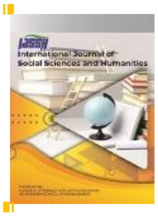

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The Doctrine of Participation in Abuse of Authority Offenses: Toward Proportional Sentencing in Indonesia's Anti-Corruption Law

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Abstract

This study examines the application of the doctrine of participation (deelneming) to acts of abuse of authority as stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The research addresses the problem of whether the doctrine of participation can be applied to abuse of authority offenses, particularly given the differing qualities and authorities among actors in corruption cases. Using a normative juridical method with philosophical, statutory, conceptual, and case approaches, this study analyzes primary and secondary legal materials through qualitative and comprehensive analysis. The findings reveal that courts often fail to distinguish between principal perpetrators and participants in corruption cases, treating all actors equally despite their differing roles and authorities. The research demonstrates that the application of participation doctrine in corruption offenses requires consideration of each actor's authority, whether obtained through attribution, delegation, or mandate. The study concludes that the doctrine of participation can be applied to abuse of authority offenses by distinguishing between principal perpetrators and participants based on their respective roles and legal authority, thereby enabling proportional sentencing that reflects the degree of culpability of each actor.

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Introduction

Law enforcement constitutes one means of creating order, security, and tranquility, as an effort to prevent, eradicate, or prosecute legal violations (Santiago, 2017). Corruption is a criminal offense that is the enemy of all nations, making its eradication a government priority (Jawa et al., 2024). Examining the Law on the Eradication of Corruption Crimes, acts by state officials and private parties concerning abuse of authority and position unlawfully, or acts by state and private officials that harm state finances, have been qualified as corruption as stipulated in Article 2 paragraph (1) and Article 3 of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Article 2 paragraph (1) of Law Number 20 of 2001 states; Every person who unlawfully commits an act of enriching themselves or another person or a corporation that may harm state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and at most Rp. 1,000,000,000.00 (one billion rupiah).

Furthermore, Article 3 provides the following formulation; Every person who, with the aim of benefiting themselves or another person or a corporation, abuses the authority, opportunity, or means available to them due to their position or status, which may harm state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years, and/or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and at most Rp. 1,000,000,000.00 (one billion rupiah).

In the enforcement of Articles 2 and 3, several problems arise in their application at the judicial level, often resulting in differing interpretations and dissenting opinions regarding the element of unlawfulness and abuse of authority or position, leading to disparities in punishment and sentencing of corruption offenders allegedly violating these articles. Regarding the definition of abuse of authority according to Jean Rivero and Waline, it is interpreted in 3 (three) forms (Rizkyta & Ningsih, 2023), namely abuse of authority may occur in several forms. First, it may take the form of actions that are contrary to the public interest or actions intended to benefit personal or group interests. Second, abuse of authority may occur when an official's action is formally directed toward the public interest, but in substance deviates from the purpose for which the authority was granted by law or other regulations. Third, abuse of authority may also occur when an official uses the authority granted to achieve certain objectives but implements it through procedures that are not in accordance with the proper legal mechanism.

Essentially, the concept of abusing authority lies in a grey area (the existence of multi-interpretive perspectives on an object (Pietersz, 2017). There is an intersection between criminal law norms and administrative law norms (Susiana, 2025). In the framework of state administrative law, the parameters limiting the discretionary power of state apparatus are detournement de pouvoir (abuse of authority) and willekeur (arbitrary action); in criminal law, there are also criteria limiting the discretionary power of state apparatus in the form of the element of wederrechtelijkheid (unlawfulness). The problem arises when state apparatus commit acts deemed to abuse authority and act unlawfully meaning which test should be applied for the deviation of state apparatus: state administrative law or criminal law, particularly in corruption cases. Understanding regarding jurisdictional determination remains limited in judicial practice.

The true touchstone of discretion is the extent to which discretion conforms to or exceeds the authority attached to the position of the official concerned (Suhariyanto, 2018). When an excess of authority occurs, it is no longer a matter of discretion but a violation of law (*onrechtmatig*) or unlawful act (*wederrechtelijk*). In another part, Marzuki (2017) states that the requirement of superior approval in certain cases has absolutely no connection to discretion but relates to the administrative-legal relationship between superior and subordinate. The requirement of superior approval is not commonly known, even in the context of gebonden bestuur (bound administration). When discretion requires superior approval (by consent), discretion is fettered. This causes discretion to lose its essential freedom.

When an official's discretion is annulled by a superior, it must be interpreted as a superior's order, relating solely to the subordinate-superior relationship. Eliminating the essence of freedom means removing the existence of discretion. Discretion without the essence of freedom means discretion without discretion a contradictio in adjecto. Moreover, the relationship between the official exercising discretion and the superior granting approval must be clear. Is it in the context of delegation (delegation of authority) or mandate? Granting delegation causes the delegator (superior) to lose authority, whereas in the case of mandate, the mandatary acts for and on behalf of the mandator. The superior shares responsibility, including in the case of policy rules (beleidsregel), such as circulars, announcements, and the like in the context of mandate. Although the authority of government officials to exercise discretion in administrative law concepts is always accompanied by the purpose and intent of granting that authority, the application of authority must align with the purpose and intent of the grant itself. When government officials use authority not in accordance with the purpose and intent of its grant, such government officials have committed abuse of authority (detournement de pouvoir) and freies Ermessen (discretion).

As in Decision Number 19/Pid.Sus-TPK/2021/PN Amb, Decision Number 21/Pid.Sus-TPK/2021/PN Amb, and Decision Number 20/Pid.Sus-TPK/2021/PN Amb regarding corruption crimes of abuse of authority committed by the former Head of the PUPR Department of the Tanimbar Islands Regency (KKT), Adrianus Sihasale, who was sentenced to six years imprisonment for being proven to have committed corruption in the city park development project of the Tanimbar Islands Regency (KKT), Maluku Province, in the 2017 fiscal year ta (Pattiasina, 2021). In fact, Adrianus Sihasale, as the former Head of the PUPR Department of the Tanimbar Islands Regency, only continued the work of 2 previous PUPR department heads. Besides Adrianus Sihasale, there were 3 (three) other individuals who became co-defendants in this case, with state losses amounting to Rp 1.38 billion. Wilma Fenanlampir as the PPTK (Technical Activity Implementation Official), Frans Yulianus Pelamonia as the field supervisor, and Hartanto Hoetomo as the Commissioner of PT Inti Artha Nusantara. In the public prosecutor's indictment, Fenanlampir, Pelamonia, and Sihasale were demanded to be imprisoned for 8.6 years and ordered to pay a fine of Rp. 500 million, subsidiary to 6 months imprisonment, because the three defendants were proven guilty of violating Article 2 paragraph (1) in conjunction with Article 18 of Law Number 20 of 2001 concerning Corruption Crimes (Tipikor).

The judge declared the defendants proven guilty of committing corruption and imposed a sentence of 6 years imprisonment, reduced by the time the defendants had been in detention. Meanwhile, Hartanto Hoetomo as PT Inti Artha Nusantara was acquitted in Decision Number 30/Pid.Sus-TPK/2021/PN Amb. State organizers and civil servants prosecuted and tried under Article 3 of the 1999 Corruption Eradication Law are generally strongly suspected and charged with abuse of authority (misbruik van bevoegdheid) due to their position or status. This abuse of authority itself is contained in Article 3 of the 1999 Corruption Eradication Law, Article 12 letter e of the 1999 Corruption Eradication Law in conjunction with Article I number 2 of the 2001 Corruption

Eradication Law, and others as an integral part of the offense (bestandeel) and also an element (element).

Such circumstances can lead to injustice in law enforcement. This is because there is often a neglect of legal interests justly, including: the legal interests of the state, the legal interests of society, and the legal interests of the individual. In fact, a just relationship between these legal interests must first be created in the provisions of Article 3 of the 1999 Corruption Eradication Law, Article 12 letter e of the 1999 Corruption Eradication Law in conjunction with Article I number 2 of the 2001 Corruption Eradication Law, and others to realize broader legal goals, namely: improving general welfare as written by Pompe, as follows (De Jong, 1988):

> "*Criminal offenses are included in violations of norms. This brings criminal offenses into relation with interests, the maintenance of which forms the purpose of law. Law always has the purpose of attending to the general welfare which contains the interests of the legal community, by realizing a harmonious relationship, especially a just one, between these interests. The relationship between these interests depends in large part on the assessments that actually apply in a particular society at a particular time*".

In the decision on the criminal act of state losses based on the audit results of the BPKP RI Representative for Maluku Province, state losses amounting to Rp. 1.035 billion were found. There were 3 (three) perpetrators as mentioned above, charged with the same demands by the public prosecutor, and even received the same sentences imposed by the judges of the Ambon District Court. In fact, Articles 55-56 of the Criminal Code already divide criminal perpetrators into four categories, and each perpetrator has different sources of authority, whether attribution, delegation, or mandate. However, what is interesting to examine is that the Criminal Code does not explain the severity of punishment for each perpetrator based on Article 55 of the Criminal Code, meaning that the Criminal Code itself, especially in Article 55, does not qualify each perpetrator of abuse of authority based on their role. Based on the above description, the research problem is: Can the doctrine of participation be applied to acts of abuse of authority as stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes?

Methods

This study employs a normative juridical design, namely legal research that examines the norms, principles, doctrines, and statutory regulations relating to the implementation of rehabilitation for narcotics addicts. The study focuses on Ambon City, Maluku Province, as the research location because the implementation of rehabilitation in this area still faces institutional, infrastructural, and human resource limitations. The research was conducted by analysing relevant legal materials and implementation data. The approaches used include the philosophical approach, statutory approach, conceptual approach, and case approach (Ali, 2021). The philosophical approach is used to examine the values of justice, recovery, and social protection underlying rehabilitation; the statutory approach is used to analyse Law Number 35 of 2009 concerning Narcotics and related regulations; the conceptual approach is used to clarify the concepts of narcotics addict, victim of narcotics abuse, medical rehabilitation, social rehabilitation, and integrated assessment; while the case approach is used to examine discrepancies in the implementation of rehabilitation in Ambon City.

The population in this study comprises all legal materials and legal phenomena relating to narcotics rehabilitation, while the research subjects consist of primary and secondary legal materials. Primary legal materials include Law Number 35 of 2009 concerning Narcotics, Supreme Court Circular Letter Number 04 of 2010, joint regulations on the handling of narcotics addicts and victims of narcotics abuse, and other relevant regulations. Secondary legal materials include books, journal articles, previous studies, institutional reports, and expert opinions (Nurhayati et al., 2021). The research procedure was carried out through the identification of legal issues, the collection and classification of legal materials, the analysis of legal materials based on the approaches employed, and the formulation of legal arguments and recommendations. Data were collected through library research and document study using a legal-material inventory sheet, a statutory-analysis matrix, and document review guidelines. All collected materials were analysed qualitatively and comprehensively by interpreting legal norms, comparing them with implementation practices in Ambon City, and evaluating the extent to which rehabilitation reflects the objectives of the Narcotics Law (Sondakh, 2009).

Results and Discussions

Application of the Doctrine of Participation to Acts of Abuse of Authority as Stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 Concerning the Eradication of Corruption Crimes

1. Several Corruption Cases Involving Participating Perpetrators

Based on the study, the application of participation must distinguish between criminal acts and criminal liability, which changes the structure of both substantive and formal criminal law. From the perspective of substantive criminal law, the existence of participation not only describes the shift from participation as an expansion of criminal liability to an expansion of criminal acts. This shift in participation also affects the structure of criminal acts (participation), liability, and sentencing of participating perpetrators. From the criminal act perspective, participation depends on the principal offense because the offense of participation has meaning in criminal law when connected to the principal offense. In this framework, the expansion of criminal acts includes the expansion of subjects addressed by the norm, the prohibition of acts along with their criminal sanctions, and the unlawful nature of the act.

Based on the provisions concerning participation, a person who does not have certain qualities as the perpetrator of a criminal act and does not fulfill the entire formulation of the offense can be threatened with punishment because there is a certain relationship between the offense of participation and the principal offense, rendering participation improper and therefore subject to criminal sanction. Furthermore, the abstract understanding of the act leads to a functional interpretation of joint implementation in participation, emphasizing close cooperation. Pratiwi (2022)) stated that "the main thing is that in the implementation of the criminal act, there is close cooperation among them. This can be determined as the essence of participation in committing the act. Thus, joint implementation is inferred from close cooperation, so that joint acts can be carried out functionally as long as each act plays an important role in realizing the criminal offense."

From the perspective of criminal liability and sentencing, participating perpetrators are only held accountable for their own acts, allowing for disparity in sentencing between principal perpetrators and participating perpetrators, and it is even possible that only one perpetrator is punished. This is based on the independence of the participating perpetrator's criminal liability, which does not depend on the liability of the principal perpetrator. Such liability is only based on certain conditions inherent in the participating perpetrator. Therefore, it is possible that the degree of culpability of the participating perpetrator is lighter than that of the principal perpetrator. This gradation of culpability forms the basis for sentencing disparity between principal and participating perpetrators. Based on the independence of the participating perpetrator's liability from the principal perpetrator's liability, even if the principal perpetrator is held criminally liable, the participating perpetrator can be released from criminal liability when the conditions for liability are not met, whether due to incapacity, absence of fault, or justifying reasons.

The independence of the participating perpetrator's liability affects the dimensions of procedural criminal law. Since participating perpetrators are only held accountable for their own acts, the legal process and sentencing of participating perpetrators need not await the sentencing of the principal perpetrator as long as it can be proven in investigation and inquiry that a participation offense involving the participating perpetrator occurred. Thus, consecutive legal process and sentencing do not apply absolutely in participation offenses. Another dimension is the requirement to determine the role of each perpetrator in a particular legal event. This is based on the public prosecutor's obligation to specify the criminal act in the indictment (Anggraini et al., 2011). The description of the act in the indictment must be accompanied by qualification of the criminal offense to distinguish between one crime and another, including the qualification of the principal offense and the participation offense charged against the perpetrators. Related to the above explanation, there are several decisions concerning abuse of authority in which Article 55 of the Criminal Code was applied, including:

a. Adrianus Sihasale, et al.

1) Decision Number 19/Pid.Sus-TPK/2021/PN Amb on behalf of ADRIANUS SIHASALE, ST., MT.

The primary indictment revealed that Adrianus Sihasale, ST., MT., as the Acting Head of the Public Works, Spatial Planning, Housing, Settlement Areas, and Land Department of West Southeast Maluku Regency, based on Regent Decree Number 835/259/Sprin/2017 dated December 4, 2017, and in the City Park Development Project acted as the Budget User (PA) concurrently serving as the Commitment-Making Official (PPK), as a person who committed or participated in committing with WILELMA FENANLAMPIR, ST., M.Sc., FRANS YULIANUS PELAMONIA, and HARTANTO HAETOMO, SE (prosecuted separately), on a date that could not be recalled between January 2017 and December 2017 or at least at other times in 2017, located in the territory of West Southeast Maluku Regency, or at least in other places still within the jurisdiction of the Corruption Crime Court at the Ambon District Court based on Article 35 of Law Number 46 of 2009 concerning Corruption Crime Courts, unlawfully committed acts of enriching themselves or others or a corporation that may harm state finances or the state economy.

2) Decision Number 21/Pid.Sus-TPK/2021/PN Amb on behalf of WILELMA FENANLAMPIR, ST.

The primary indictment revealed that WILELMA FENANLAMPIR, ST., M.Sc., as the Technical Activity Implementation Official in the City Park Development Project for the 2017 Fiscal Year, based on Decree of the Head of the Public Works, Spatial Planning, and Settlement Department of West Southeast Maluku Regency Number: 600/7.1/I/2017 dated January 23, 2017, as a person who committed or participated in committing with ADRIANUS SIHASALE, ST., MT., FRANS YULIANUS PELAMONIA, ST., and HARTANTO HOETOMO, SE (prosecuted separately), from January 23, 2017, to June 26, 2018, or at least at other times in 2017 and 2018, located at the Office of the Public Works, Spatial Planning, Housing, Settlement Areas, and Land Department, Jl. Ir. Soekarno, South Tanimbar District, Saumlaki City, West Southeast Maluku Regency, or at least in other places still within the jurisdiction of the Corruption Crime Court at the Ambon District Court based on Article 35 paragraph (2) of Law Number 46 of 2009 concerning Corruption Crime Courts, unlawfully failed to be careful in the process of drafting the Contract Amendment Number 602/140/AMDN/Pemb.Tmn.Kt.Saumlaki/DAU/2017 dated August 14, 2017, where there was an addition of coral stone masonry work items containing only unit prices without volume, and made Work Progress Reports inconsistent with the progress of work in the field.

3) **Decision Number 20/Pid.Sus-TPK/2021/PN Amb on behalf of FRANS YULIANUS PELAMONIA, ST.**

The primary indictment revealed that FRANS YULIANUS PELAMONIA, ST., as the Field Supervisor in the City Park Development Project for the 2017 Fiscal Year, based on Decree of the Acting Head of the Public Works, Spatial Planning, and Settlement Department of West Southeast Maluku Regency Number: 600/713.1/SK/XI/2017 dated November 7, 2017, as a person who committed or participated in committing with ADRIANUS SIHASALE, ST., MT., WILELMA FENANLAMPIR, ST., M.Sc., and HARTANTO HOETOMO, SE (prosecuted separately), from November 7, 2017, to June 26, 2018, or at least at other times in 2017 and 2018, located at the Office of the Public Works, Spatial Planning, Housing, Settlement Areas, and Land Department, Jl. Ir. Soekarno, South Tanimbar District, Saumlaki City, West Southeast Maluku Regency, or at least in other places still within the jurisdiction of the Corruption Crime Court at the Ambon District Court based on Article 35 paragraph (2) of Law Number 46 of 2009 concerning Corruption Crime Courts, unlawfully failed to document and create working papers when calculating in the context of design and volume changes requested by the provider, allowed the provider to install paving blocks not in accordance with contract specifications, created work progress reports that should have been the provider's responsibility, and erred in assessing the weight of work that had been completed by the provider.

b. E.C.W. Neloe. et al.

E.C.W. Neloe, I Wayan Pugeg, and M. Sholeh were implicated in a corruption case related to credit disbursement by PT Bank Mandiri to PT Cipta Graha Nusantara (PT CGN)/PT Tahta Medan. The case position is as follows; The defendants, as President Director of PT Bank Mandiri, Director of Risk Management of PT Bank Mandiri, and EVP Coordinator Corporate & Government of PT Bank Mandiri, jointly approved credit submitted by Edison as President Director of PT CGN, Syaeful Anwar as Main Commissioner of PT CGN, and Diman Ponijan as Director of PT CGN, with a bridging loan facility of Rp 160 billion. The defendants' actions were deemed not to comply with Article 520 of the 2000 KBPM because the credit analysis No. CGR.CRM/314/2002 dated October 23, 2002, was completed in only one day and deviated from standard credit analysis practices.

The credit was used by PT CGN to purchase PT Tahta Medan, even though PT Tahta Medan's assets were only Rp 97 billion. It was also stated that the Investment credit application of USD 18,500,000.00 would be used to purchase receivables from the former National Banking Restructuring Agency on behalf of PT Tahta Medan from PT Manunggal Wiratama amounting to Rp 160 billion, with the remainder of Rp 5 billion equivalent plus self-financing from PT Cipta Graha Nusantara of Rp 22,500,000,000 used to take over shares owned by shareholders of PT Tahta Medan, namely Dana Pensiun Bank Mandiri Tiga (DPBM3) and PT Pengelola Investasi Mandiri

(PT PIM). However, in reality, PT Cipta Graha Nusantara never deposited the self-financing of Rp 22,500,000,000, and shares of PT Pengelola Investama Mandiri were not successfully purchased or taken over. Similarly, shares of Dana Pensiun Bank Mandiri Tiga were only paid Rp 14,597,000,000 of the total share price of Rp 18,246,250,000, leaving a remaining unpaid amount of Rp 3,649,250,000. Furthermore, PT CGN at maturity, according to the debtor PT Cipta Graha Nusantara's payment schedule, should have paid principal installments for Quarter IV 2003 through Quarter II 2005 amounting to US. 6,300,000. However, inreality, PTCGN only paid principal installments on June 23,2005, of US 150,000, leaving unpaid principal installments of US$ 6,150,000 equivalent to Rp 58,425,000,000 (exchange rate Rp 9,500). Based on this, the defendants were deemed not to comply with applicable regulations at PT Bank Mandiri, resulting in state financial losses (PT Bank Mandiri) of Rp 160 billion.

The panel of judges of the South Jakarta District Court expressly stated that the legal decision against ECW Neloe et al. was based on the theory of separation between criminal acts and criminal liability. It was stated in the court's consideration:

> "*Considering that the Panel does not agree with the Public Prosecutor who described the meaning of 'every person' as perpetrator and linked the meaning of 'every person' with the defendants' fault.*
> *Considering that according to the Panel of Judges, the meaning of 'every person' cannot be linked to the description of the defendants' fault, because according to criminal law principles, the issue of fault is a matter of criminal liability, as Indonesia adheres to the doctrine that separates criminal acts and criminal liability (Putusan Pengadilan Negeri Jakarta Selatan, No.2068/Pid.B/2005/PN.Jaksel, 2005).*"

Based on the theory of separation between criminal acts and criminal liability, the determination of the perpetrator of a criminal act is included in the criminalization of the offense, which designates certain persons as subjects addressed by legal norms. The act and the person have a close relationship that cannot be separated. The closeness of this relationship is depicted in the definition of criminal act proposed by (Fauzi & Jainah, 2022) as "an act prohibited by law and threatened with punishment, whoever violates it." The word "whoever" refers to the subject of the offense, which complements the "prohibited act." Therefore, the existence of the subject of the offense is placed in the context of the criminal act because it relates to the prohibited act. Conversely, the determination of the subject of the offense is not related to the defendant's fault. In this regard, the Panel of Judges' consideration can be justified. Fault is a matter of criminal liability; whether a person can truly be held criminally responsible is not included in determining the subject of the offense but relates to the legal statement regarding the culpability of the perpetrator, which is determined as the ethical basis for imposing punishment. This is done when the court has proven the prohibited act and the person who committed it. Thus, the subject of the offense is not related to the perpetrator's fault or capacity to be held responsible but relates to the criminal act.

The formulation of a criminal act consists of three elements. First, the subject addressed by the legal norm. Second, the act prohibited by law. The act constitutes a formative element of the criminal offense. This is because the criminal offense relates to the act, while the subject of the offense and the threat of punishment complement the prohibited act. Third, the threat of punishment directed against the perpetrator of the criminal act. Additionally, the threat of punishment also points to the unlawful nature of the act. The threat of imprisonment for a certain period, for example, serves as a measure of the degree of culpability of the act. Based on this, "threatened with punishment" refers to the prohibited act and those who commit it. Such persons fall within the scope of "threat of punishment" due to their relationship with the criminal act. This differs from "punishment" or "sentenced" because it relates to persons in connection with criminal liability and sentencing. Based on the above description, "whoever" or "every person" refers to persons who meet the requirements as perpetrators of a criminal act. Therefore, "every person" is no different from the perpetrator of a criminal act. In this regard, the Panel of Judges' consideration distinguishing between "every person" and "perpetrator of a criminal act" is deemed incorrect. It was stated in the court's consideration:

> *"Considering that in this matter, the Panel of Judges agrees with the defendants' legal counsel in their defense that distinguishes the meaning of 'every person' from the meaning of 'perpetrator,' because the meaning of 'every person' only becomes a perpetrator after they are proven to have committed a criminal act or after the core elements of the offense have all been proven."*

In principle, "every person" refers to persons who have the qualifications as perpetrators of a criminal act, so the two terms are not different. The element of "every person" is not a colorless element unrelated to the criminal act. Conversely, "every person" in the formulation of the offense is always related to the prohibited act in that formulation, because the meaning of "every person" has significance in criminal law when connected to the prohibited act. Furthermore, the formulation of a criminal act is only one of three elements of a criminal offense. The other two elements are the unlawful nature and justifications (Kila et al., 2023). The first element of a criminal offense requires conformity between the act and the formulation of the offense (Tatbestandsmäßigkeit), which presents the forms of criminal offenses. The second element is the unlawful nature (Rechtwidrigkeit), which describes the impropriety of an act. The unlawful nature is not identical to the formulation of the offense, in the sense that the formulation of the offense does not necessarily contain the unlawful nature.

This is evident in the doctrine of negative material unlawfulness, which allows that an act fulfilling the formulation of the offense may not be a criminal offense if the act is deemed proper according to society's sense of justice. The unlawful nature has an autonomous function in providing normative assessment of the impropriety of the act. The third element is the absence of justification, which negates the unlawful nature of the act based on a higher legal interest (superior interest) or the intended legal interest (legitimate interest). With the fulfillment of these three elements, the criminal offense is perfectly realized. However, the tendency toward the dualistic principle in the South Jakarta District Court's considerations did not continue in the Supreme Court's decision, as it linked the subject of the offense with criminal liability. This is evident in the Supreme Court's consideration stating:

> *"That this reason cannot be accepted, because the Judex Facti (Panel of Judges) in its considerations agreed with the defendants' legal counsel team that distinguished the meaning of 'every person' from the meaning of 'perpetrator'; a person can be said to be a perpetrator after going through examination and proof processes in criminal proceedings. However, the judex facti panel of judges at the first instance based its decision on legal facts revealed in the trial that the defendants Edward Cornellis William Neloe, I Wayan Pugeg, and M. Tasripan, S.E., M.M., who were brought to trial, are included in the meaning of 'every person' or individuals as*

holders of rights and obligations who can be held accountable for all their actions, therefore the 'element of every person' in the formulation of the offense has been fulfilled."

This is very different from the dualistic principle that places the subject of the offense within the framework of the criminal act. Furthermore, when the elements of a criminal offense are fulfilled, the Panel of Judges should consider the subject of the offense along with consideration of the defendant's position as perpetrator of the criminal act and participating perpetrator. This is based on the existence of criminal offenses formulated for a single perpetrator, thus requiring provisions on participation to involve multiple persons in a criminal offense. In relation to the forms of participation, there are different requirements between one form of participation and another, necessitating affirmation of the appropriate form of participation according to the perpetrator's role in the commission of the criminal offense. Consistent with the Supreme Court's decision that did not specify the form of participation, the indictment in that case also did not establish the forms of participation as quoted in Supreme Court Decision Number 1144 K/Pid/2006 dated September 13, 2007. In that indictment, the public prosecutor described all acts as joint acts, as seen in the phrase "the defendants." At the end of the indictment, it was stated (Kumalaningdyah, 2019):

"The acts of the defendants as described above may harm state finances c.q. PT Bank Mandiri (Persero) Tbk. in the amount of USD 18,500,000 or at least approximately Rp 160,000,000,000 (one hundred sixty billion rupiah) or at least around that amount; the defendants' acts are regulated and threatened with punishment in Article 2 paragraph (1) in conjunction with Article 18 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 in conjunction with Article 55 paragraph (1) sub-1 in conjunction with Article 64 paragraph (1) of the Criminal Code."

The description in the indictment can be accepted insofar as it is based on the monistic theory. Based on the monistic theory, the main issue of participation lies in the liability of the perpetrators of the criminal act. Therefore, the public prosecutor is not obligated to specify the form of participation in the indictment because the indictment only addresses the objectively committed acts. The court is tasked with determining the forms of participation when considering the liability of the perpetrators. In that decision, the Supreme Court simply equated participation with "joint" acts. This raises several errors. First, the court remains obligated to determine the forms of participation committed by the defendants, even if the public prosecutor does not specify those forms. In the adjudication process, defendants have the right to know for what acts and faults they are being punished. In the monistic context that does not require the indictment to include forms of participation, the court is obligated to state the forms of participation that form the basis for imposing punishment on the perpetrator. In the dualistic context that requires specification of forms of participation in the indictment, the court is only obligated to examine the offense and the perpetrator's liability based on the offense described in the indictment that explicitly states the form of participation.

Related to this, in the court decisions concerning Adrianus Sihasale et al., the same approach should have been applied so that the extent of each perpetrator's role in the participation could be determined. Furthermore, Supreme Court Decision Number 1144 K/Pid/2006 contains errors because it is common that each offense is directed at a single subject of the offense. This principle can only be excepted in convergence offenses that require more than one subject of the offense, such as Article 170 of the Criminal Code. Errors on this point can be found in the considerations and the verdict of the decision. The Supreme Court alternately used the words "defendant," "defendants-defendants," and "the defendants." The word "defendant" only refers to one defendant, whereas the trial placed three perpetrators as the defendants. Meanwhile, "defendants-defendants" and "the defendants" refer to multiple defendants, even though the offense charged is directed at a single perpetrator. The issue is that the Supreme Court did not establish the position of each perpetrator in the context of participation.

The Supreme Court should have designated one defendant as the perpetrator of the criminal act, while the other two defendants as participating perpetrators. This is where the error of the decision lies, because it considered Article 2 paragraph (1) of Law Number 31 of 1999 as amended by Law Number 20 of 2001 as a convergence offense, when in fact the offense is directed at a single perpetrator. When the formulation of the offense does not refer to multiple persons as perpetrators, the offense formulation is only directed at a single perpetrator. This error continued in the verdict. It was stated in the verdict:

> *" Adjudicating itself: declares the defendants: I. Edward Cornellis William Neloe, II. I Wayan Pugeg, III. M. Sholeh Tasripan, S.E., M.M. have been legally and convincingly proven guilty of committing the criminal act: 'Corruption jointly and continuously."*

The same applies to the decision against Adrianus Sihasale et al., who were proven to have committed corruption jointly, causing state losses. Based on the verdicts in both cases, the court equated the position of each perpetrator. The author does not find the application of participation in any of these decisions, even though Article 2 paragraph (1) and Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 can only involve multiple perpetrators by using the provisions on participation as regulated in Article 55 paragraph (1) sub-1 of the Criminal Code. However, the theory of separation between criminal acts and criminal liability views this issue differently. Based on the perspective of expanding criminal acts, participation is a matter of criminal acts subject to the principle of legality. In that framework, determining the criminal act becomes important to distinguish between one criminal offense and another.

In other words, it is necessary to affirm that the act of the suspect or defendant constitutes an offense of participation, or ordering, or incitement. Each has different forms from the others, so that based on the principle of legality, the public prosecutor is obligated to determine what act is charged while also providing sufficient space for the defendant to prepare a defense against the act charged. Thus, the offense of participation must be distinguished from the offense of ordering and incitement, meaning that each perpetrator of a criminal act, if consisting of several persons, should be qualified individually as intended in the aforementioned decisions. Similarly, the offense of murder must be distinguished from the offense of assault, because based on the principle of legality, murder and assault are two different offenses with different elements, forms of conduct, and limitations. Generalizing both in the indictment renders the indictment vague (obscuur libel). This also applies to the offenses of participation. In this context, Supreme Court Decision Number 1922 K/Pid/1987 dated May 29, 1987, follows the theory of separation between criminal acts and criminal liability.

In Supreme Court Decision Number 1922 K/Pid/1987 dated May 29, 1987, the Supreme Court stated that the public prosecutor's indictment was obscuur libel because it did not specify the form of participation; whether the charged act constituted incitement or ordering. According to the decision, the prosecutor had conflated both forms of participation in a single indictment, even though they have different characteristics and juridical requirements. Therefore, the public prosecutor should have qualified the charged act by specifying one form of participation: whether ordering as in Article 55 paragraph (1) sub-1 of the Criminal Code or incitement as in Article 55 paragraph (1) sub-2 of the Criminal Code. Based on the dualistic principle, in the ECW Neloe et al. case as well as the Adrianus Sihasale et al. case, the court should have designated one defendant as the perpetrator of the criminal act, while the other two defendants as participating perpetrators. The determination of the participation offense is based on such close cooperation between the defendants that state losses occurred. The defendants' acts fulfill the requirements of participation, which requires the giving of consent based on conscious cooperation and joint implementation in the form of agreement made by the defendants based on their respective authorities in the aforementioned criminal offense. Without joint cooperation and agreement from the defendants, the credit could not have been disbursed, causing losses.

If this case is further examined based on the theory of separation between criminal acts and criminal liability, it is not only the determination of the participation offense that is required, but also the liability of the perpetrator as the basis for punishing the perpetrators as principal perpetrators and participating perpetrators. In the context of liability, perpetrators are held accountable based on their respective culpability. It is very possible that there are differences in culpability because certain circumstances in each perpetrator also differ in intention and role. Therefore, sentencing of perpetrators may differ from one another, thus realizing a sense of justice for each perpetrator. The emphasis lies on the monodualistic balance contained in the offense of participation and the liability of its perpetrators. Nevertheless, the author does not find any consideration of criminal liability in either decision. From this, it appears that the proportionality of punishment against perpetrators is based solely on the unlawful nature of the act. Based on the dualistic principle, the condition for punishment is based in balance on the unlawful nature of the act and the culpability of the perpetrator, so that proportionality of punishment is not only viewed in terms of imposing the same sentence as the criminal threat but also based on the level of the perpetrator's culpability. In such circumstances, proportionality of punishment is characterized by the use of the unlawful nature of the act as the limit of sentencing, and the use of fault and criminal liability as the measure of sentencing.

2. Distinguishing Principal Perpetrators and Participating Perpetrators in Corruption Crimes

Based on the explanation in the aforementioned cases, in the majority of corruption cases, these criminal offenses are committed by more than one person, and the Corruption Eradication Law has addressed the offense of participation, more precisely in Article 15 of the Corruption Eradication Law. The provisions of Article 15 constitute a special rule because the threat of punishment for attempt and assistance in criminal offenses is generally reduced by 1/3 (one third) of the criminal threat. Thus, the focus is on the fact that based on the doctrine of participation in the form of joint commission, perpetrators who do not have the same quality cannot be classified as perpetrators, but as assisting perpetrators.

Defendants are charged under Article 55 of the Criminal Code based on several corruption cases, but the defendants do not possess the same quality as other perpetrators. Consequently, there is an erroneous application of the meaning regarding the application of Article 55 of the Criminal Code, specifically the form of joint commission in these cases. Ponglabba (2017) opinion requiring that participating perpetrators must have the same quality as the perpetrator in order for participation to meet the requirements as a perpetrator (dader) as specified in Article 55 of the Criminal Code, because a person cannot be punished as a participating perpetrator if they do not possess the same quality as the perpetrator. Given that from the perspective of criminal liability in sentencing, the fault of each perpetrator is also considered.

In case handling, many law enforcement officers still rarely use Article 15 of the Corruption Eradication Law in their indictments. In this case, there is an erroneous application of the essence of the position offense. The regulator of the Corruption Eradication Law understood that the essence of the enactment of this article is also due to the fact that in corruption cases, there will be many perpetrators from both private parties and government parties; therefore, in such cases, the form of assistance should be applied because in position offenses, there is no participation with perpetrators of different qualities. Thus, the element of assistance in Article 15 of the Corruption Eradication Law was established. This form of assistance is specifically applied to corruption crimes in Articles 2 and 3 of the Corruption Eradication Law.

Criminal events or acts, commonly known as criminal offenses, in certain cases can be committed by any person, and at the same time or at other times can also be committed by several persons jointly. In other words, corruption crimes can be committed by several persons involved in committing the corruption offense. These several persons committing corruption crimes are commonly referred to as the doctrine of participation or Deelneming.

In criminal law doctrine, *deelneming* or participation is divided into two groups: stand-alone participation (*zelfstandige deelneming*), in which each participant is individually liable, and non-stand-alone or accessory participation (*onzelfstandige/accessoire deelneming*), in which one participant's liability depends on another participant (Putra et al., 2023). Articles 55 and 56 of the Criminal Code classify participants into several forms, namely the perpetrator (*pleger*), the person who orders the commission of the offence (*doen pleger*), the co-perpetrator (*medepleger*), the person who intentionally incites the offence (*uitlokker*), and the accomplice (*medeplichtige*). In line with Boehmer's doctrine, participation distinguishes between those who directly commit the offence and desire its result, and those who merely assist in its commission. Thus, the doctrine of participation serves as a basis for expanding criminal liability to persons involved in the realisation of a criminal offence.

a. Committing (*pleger*)

Based on Pratiwi (2022) opinion, pleger is a person who fulfills the elements of the offense, whether expressly stated or not, and who is obligated to end the situation prohibited by law. Thus, it can be concluded that a person classified as fulfilling the form of participation "committing" is a perpetrator who completely fulfills all elements of the offense. These elements include all subjective and objective elements of a criminal act.

b. Ordering Commission (doenpleger)

In the form of ordering the commission of an offence (doen pleger), the person who directly carries out the act is merely positioned as an instrument of the principal actor. The principal actor orders another person to commit the criminal act, while the person ordered only acts according to the instruction given to facilitate the commission of the offence. This element focuses on the act of ordering another person, particularly where the person ordered cannot be held criminally responsible. Such non-liability may arise because the person lacks mental capacity or suffers from mental illness under Article 44 of the Criminal Code, acts under force majeure under Article 48, acts pursuant to an official order under Article 51, does not possess the special legal quality required by the offence, or acts under a mistake or error regarding one of the elements of the criminal offence.

Thus, doen pleger refers to a situation in which one person orders another to commit a criminal act, with the latter functioning only as the instrument for its execution.

c. Participating in Commission (medepleger)

In this element, there is close cooperation possessed by each perpetrator, so that the criminal act will be realized based on such cooperation. Van Hamel and Trapman explain that in joint commission, all persons involved are required to fulfill the entire formulation of the offense in the legislation. Thus, joint commission is deemed to exist if each person can fully execute the criminal act. Purba et al., (2023) added his opinion regarding the element of joint commission, namely that in performing their acts, the participating perpetrator must possess the same quality or characteristic (eigenschap) as the principal perpetrator in order to be included as a participating perpetrator fulfilling the requirements of Article 55 of the Criminal Code, because a person cannot be punished as a joint participant if they do not possess the same quality as the perpetrator. Therefore, the participating perpetrator must also possess the same quality as the perpetrator (dader). In such situations, Van Hamel also argued that it is impossible for a non-civil servant to order a civil servant to commit a position crime. Simon held a similar opinion: a person who is not a civil servant cannot commit a position crime.

Based on these expert opinions, in a series of criminal acts, if the participating perpetrator does not possess the same quality as the principal perpetrator. For example, the quality of being a civil servant, then it is not possible for the non-civil servant perpetrator to be charged with the form of participation of joint commission during the time they do not possess civil servant status.

Vos supported Simon's opinion that a person who participates in realizing an offense but does not possess the quality or characteristic that the perpetrator must have can only be qualified as an assistant as stated in Article 56 of the Criminal Code. The meaning of "quality" here, according to Lamintang quoting Simon's opinion, refers to certain characteristics or personal attributes required by the offense. The quality referred to in these expert opinions can take the form of position, profession, or authority over a specific subject of the offense. For these reasons, the requirement for a perpetrator to be included in the form of joint commission is not only having the same will or purpose but also must possess vertical quality with the principal perpetrator. Based on this description, the elements of joint commission (medeplegen) consist of a shared purpose or common will among the perpetrators, accompanied by intent to cooperate and to bring about the result of the offence; conscious cooperation, meaning that each perpetrator is aware of and understands the existence of such cooperation; and the existence of certain personal qualities or characteristics possessed by each perpetrator, which may include authority arising from their respective positions or functions.

Therefore, in the discussion of participation, especially joint commission, this is closely related to corruption cases as described above. Along with the development of the times, human acts in committing crimes have also developed, especially in corruption cases. These acts have increasingly evolved, particularly the prevalent cooperation between private parties and civil servants or state officials in committing corruption. Law enforcement officers frequently apply the form of joint commission in the aforementioned cases to private parties, even though those parties do not possess the same quality as the principal perpetrator, namely civil servants or state officials. In fact, the perpetrator requires a specific quality to commit the act, namely being a civil servant or state organizer. Therefore, only a person with the status of a civil servant fulfills the formulation of the offense; others do not.

d. Incitement (uitlokker)

This form of participation occurs when the perpetrator does not personally commit the desired criminal act but uses another person as an intermediary. At first glance, uitlokker indeed resembles doenpleger, but the difference between these two forms lies in the subject. In uitlokker, the subject can be held criminally responsible for their acts, whereas in doenpleger, the opposite is true.

e. Assistance (medeplichtige)

Assistance in criminal participation occurs when a person intentionally provides opportunity, means, or information to facilitate the commission of a criminal act, either before or during its execution. Unlike *medeplegen*, where liability is independent and based on equal participation, assistance creates an accessory relationship in which the assistant's liability depends on the principal perpetrator (Roziwan et al., 2022). However, in corruption offences, the doctrine of participation cannot be treated in the same manner as ordinary crimes because corruption lies at the intersection of criminal law and state administrative law. Therefore, the assessment of participation must not only examine the subjective role of each actor but also the authority attached to their position, whether obtained through attribution, delegation, or mandate.

In the Saumlaki City Park corruption case, the relationship between participation and authority must be analysed functionally and normatively. Hartanto Hoetomo did not hold public administrative authority because he acted as Commissioner of PT Inti Artha Nusantara, whereas Adrianus Sihasale, Wilelma Fenanlampir, and Frans Yulianus Pelamonia possessed authority within the project structure. Nevertheless, physical presence at the scene is not decisive. A person may still be regarded as a participating perpetrator when they have the power to organise, control, or substantially contribute to the realisation of the offence, even without directly performing the prohibited act (Stolwijk, 2009). Thus, participation must be understood not merely as physical execution, but as constructive involvement that plays an essential role in producing the criminal result.

On that basis, Wilelma Fenanlampir and Frans Yulianus Pelamonia should be positioned more precisely as principal actors and/or persons who ordered or enabled the commission of the offence, because their authority as technical implementation official and field supervisor gave them the capacity to prevent the irregularities but was instead used improperly. Abuse of authority must be interpreted broadly, covering both structural authority arising from public office and non-structural authority arising from work relations, influence, or civil relationships (Amalia et al., 2024; Angraeni et al., 2024). In this context, abuse of authority requires both *mens rea* and *actus reus*: the actor must intentionally use, omit, or distort authority in a manner that enables unlawful conduct and causes state losses.

By contrast, Adrianus Sihasale's position as KPA/PA and PPK should be assessed more carefully. His signing of the second and third disbursements was formally based on the authority attached to his office, but the existence of authority alone does not automatically prove an intention to commit corruption. The essential issue is whether his conduct formed part of a conscious and intentional relationship that caused state losses. Therefore, the doctrine of participation should be applied through a functional-contextual approach: principal perpetrators are those whose acts directly and intentionally create the unlawful condition, while participating perpetrators are those whose authority, omission, approval, or contribution substantially enables the offence.

The court's reasoning appears weak because it focused mainly on the factual sequence of events without clearly determining the legal quality of each perpetrator under Article 55 of the Criminal Code. The forms of participation in Article 55 implicitly require the court to classify each actor clearly as *pleger*, *doenpleger*, *medepleger*, *uitlokker*, or *medeplichtige*. In line with Langemeijer's normative view, participation should not be constructed hierarchically as "participation within participation"; rather, each person's liability must be determined according to their own legal position, authority, contribution, and mental attitude. Article 15 of the Corruption Eradication Law further strengthens this framework because it expands liability for attempt, assistance, and conspiracy in corruption offences, even imposing punishment equivalent to that of the principal perpetrator. Although rarely used in practice, this provision is important because corruption often involves cooperation between public officials and private actors. However, as emphasised by Vos and Simon, a person who participates in an offence without possessing the special quality required of the principal actor should be classified as an assistant, not automatically as a co-perpetrator. Therefore, in corruption cases involving abuse of authority, equal quality, capacity, and authority must be carefully examined to avoid arbitrary attribution of criminal liability.

Accordingly, abuse of authority in corruption is not merely an administrative irregularity, but a criminally relevant misuse of power by a person who holds a particular position, capacity, or influence. Authority becomes the basis for determining liability because corruption is often realised through cooperation between government officials and private parties. For that reason, the qualification of perpetrators must be built on a precise relationship between authority, intention, contribution, and state loss. Without such qualification, the doctrine of participation risks obscuring the real role of each actor and weakening the accuracy of criminal responsibility in corruption cases.

Conclusion

Based on the analysis conducted, this study concludes that the doctrine of participation can be applied to acts of abuse of authority as stipulated in Article 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The application of this doctrine requires a distinction between principal perpetrators and participating perpetrators based on their respective roles and legal authority. The research finds that courts often fail to differentiate between perpetrators in corruption cases, treating all actors equally despite their differing roles and sources of authority (whether through attribution, delegation, or mandate). The study demonstrates that the principle of dualism (separation between criminal acts and criminal liability) provides a more just framework for determining participation in corruption offenses, as it enables proportional sentencing that reflects the degree of culpability of each actor. Furthermore, the research identifies that the application of Article 15 of the Corruption Eradication Law, which specifically addresses participation in corruption crimes, remains underutilized by law enforcement, even though it offers a more appropriate legal basis for prosecuting assisting perpetrators who do not possess the same quality as principal perpetrators.

The findings suggest that law enforcement authorities should more carefully determine the role and authority of each perpetrator in corruption cases, applying the appropriate form of participation under Article 55 or Article 56 of the Criminal Code, or Article 15 of the Corruption Eradication Law, to achieve just and proportional sentencing. Future research should examine the practical implementation of these doctrinal distinctions in judicial practice and develop more precise guidelines for determining participation in corruption cases.

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References
Ali, Z. (2021). Metode Penelitian Hukum. In *Sinar Grafika*.

Amalia, M., Rays, H. M. I. khwa., Hosnah, A. ul., & Fajrina, R. M. (2024). Asas-Asas Hukum Pidana. In *Sonpedia Publishing Indonesia*.

Anggraini, D., Pujawan, I. N., & Niniet, I. A. (2011). Optimasi Konfigurasi Jaringan Supply Chain Hulu Gas Lpg 3 Kg Di Indonesia. *Semantic Scholar*. www.esdm.go.id

Angraeni, N., Bunga, D., Citranu, C., & Aris, A. rdiyanti. (2024). Hukum Pidana: Teori Komprehensif. In *PT. Sonpedia Publishing Indonesia.*

De Jong, F. (1988). Handboek van het Nederlandse strafrecht – 1935. *Juristen Die Schreven En Bleven, 21*(2), 205-210.

Fauzi, M. Y., & Jainah, Z. O. (2022). *Analisis Pertangung Jawaban Pidana Terhadap Percobaan Pencurian Dengan Pemberatan. 23*(1), 95–118.

Jawa, D., Malau, P., & Ciptono, C. (2024). Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Corruption Criminal Law Enforcement Challenges in Indonesia Nilai Indeks Persepsi Korupsi Indonesia tertinggi di Asia Tenggara . Ini berbeda. *Jurnal USM Law Review, 7*(2), 6–7. https://doi.org/doi.org/10.26623/julr.v7i2.9507

Kila, F., Sugiartha, I. N. G., & Ujianti, N. M. P. (2023). Pertanggungjawaban Pidana Tanpa Sifat Melawan Hukum dalam Perspektif Pembaharuan Hukum Pidana. *Jurnal Konstruksi Hukum, 4*(1), 28–34. https://doi.org/doi.org/10.22225/jkh.4.1.6027.28-34

Kumalaningdyah, N. (2019). Pertentangan Antara Diskresi Kebijakan Dengan Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi. *Jurnal Hukum Ius Quia Iustum*, *26*(3), 481–498. https://doi.org/10.20885/iustum.vol26.iss3.art3

Marzuki, H. M. L. (2017). Menyoal Diskresi yang Terpasung (Mengkritisi Undang- Undang Administrasi Pemerintahan. *Amanna Gappa*, *25*(2), 2–7.

Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum. *Jurnal Penegakan Hukum Indonesia (JPHI)*, 1–20. https://doi.org/doi.org/10.51749/jphi.v2i1.14

Pattiasina, T. (2021). Divonis 6 Tahun Adrianus Sihasale Ajukan Banding. *Ambon.Tribunnews*.

Pietersz, J. J. (2017). Prinsip Good Governance Dalam Penyalahgunaan Wewenang. *Jurmal Sasi, 23*(2), 167–188. https://doi.org/doi.org/10.47268/sasi.v23i2.107

Ponglabba, C. S. R. (2017). Tinjauan Yuridis Penyertaan Dalam Tindak Pidana Menurut KUHP. *Lex Crimen Vol., VI*(6), 31–37.

Pratiwi, S. (2022). Delik Penyertaan Dalam Kitab Undang-Undang Hukum Pidana (KUHP). *Binamulia Hukum, 11*(1), 69–80. https://doi.org/10.37893/jbh.v11i1.677

Purba, D. A., Hartono, M. S., & Setianto, M. J. (2023). Analisis Yuridis Putusan Hakim Dalam Penerapan Ketentuan Pasal Penyertaan Pada Perkara Tindak Pidana Korupsi (Studi Putusan Nomor 23/Pid.Sus-TPK/2018/PNSrg) Devica. *Jurnal Gender Dan Hak Asasi Manusia, 1,* 142–155.

Putra, V., Danil, E., & Zurnetti, A. (2023). Pertanggungjawaban Pidana Terhadap Pelaku Tindak

Pidana Korupsi Yang Dilakukan Oleh Banyak Orang Pada Kasus Putusan Nomor 6/Pid.Sus.TPK/2023/PT.Pdg Vananda. *Unes Law Review*, *6*(1), 3092–3106. https://doi.org/doi.org/10.31933/unesrev.v6i1.1100

Putusan Pengadilan Negeri Jakarta Selatan, No.2068/Pid.B/2005/PN.Jaksel (2005).

Rizkyta, A. P., & Ningsih, B. R. (2023). Penyalahgunaan Wewenang Berdasarkan Pengadilan Tata Usaha Negara Dan Pengadilan Tindak Pidana Korupsi. *Jurnal Esensi Hukum*, *4*(2), 131–138. https://doi.org/doi.org/10.35586/esensihukum.v4i2.161

Roziwan, R., P, S. E., & Satria, I. (2022). Pertanggungjawaban Pelaku Tindak Pidana Turut Melakukan Penggelapan Karena Adanya Hubungan Kerja. *Jurnal Hukum Dan Etika Kesehatan*, *2*(2), 108–119. https://doi.org/oi.org/10.30649/jhek.v2i2.33

Santiago, F. (2017). Penegakan Hukum Tindak Pidana Korupsi oleh Penegak Hukum untuk Terciptanya Ketertiban Hukum. *PAGARUYUANG Law Journal*, *1*(1), 23–43. https://doi.org/doi.org/10.31869/plj.v1i1.268

Sondakh, D. K. G. (2009). *Tanggung Jawab Pidana Individu Bagi Pelaku Pelanggaran Terhadap Hak Asasi Manusia Dalam Rangka Pembaruan Hukum Nasional*. Universitas Hasanuddin, Makassar.

Stolwijk, S. (2009). Inleiding in Het Strafrecht in 13 Hoofdstukken. In *Deventer Kluwer*.

Suhariyanto, B. (2018). Persinggungan Kewenangan Mengadili Penyalahgunaan Diskresi Antara Pengadilan Tun dan Pengadilan Tipikor. *Jurnal Hukum Dan Peradilan*, *7*(2), 213–236. https://doi.org/doi:10.25216/JHP.7.2.2018.213-236

Susiana, P. (2025). Enyalahgunaan Diskresi Pejabat Pemerintahan Sebagai Objek Sengketa Di Pengadilan Tata Usaha Negara. *Magistra Vitae: Journal Magister Hukum*, *1*(2), 56–69.