa Penuntut Umum, Dakwaan, Putusan Bebas

I. INTRODUCTION

The Prosecutor's Office has duties and authority in criminal law starting from the pre-adjudication, adjudication and post-adjudication stages as stipulated in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The scope of this regulation includes, among other things, carrying out prosecutions, carrying out judge's decisions, and court decisions that have obtained permanent legal force or *incracht van gewisde* (Defi Muslimah, 2021, 46). This is in accordance with the provisions of Article 143 paragraph (2) of the Criminal Procedure Code and Circular of the Supreme Prosecutor of the Republic of Indonesia Number : se -004/ J . A /11/1993 concerning the preparation of indictments, the definition of careful, clear and complete is formulated, that in the case of a public prosecutor in preparing an indictment, the formal requirements and material requirements must be included. The word careful is interpreted as thoroughly, and careful can be interpreted the same as researching (Gatot Supramono, 2021:44). Pay attention to the indictment of the public prosecutor in criminal acts of corruption in accordance with the Tolitoli District Prosecutor's Indictment Letter No. Reg. The case: PDS-03/T.Toli/Ft.2/11/2021 dated 29 November 2021 which was submitted to the Palu corruption criminal court trial was not fulfilled. This can be seen from the acquittal decision of the Palu district court Number 63 Pid.sus/PN. Plus. The lack of clarity, completeness and inaccuracy in the description of the facts referred to by the public prosecutor is an accusation of a criminal act of corruption with the qualification of having committed, ordered to commit, or participated in committing an act, unlawfully enriching oneself or another person , or a corporation which could cause financial harm. state or state economy regarding the procurement of Fishing Boats/Vessels smaller than 3GT along with engines, fishing equipment and fishing aids sourced from special location funds for the 2019 fiscal year which is detrimental to finances State or State economy of at least Rp. 1,137,241.56,- or the equivalent of *one billion one hundred thirty-seven million two hundred forty-one thousand five hundred and sixty-seven rupiah* .

2. LITERATURE REVIEW

The theoretical basis used as an analysis tool is *first*, the Theory of Material Requirements and Formal Requirements which is also used as the main theory (grand theory). As the main theory in concept, the assumptions and proposition building require clear, accurate and complete words which should be reflected in the indictment of the Corruption Public Prosecutor in accordance with the provisions of Article 143 of the Criminal Procedure Code and Article 14 letter d, Article 140 paragraph 1 Article 141 and Article 143 of the Criminal Procedure Code. From this theory, the meaning of the text will be known and in terms of context, the accusations made against the suspect and his qualifications as a perpetrator (*deelneming*) will be clearly illustrated. Theoretically, the formal requirements that must be complied with by the prosecutor or public prosecutor in making an indictment are to include a date and be signed by the prosecutor or public prosecutor, containing the identity of the defendant, which consists of; full name, place of birth, age, date of birth, gender, nationality, place of residence and occupation of a defendant (Article 143 paragraph 2 letter a of the Criminal Procedure Code). An indictment that does not clearly, unequivocally and completely state the formal requirements can be dismissed by a judge (*vernietigbaar*). In

this case, it is not null and void because it can be considered that it is not clear who the accusation is directed at. The material requirements in the indictment must include clearly unequivocal and complete information about the time and place where the criminal act was committed in preparing the indictment, the scope of the criminal offense law and the elements required for certain criminal acts (in public), in closed yard and other elements required by statutory provisions because they relate to the principle of legality, determining recidivism and alibi, expiration, certainty of the age of the defendant or victim, as well as in matters that incriminate a defendant. These two conditions of indictment are also the principles of legality for prosecutors in preparing criminal charges for corruption. This is also in accordance with the Attorney General's Circular Number: SE-004/JA/11/1993 explaining that an indictment is deemed to have fulfilled the requirements if it is able to provide a complete picture of the actions of which the suspect is accused.

Second, the theory of acquittal which is based on the provisions of Article 191 paragraph 1 of the Criminal Procedure Code, namely if the court is of the opinion that from the results of the examination at trial the defendant's guilt for the act with which he was accused was not legally and convincingly proven, the defendant will be acquitted (Irsan Arief, 2021: 24). From this provision it is known that the court judge can give a verdict of acquittal if (1) there is no fault of the defendant (*mens rea*) (2) the act of which the defendant is accused is not legally proven/the evidence does not fulfill the elements of the article charged (*actus reus*) and (3) the judge has no confidence in the defendant's guilt (*negatief wettelijk stelsel*). Concepts, assumptions and theoretical propositions postulate that an acquittal decision is a decision that does not fulfill the legal principle of negative evidence contained in Article 183 of the Criminal Procedure Code. Likewise, concepts, assumptions and propositions are also built on the proposition that "a judge may not impose a crime on a person unless, with at least two valid pieces of evidence, he is convinced that a criminal act has actually occurred, and that the defendant is guilty of committing it." **Third**, the theory of criminal acts of corruption. According to the concept, assumptions and propositions, corruption is defined as disgraceful acts that damage the moral order and society so that society or the State suffers losses (**Hasanal Mulkan, 2022:14**). The provisions of Articles 2, 3 and 4 of Law no. 20 of 2001 concerning Amendments to Law no. 31 of 1999 concerning the Eradication of Corruption Crimes postulates: (1) Every person who unlawfully commits acts of enriching himself or another person or a corporation which can harm the state's finances or the State's economy and (2) Every person who with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunities or facilities available to him because of his position or position which can harm state finances or the state economy (**Hisar Sitohang, et al., 2018:81**). **Fourth**, the Theory of Legal Certainty put forward by Utrecht that legal certainty contains two meanings, namely, firstly, there are regulations that have a general nature to enable an individual to know what actions they can and cannot do. Meanwhile, the second meaning is legal security for an individual from government arbitrariness. **Gustav Radbruck's** concept, assumptions and proposition that law is one of the objectives of law and it can be said that legal certainty is part of efforts to realize justice. Legal certainty itself has a real form, namely the implementation and enforcement of law against an action that does not look at the individual who carries it out (www.gogle.com, accessed 18 June 2023 at 10.30 WITA, *Theory of Legal Certainty According to Experts*). **In Jan M. Otto's view** , the concepts, assumptions and propositions postulate that legal certainty is related to (1) legal rules that are clear and clear, consistent and easy to obtain or access (2) ruling or government agencies can apply legal rules in a consistent manner (3)) The majority of citizens in a country have the principle of being able to agree on the contents

contained in the content and (4) Judicial judges have an independent nature, meaning that judges do not take sides in applying legal rules consistently and (5) Decisions from the judiciary can be concretely implemented (www.gogle.com, accessed 18 June 2023 at 10.30 WITA, Theory of Legal Certainty According to Experts. In **Sudikno Mertokusumo's view**, concepts, assumptions and propositions postulate that legal certainty Legal certainty is a guarantee that the law can run properly www.gogle.com. Accessed 18 June 2023 at 10.30 WITA, *Theory of Legal Certainty According to Experts*). The fifth theoretical basis is the theory of **Legal Hermeneutics**. The concepts, assumptions and propositions of this theory postulate that Hans-Georg Gadamer's hermeneutical thinking is one of the references that is often used in the application of legal interpretation. Legal hermeneutics postulates that people should qualify facts in the light of rules and interpret rules in the light of facts. As a text analyst, someone who acts as an interpreter to interpret a text, then someone will go through a process of transformation of thoughts from less clear (ambiguous) to more clear and concrete, because law contains meaning as an activity that is explained as a rule (rule government) that provide certainty and stability needed by society (Gregory Leyh, 2019: 3).

3. METHODS

This research uses normative legal research using legal and non-legal materials. This method is used as a research method to approach its object, namely the decision to be free from criminal acts of corruption at the Palu District Court. The focus of the analysis is the indictment of the public prosecutor (primary and subsidiary) regarding the alleged criminal act of procuring damaged fishing boats which caused losses to the State. This legal research method aims to look at the law formulated by the public prosecutor in his indictment, especially the fulfillment of the material and formal requirements for the formulation of the prosecutor's indictment, both primary and secondary indictments. The legal material obtained from the literature study is descriptive data which is analyzed logically, systematically and critically using a legal hermeneutics approach to answer the legal problems raised.

4. FINDINGS AND DISCUSSION

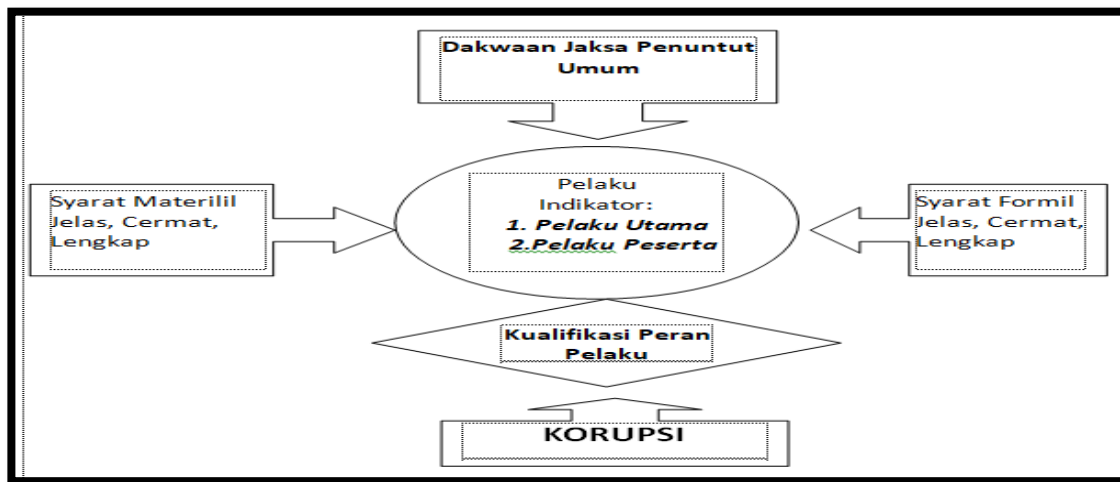
A. Findings

In discussing legal issues in this research, it focuses on two fundamental legal issues which are also the source of legal issues as described in the following subchapter.

1. Vague formulation of the Public Prosecutor's indictment (*abscur libels*)

In the alleged corruption case, Ir. Gusman was qualified by the Corruption Eradication Prosecutor as a perpetrator of criminal acts of corruption as regulated in anti-corruption legislation. The formulation of the *a quo* prosecutor's indictment, the fulfillment of which is not yet in accordance with the requirements in the form of a clear, firm and complete formulation of the indictment as stipulated in Article 143 paragraph (1) of the Criminal Procedure Code and is stated in accordance with the theory of the formulation of the criminal acts of the parties. The indictment drawn up by the prosecutor, both formal and material requirements, requires clarity and accuracy as to whether there was a legal incident committed by the suspect Ir. Gusman. In the *a quo* case, according to the initial assumption that the public prosecutor was in preparing the letter The indictment does not provide a clear, clear and thorough description of the acts of corruption committed by the suspect *a quo* . To find a correlation between demands and the actions of corruption suspects, we use the concepts, assumptions and propositions of legal hermeneutics theory. The concepts of this theory are text analysis and context analysis. The concept in text analysis in legal hermeneutics is related to finding case relationships between rules and facts (Jasim Hamidi

and JJ Bruggink) so that the assumptions and propositions of hermeneutic theory are that in preparing an indictment the prosecutor in his prosecution must link the articles of the criminal offense corruption with the facts that occur in reality. Therefore, when seen in the a quo case, these concepts, assumptions and propositions, especially the material conditions of the public prosecutor's indictment in the corruption-free decision case, are closely related to the theory of legal hermeneutics. Therefore, these concepts, assumptions and propositions form the basis of the argument that in proving the existence of acts of corruption accused by the accused, the prosecutor must be able to provide precise, firm and accurate explanations of the acts committed by the suspect through text and context analysis as a method of proving whether or not there was a criminal act of corruption involved. the public prosecutor alleged in his indictment. An illustration of the correlation in question is as shown in Figure 1 below:



Based on Figure 1, it is explained that for each perpetrator (*plegen*) contained in the description of the public prosecutor's indictment, both in formal terms and material terms, there must be a clear, careful and complete correlation regarding what role each of them played so that the criminal act of corruption was realized. In accordance with the concepts, assumptions and propositions in the theory of criminal responsibility, especially in criminal acts involving many perpetrators (*delneeming*), each actor must clearly, carefully and completely fulfill their respective roles so that the criminal act of corruption is realized. How many legal bases are used in the public prosecutor's indictment as shown in the following table:

Table 1.
Provisions of Articles Used as Reference by the Public Prosecutor
In Preparing the Indictment Letter.

No	Chapter	Laws/regulations	About
1.	117, 124	Act. No. 17 of 2008	Cruise
2.	35, 42, and 43	Act. No. 31 of 2004/ Act. No.45 of 2009	Fishery
3.	283	Act. No. 23 of 2014	Regional Finance
4.	4	PP.No.51 of 2002	Shipping

5.	4 and 5	PP. No. 60 of 2008	Government Internal Control System
6.	4, 6, 7, and 11	PP. No. 16 of 2018	Procurement of government goods and services
7	4 and 132	PP. No. 13 of 2016	Regional financial management.

Source: primary legal materials, processed, 2023.

Based on table 1, it can be seen that the prosecutor experienced difficulty in formulating the defendant's actions so that the actions formulated in the article charged included articles that could be linked to the defendant's actions as a basis for convincing the panel of judges that the defendant had violated the articles in the law, and government regulations so that it is appropriate and appropriate to be declared guilty of committing a criminal act of corruption. The failure to fulfill the material and formal requirements of the public prosecutor's indictment against the alleged perpetrator of a criminal act of corruption against *the quo perpetrator* does not have a perfect relationship to the prosecutor's indictment. If the author looks closely at the legal materials used by the prosecutor in preparing his indictment (primary indictment and subsidiary indictment) in the corruption case in the procurement of nine fishing vessels at the Tolitoli Regency maritime and fisheries service, it does not meet the material and formal requirements as stated in the Criminal Procedure Code. The accusation of the suspect *a quo*, by the public prosecutor in the primary indictment and subsidiary indictment was that because Ir. Gusman, as head of the Tolitoli Regency Maritime and Fisheries Service, is considered to be the person most responsible for implementing the procurement project to build nine boats for fishermen. The prosecutor's reason was that he was suspected of being the cause of the damage to the nine ships in question which resulted in losses to the state.

Whereas the two prosecutor's charges as legal material for the research mentioned above have been compiled in such a way by the prosecutor to qualify Ir. Gusman is the perpetrator (*plegen*) in criminal acts of corruption in accordance with the applicable statutory provisions. This is the prosecutor's formulation which is prepared in such a way as to address the suspects together or individually and as if they have fulfilled the elements of the article and are proven to have committed a criminal act of corruption. According to researchers, the prosecutor *a quo's* accusations are too premature. That all the prosecutor's demands in the indictment (primary and subsidiary) must show evidence in the form of evidence, but after tracing the chronology and testimony, the researcher found that all the legal materials used as the basis for formulating the prosecutor's indictment did not meet the requirements, both material and formal requirements. which requires a clear, careful and complete explanation of the Public Prosecutor's demands in his indictment. Or in other words, the prosecutor's accusations were wrongly targeted and inaccurate and did not correlate with the facts or could not be proven (there was no evidence). The logical consequence of the prosecutor's unclear, careful and complete description resulted in the defendant being acquitted by the Corruption Court as in the Palu District Court Decision. Based on the description in the prosecutor's indictment (attachment to the prosecutor's indictment), the perpetrator *a quo* can be made a suspect, defendant and convict. The legal arguments addressed to the suspect *a quo* are, in fact, correct, Ir. Gusman is the head of the Tolitoli Regency Maritime and Fisheries Service which acts on behalf of the Tolitoli Regency government and is responsible for everything related to maritime affairs and fisheries, however, there are nine Tolitoli Regency fishing vessels which started when the Tolitoli Regency Fisheries Service received a budget sourced

from special physical location funds for the 2019 fiscal year for activities to provide infrastructure and facilities for empowering small businesses in maritime and fisheries communities (Fishermen and Fish Cultivators) with details of work based on the activity reference framework (KAK) Physical DAK for the 2019 fiscal year signed by the defendant Ir . Gusman on November 5 2018, namely the work of procuring fishing boats / vessels smaller than 3GT along with engines, fishing equipment and fishing aids in the amount of 7 (seven) packages worth a total Rp. 774,912,600 , - (Seven hundred and seventy-four million nine hundred *and twelve thousand and six hundred rupiah*) with details of recipients namely the group of maritime craft fishermen in North Tolitoli District, the beautiful beaches group in Dakopemean District , the group n fishermen looking for acquaintances in North Dampal Subdistrict, a group of pelangi fishermen in Dondo Subdistrict, a group of light marine fishermen in Galang District, a group of tanjung bahari fishermen in Galang District, and a group of fishermen Thanks to the company in South Dampal District, the next job was to purchase boat/ship construction planning (DAK) consulting services worth a total of IDR. 21,000,000,- (*Twenty one million rupiah*), and expenditure on boat/ship procurement supervision services (DAK) worth a total of Rp. 14,400,000,- (*Fourteen million four hundred thousand rupiah*). Furthermore, the Tolitoli Regency Fisheries Service in 2019 received a budget sourced from general location funds for the 2019 fiscal year for activities to develop facilities and infrastructure for the fishing business with details of the work of procuring motorboats and service providers . catch fish (DAU) worth Rp. 456,146,651.40 (*Four hundred and fifty-six million one hundred and forty-six thousand six hundred and fifty-one point four rupiah*), work shopping for fishing motorboat construction planning consulting services (DAU) worth Rp. 18,000,000,- (*Eighteen million rupiah*), and shopping for consulting services for fishing motorboat supervision (DAU) worth Rp. 12,000,000,- (*Twelve million rupiah*). Ir. Gusman as Budget User (PA) and as Head of the Tolitoli Regency Maritime and Fisheries Service based on the Decree of the Regent of Tolitoli Number 1 of 2019 dated 03 January 2019, his main duties are preparing RKA-PD, compiling DPA-PD, carrying out actions that result in expenditure at the expense of a spending budget , implementing the PD budget he leads, carrying out examination of bills and ordering payments, carrying out non-tax revenue collection, entering into cooperation ties/agreements with other parties within the established budget limits, signing SPM, managing debts and receivables which are the responsibility of the PD he leads, manage regional property/regional assets which are the responsibility of the PD he leads, prepare and submit financial reports he leads, supervise the implementation of the PD budget he leads, carry out the duties of budget users / other property users, based on the power delegated by the Regional Head, are responsible for carrying out their duties to the regional head through the regional secretary, so that if the researcher looks closely at the legal materials used by the prosecutor in preparing the indictment, it is not accurate and not accurate and complete.

2. DISCUSSION

(a) Material Requirements and Formal Requirements of the Prosecutor's Indictment Letter

Paying close attention to the indictment addressed to Ir. Gusman as Head of the Maritime and Fisheries Service of Tolitoli Regency is suspected of committing a criminal act of corruption as charged by the public prosecutor if it is connected to the theoretical framework of material and formal requirements and after the author carried out an analysis it was found that the material and formal requirements in it were not fulfilled as stipulated in Article 143 Criminal Procedure Code. Fulfillment of the material and formal requirements of

the indictment is analyzed using several theoretical frameworks, showing that there is a discrepancy between the rule of law and the practice of its enforcement, especially in the formulation of the indictment of the public prosecutor for corruption in the acquittal decision of the Palu District Court Number.

Based on the legal material obtained, it is known that the elements of the provisions of the criminal act of corruption that the prosecutor is indicting, such as, acts of enriching oneself or another person or corporation should be explained carefully, clearly and completely in the indictment, including elements against the law and elements of benefiting oneself as intended. text in corruption legislation. Meanwhile, what is meant by harm is the same as causing a loss or being reduced, so what is meant by the element of harming the State's finances is the same as meaning a loss to the State's finances or a reduction in the State's finances. In short, in the formulation of the prosecutor's indictment, it is because of the actions of Ir. Gusman Negara suffered losses. However, based on text analysis, researchers concluded that the prosecutor's formulation of the indictment directed at Ir. Gusman actually contradicts the aim of the law itself, namely legal certainty. Failure to fulfill the material requirements of the prosecutor's indictment (main requirements) for criminal acts of corruption directed at Ir. Gusman is a matter of legal uncertainty for the suspect. Legal certainty contains two meanings, namely first, there are regulations that have a general nature to enable an individual to know what actions they can and cannot do (OJ Otto). Meanwhile, the second meaning is legal security for an individual from government abuse (**Philipus M. Hadjon, Utrecht**). From this, the researchers concluded that the failure to fulfill the material requirements of the prosecutor's indictment made Ir. Gusman did not understand the mistake he was accused of. This lack of understanding was because the prosecutor's indictment did not explain clearly, carefully and completely whether the elements of the article in which the defendant was accused were in accordance with the applicable law? Is Ir. Gusman is the person referred to in the elements of the article charged? This means that the defendant's mistake must actually violate the provisions in question, not based on the prosecutor's assumption, as is known as *Nullum delictum nulla poena sine praevia lege poenalli*, which means, more or less, there is no offense, no crime without prior regulations. Ir Gusman's actions which were suspected of committing a criminal act of corruption were not found or could not be proven by the public prosecutor due to the failure to fulfill the material conditions in his indictment.

The prosecutor's accusation of not fulfilling the material requirements is a form of legal uncertainty and is the government's arbitrariness, in this case the Tolitoli District Prosecutor's Office, as according to Sudikno Mertokusumo, legal certainty is a guarantee that the law can run properly. This means that with legal certainty individuals have the right to obtain decisions from the legal decision itself.

(b). Text-Context Analysis of the Prosecutor's Indictment

In the Public Prosecutor's indictment which is prepared alternatively, namely in the primary indictment *a quo* as well as in subsidiary indictments *a quo* , and in the context analysis it must reflect clearly, carefully and completely every element alleged against the suspect. Based on the legal material resulting from the research in the indictment, according to the researcher's analysis, there is an unclear description of the facts in question, namely the accusation of violating the law on criminal acts of corruption, which, if correlated with the factual conditions, shows that there is no correlation between the suspect's actions as contained in the formulation of the article as a formal requirement and material (text-context) against the suspect which is described clearly and completely, especially in relation to the element of the corruption offense "committing an unlawful act" as intended by the law

in Constitutional Court Decision Number: 003/PUU-IV/2006, dated 25 July 2006 essentially stated that the Elucidation of Article 2 paragraph 1 of Republic of Indonesia Law no. 31 as long as the phrase which reads "unlawfully" includes acts against the law in the formal sense as well as in the material sense which is annulled as an extension of the meaning "against the law". The purpose of the Constitutional Court's decision is to provide a closed space for legal norms which solely rely on measures of propriety, prudence and accuracy that exist in society, as a norm of justice; the size is uncertain so it is not in accordance with the protection and guarantee of fair legal certainty as contained in Article 28 letter d paragraph 1 of the 1945 Constitution. The description of the correlation between material conditions and material conditions regulated in the criminal procedural law with elements of an unlawful nature adopted in the criminal law doctrine of corruption as in Figure 2 below:

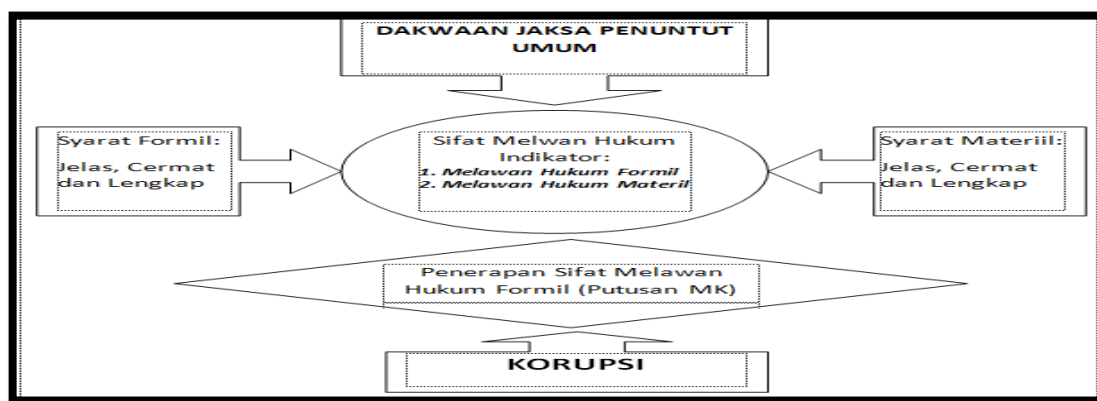


Figure 2

Correlation of the Implementation of Formal Unlawful Characteristics with the Material and Formal Requirements of Corruption Crimes After the Decision of the Constitutional Court

Based on the elements of the article, namely *everyone*, because the purpose of the sentence *everyone* is addressed to Ir. Gusman as head of the Tolitoli Regency Maritime and Fisheries Service, it is clear that the element referred to is *a quo*. Next, the second element is *against the law* in the explanation of Article 2 paragraph (1) of Law Number 31 of 1999 concerning the eradication of criminal acts of corruption includes acts against the law in both the formal and material sense. An act in the material sense means that even though the act is not regulated in statutory regulations, if the act is considered a disgraceful act because it is not in accordance with the sense of justice or norms of social life in society, then it is an act against the law and can also be interpreted as an act which is contrary to statutory regulations (written law) and/or a sense of justice and social norms. What was not found in the prosecutor's indictment was that the act was *a quo*, namely against the law. What form did the act mean? the description of the elements in the article does not correspond to the facts, meaning that the actions of *the a quo suspect* never conflicted with statutory regulations (written law) and/or a sense of justice and social norms as Head of the Tolitoli Maritime and Fisheries Service, the public prosecutor argued that the suspect *a quo* had received the goods (boats) in good condition and then handed them over to the fishermen (**attachment to the public prosecutor's indictment, p. 19**).

The results of the research show that these accusations are very contradictory to the actual facts, because the nine fisheries aid ships in question were handed over directly by the Regent of Tolitoli at a ceremony and the Regent of Tolitoli himself tested whether the ships in question were suitable or not at the time of testing because of the event. The handover of

the ship was carried out officially in an open manner, and all elements of Forkopimda including the Tolitoli District Prosecutor's Office were present as invited guests. This means that if the ship in question is not suitable, of course the Regent of ToliToli, when handing it over to the Fishermen's group, will protest and this is also supported by the minutes of the receipt of aid by the fishermen's group, where in the minutes of the event all the fishermen's groups signed and made a statement in the form of News.

The minutes of the handover of the nine ships as a result of the research discussed are, *firstly* , that the ships were handed over to **the Pelangi Fishermen Group** based on Handover Minutes Number: 523/05.04/Diskan dated 30 December 2019 in good condition. *Second* , that when the ship was handed over to **the Seeking Acquaintance Fishermen's Group** based on Handover Minutes Number: 523/4838/05.04/Diskan dated 30 December 2019 was in good condition and *third* , that the Ship when handed over to **the Fishermen's Group Thanks to Business** Handover Minutes Number: 523/4839/05.04/Diskan dated 30 December 2019 in good condition. Fourth, that when the ship was handed over to **the Mackerel Fishermen's Group** based on the Minutes of Handover Number: 523/4765/05.04/Diskan dated December 12 2019, it was in good condition. *Fifth* , that when the ship was handed over to **the Cakalang Tuna Fishermen's Group** based on the Minutes of Handover Number: 523/4764/05.04/Diskan dated December 12 2019, it was in good condition. *Sixth* , that when the ship was handed over to **the Cahaya Bahari Fishermen's Group** based on the Minutes of Handover Number: 523/4836/05.04/Diskan dated December 30 2019, it was in good condition. *Seventh* , that when the ship was handed over to **the Tanjung Bahari Fishermen's Group** based on the Minutes of Handover Number: 523/4835/05.04/Diskan dated December 30 2019, it was in good condition. *Eighth* , that when the ship was handed over to **the Pantai Indah Fishermen's Group** based on the Minutes of Handover Number: 523/4840/05.04/Diskan dated December 30 2019, it was in good condition.

Based on this non-legal material, the results of this research also show that the surrender of the fishing boats was in good condition so that the act of surrender did not qualify as an unlawful act as alleged by the public prosecutor. This non-legal material in the form of minutes has also been confirmed by witnesses when giving statements as witnesses in the Palu Corruption Crimes trial which showed that there were no irregularities in the condition of the ship or that the ship was declared seaworthy. Apart from that, the results of this research are also linked to the element that the perpetrator has *committed acts of enriching himself or another person or a corporation* . According to the prosecutor's indictment, the elements referred to in the formulation of the indictment (attachment to the public prosecutor's indictment, p. 102) do not describe them carefully, clearly and comprehensively. The prosecutor's explanation did not provide an explanation of the intention to enrich oneself and only quoted the opinion of an expert (Martiman Prodjohamidjojo) so that the text of the words or phrases to enrich oneself was not explained in relation to the suspect. According to researchers, the prosecutor's unclear, careful and complete description of "the phrase enriching oneself or another person or corporation" which was accused of the suspect a *quo* clearly contradicts the actual facts because of Ir. Gusman's wealth since becoming head of the Maritime Service and Tolitoli Regency Fisheries' wealth has never increased, its income has not increased, this description of facts clearly contradicts the actual situation. If nine ships are procured as assistance to Ir. Gusman and has obtained wealth, so there should be a description in the prosecutor's indictment that explains the results or profits from the procurement of nine ships to him in the form of a sum of money which made the a quo suspect's wealth *increase* , but this is not found in the

indictment in question, so the elements in the article is incorrect. The inaccuracy of all the elements of the article referred to in the prosecutor's indictment should the formulation of the indictment as material requirements not be met result in the indictment being unclear and inaccurate.

Furthermore, the public prosecutor's indictment stated that elements *could harm state finances or the state economy*. According to the prosecutor, what is meant by this element is "it could be detrimental to state finances or the state economy. The legal material obtained from the formulation of the public prosecutor's indictment regarding harm to State finances or the State's economy was also not provided with a clear, careful and complete description (attachment to the prosecutor's indictment, page 106). Based on the formulation of the indictment, according to the researcher, it is an assumption, not a fact, because the word "could" cannot be confirmed to have occurred, it can only cause potential losses if the corruption actually occurs and the perpetrator is truly the suspect a quo, and also contradicts the actual *facts*, because The results of the audit of fishing boats were not carried out by the BPKP of Central Sulawesi Province in accordance with statutory provisions or were not factual. The BPKP only examined the financial reports prepared by the Public Prosecutor in accordance with the Palu Corruption Corruption Court Decision Derivative document number 63/Pid.Sus-TPK/2021 /PN.Pal. Page 167.

The conflicting meanings and facts (text-context) of the procurement of the vessels in question have indeed been carried out and nine fishing vessels for fishermen have been completed, delivered in good condition, and have been tested for sailing for two days and two nights at sea. This means that a careful, clear and complete description of the State's finances is intended in the meaning (text) to be used not for the interests of fishermen, but to be used in addition to its intended purpose, and in fact (context) the procurement of vessels has been allocated according to its objective, namely the construction of nine fishing vessels for fishermen according to the document. research results, so that the State financial elements referred to according to the researcher are not in accordance with the aims and objectives of the law as stipulated in the legislation governing state finances, in particular Article 1 paragraph (22) of Law Number 1 of 2004 concerning State Treasury states that "State Losses /Regional is a shortage of money, securities and goods, which are real and definite in amount as a result of unlawful acts whether intentional or negligent. The text builds on *the concepts, assumptions and propositions* of the elements of this article which determine the interpretation of the meaning of the "text" which can be *detrimental to the country's finances and economy* through systematic interpretation (*rechtsvinding*). Based on this text, the meaning of the context *in the case* in which the suspect is accused must be real and the amount can be ascertained in the sense of *total loss*, not *potential loss* (text-context). Therefore, this element in the research analysis also does not comply with the material requirements in the sense that the prosecutor did not provide a clear, careful and complete explanation that the suspect's actions were classified as criminal acts of corruption which were detrimental to state finances. The description of this element is as shown in Figure 3 below:

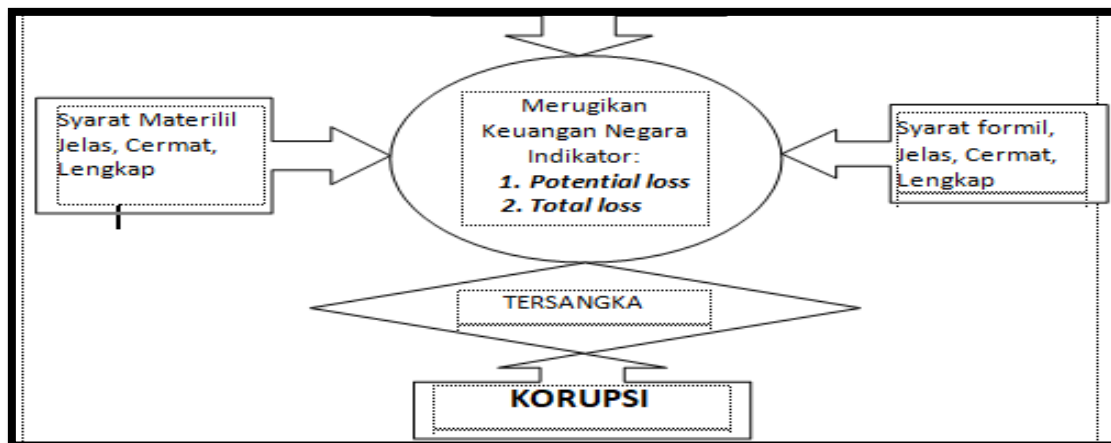


Figure 3

Fulfillment of Formal Requirements and Material Requirements for perpetrators of Corruption Crimes by Public Prosecutors in the Elements of Harming State Finances

One of the elements used as the basis for formulating the prosecutor's indictment is the element of *those who committed it, who ordered it to be carried out, and those who participated in carrying out the acts* in the prosecutor's indictment. What is meant in this element are all perpetrators of criminal acts who were directly or indirectly involved (attachment to the prosecutor's indictment public prosecutor p.108) as citing the formulation of the provisions of Article 55 paragraph (1) 1 of the Criminal Code by quoting the opinion of a legal expert (**Satochid Karta Negara**) which is categorized as "*deelneming*" and placing Ir.Gusman's qualifications as a perpetrator of a criminal act of corruption committed jointly -the same as other suspects (Sahlan, Nurningsih, and Mujahidin Dean).

Based on a number of information from legal materials obtained by researchers, then analyzing the text and the meaning of the elements of the article in the prosecutor's indictment, the researchers found that the prosecutor took fragments of sentences in the elements in question to use as reasons for the fulfillment of acts that could be punished. The results of the text-context analysis do not look carefully, clearly and completely at the actions and qualifications of the perpetrators as a unified intention of each perpetrator (intentional), so that the meaning of the sentences in the elements of the article that are alleged against the suspect *a quo* is not in accordance with the aims and objectives of the *law*. -invitation to corruption. Therefore, according to the concepts, assumptions and theoretical propositions, careful, clear and complete explanations are needed relating to the meaning of the text, those who *do*, *those who order to do*, and *those who take part in carrying out the action* are not fully explained as the purpose of the article in question if one looks closely at the elements intended. This means, in terms of text-context, concepts, assumptions and propositions, whether an act that can be punished has occurred. If the suspect *a quo* commits acts of enriching himself or others, what form does he mean by enriching himself? The formulation of the prosecutor's indictment which qualifies the suspect as the perpetrator and is the result of his actions and whether there has been (real *loss*) financial loss to the State. The description of the facts in *the quo indictment* regarding state losses did not reveal any orders or factually identified actions as alleged by the prosecutor in his indictment. The results of the research and after reading and tracing the factual chronology and text-context analysis (legal hermeneutics) did not show a careful, complete description of how the defendant committed

several of the criminal acts of corruption alleged by the prosecutor. Who ordered the defendant to commit acts of corruption and the prosecutor was also unable to explain how much state money the defendant obtained from the proceeds of corruption in question, and was enjoyed by the defendant? The Corruption Eradication Public Prosecutor did not provide a description of the State's actions and losses as an intention to harm the State's finances from the start of the fishing boat construction and handover project. In fact, there is no explanation regarding the financial flows obtained by the defendant as evidence of the proceeds of the corruption in question. The prosecutor's indictment should clearly describe the money that went into the suspect's account, or the amount of state money that was corrupted by the suspect, and how the defendant enriched himself or others. Such matters are not reflected in the indictment of the public prosecutor as intended by the provisions of Article 143 paragraph (2) letter (b) of the Criminal Procedure Code. That is why the author concludes that the prosecutor was careless, unclear and incomplete in his description of how the defendant committed the crime of corruption in question.

The lack of expertise of the public prosecutor in preparing the indictment based on the laws applicable to the suspect, as well as the absence of deficiencies, and or mistakes that could result in the cancellation of the indictment or cannot be proven. Based on the description and analysis of the text-context, the public prosecutor should be careful in drafting the indictment because the formulation of the articles that describe the elements of the article for criminal acts of corruption must meet the formal and material requirements as a basis for criminal prosecution for each person. Perpetrators of criminal acts in court. Apart from that, based on the provisions of Article 26 in the law on evidence of criminal acts of corruption, the law of evidence in the Criminal Procedure Code still applies, only evidence in certain fields, such as the Corruption Crimes Law, which does not apply the general law of evidence. Proving criminal acts of corruption still uses Article 183 of the Criminal Procedure Code (standard of proof) except in the case of reverse evidence (Article 37 Jo 12B paragraph (1) letter a jo 12 C paragraph (1) and (2) of the Corruption Crimes Law). In this regard, after text-context analysis, the results of the research show that in the formulation of the public prosecutor's indictment that indicted *the a quo suspect*, there was no text correlation with the context of the criminal act charged against the perpetrator so that the discussion of the results of this research found that the prosecutor's indictment was normatively not in accordance with the aims and objectives of statutory regulations for criminal acts of corruption or *abscuur libel* (M.Yahya Harahap).

C. CONCLUSION

The formulation of the public prosecutor's indictment in the case of criminal acts of corruption against fishing vessels in ToliToli Regency does not meet the formal requirements and material requirements required to be careful, clear and complete regarding the qualifications of the perpetrator (*plegen*, *doen plegen*, *uitlokker*) and the actions involved. carried out by the suspects (*act*) so that the indictment of the public prosecutor for corruption becomes unclear (*abscuur libels*). The results of text-context analysis of the public prosecutor's indictment show that there is no correlation between the text, the meaning of the text and the context that qualifies the existence of a criminal act that the public prosecutor accuses the suspect of.

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