



Criminal Liability in the Land Procurement Corruption Iain Imam Bonjol Padang  
Year 2010  
(Study of Decision No. 26 / Pid.Sus / TPK / 2016 / PN / PDG)

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**Abstract**

Land procurement IAIN Imam Bonjol Padang Year 2010 was carried out directly by Prof. Dr. Sirajuddin Zar, M.A. as the Chancellor of IAIN Imam Bonjol Padang who was assisted by 4 (four) committees namely the land procurement committee, the secretariat committee, the task force (Satgas) and the Field Assistance Team. In addition to the 4 (four) committees, the land procurement of Imam Bonjol Padang in 2010 also involved Commitment Making Officers (PPK), the Examining and Recipient Committee, the Appraisal Team and Notary Public. To answer these problems, the authors in this study used a normative research method with a normative juridical approach and analytical descriptive research. After the authors analyze the theory of criminal liability and authority, the process of land procurement for Imam Bonjol Padang IAIN belongs to the procurement of land for development other than for public use which is carried out directly by IAIN Imam Bonjol Padang. Proof of corruption in land procurement IAIN Imam Bonjol Padang it must be proved from the elements of criminal acts and errors in accordance with the rules become a reference in land procurement IAIN Imam Bonjol Padang. Criminal liability in criminal acts of land procurement IAIN Imam Bonjol Padang in 2010 cannot be charged to the land procurement committee because one of the elements in criminal liability is not fulfilled, namely the element of criminal action. Therefore, the judge's consideration in decision No. 26 / Pid.Sus / TPK / 2019 / PN.PDG is wrong because the Defendant has not been proven to have committed an unlawful act as charged by the Public Prosecutor, so that the right decision for the Defendant is a free decision.

**Keywords:** *Criminal Liability; Corruption; Land Procurement*

**Introduction**

One negative culture that has continued and developed in Indonesia since the reformation era until now is corruption. Corruption is a social disease that has happened very often that gives a bad influence on the social environment, especially social life. Corruption is an infectious disease that has a negative impact on the life of the nation and state. Corruption is an act that is prohibited by the rules and legislation in force and also a very corrupt act, which seeks personal benefits to enrich themselves which has a very negative effect that can hinder the development of the country in all sectors and also destroy the government economy so as to cause divisions in government and misery and cause poverty of the people of Indonesia.

In the politics of Indonesian criminal law, corruption is considered as a form of crime that needs to be approached specifically, and is threatened with a fairly severe crime.<sup>1</sup> Corruption is categorized as extraordinary crime because the impact it causes is extraordinary. Because corruption that had occurred in the systemic and widespread, not only state financial harm, disrupt the stability and security of society, and weakens democratic values, ethics, fairness and legal certainty, which may jeopardize the continuity of development, but also have violated the rights social and economic community at large. Starting from this perception, corruption is classified as a crime whose eradication must also be carried out in extraordinary ways.<sup>2</sup>

One of the cases of criminal acts of corruption that shocked West Sumatra in 2016 was the criminal act of corruption in the procurement of land for Campus III of IAIN Imam Bonjol Padang in 2010, one of which was the convicted Prof. Dr. H. Salmadani, M. Ag as Chair of the Land Procurement Committee. The beginning of this case was in 2010 IAIN Imam Bonjol Padang do Land Procurement for the construction of Campus III in Koto subdistrict Bangek Sungai Padang Tengah area of 606 084 m<sup>2</sup>.

The problem that arise later in 2015 was the issuance of land certificates in the name of others on land that had been released and had carried out the certificate process to IAIN Imam Bonjol Padang in 2010 so that the 606,084 m<sup>2</sup> land that had been acquired was reduced. Due to the lack of this land, Prof. Dr. H. Salmadani, M. Ag as the Chairperson of the Land Procurement Committee was determined as one of the Defendants of a criminal act of corruption in the procurement of campus III IAIN Imam Bonjol Padang in 2010 considered to have committed an illegal act as referred to in Article 61 Paragraph (1), (2) and (3) Head of National Land Agency Regulation No. 3 of 2007 concerning Implementing Regulations of Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Procurement for Implementation of Development in the Public Interest.

For Prof. Dr. H. Salmadani, M. Ag as the Chairperson of the Land Procurement Committee, the Padang Corruption Court at the Padang Class 1A District Court on 8 December 2018 has decided on this case as can be seen in decision No. 26 / Pid.Sus / TPK / 2016 / PN. The decision is as follows:

1. State the Defendant Prof. Dr. H. Salmadani, M.Ag was proven legally and convincingly guilty of committing the crime of "CORRUPTION THAT IS CONDUCTED TOGETHER" as in the primair indictment;
2. Convicted the defendant Prof. Dr. H. SALMADANIS, M.Ag with imprisonment for 4 (four) years, and a fine of Rp. 200,000,000.00 (Two Hundred Million Rupiah) provided that if the fine is not paid, it will be replaced with a sentence of imprisonment for 2 (two) months;<sup>3</sup>

If read and understood carefully and thoroughly about the decision, the Defendant Prof. Dr. H. Salmadani, M. Ag as the Chairperson of the Land Procurement Committee has committed an illegal act that violates Article 61 Paragraph (1), (2) and (3) Head of National Land Agency Regulation No. 3 of 2007 concerning Implementing Regulations of Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Procurement for Implementation of Development in the Public Interest. whereas land procurement conducted by IAIN Imam Bonjol Padang in 2010 was different from land procurement conducted by the government in general, where Imam Bonjol Padang's IAIN in land procurement was carried out directly by forming its own committee, and having its own governance rules in land procurement which not only guided Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Procurement Implementation of Development for the Public Interest, but

<sup>1</sup> Elwi Danil, Concept, Crime, and Eradication, PT. Raja Grafindo Persada, Jakarta, 2011, p. 1.

<sup>2</sup> Aziz Syamsuddin, Special Criminal Law, Sinar Grafika, Jakarta, 2017, p. 175-176.

<sup>3</sup> Decision of the Corruption Criminal Court in the Padang Class IA District Court Number 26 / Pid.Sus / TPK / 2016 / PN.PDG., P. 240.

also following the rules of procurement of goods and services and special rules that apply in the Ministry of Religion of the Republic of Indonesia.

From the description above, the question for the writer is that if there is a criminal act of corruption in the land procurement, can the land procurement committee be held liable for criminal liability and how is the legal consideration in decision No. 26 / Pid.Sus / TPK / 2016 / PN.PDG. Based on the background of the problem above, encourage the author to conduct further research and raise this problem into a paper in the form of a thesis with the title “**CRIMINAL LIABILITY IN THE LAND PROCUREMENT CORRUPTION IAIN IMAM BONJOL PADANG YEAR 2010 (Study of Decision No. 26 / Pid.Sus / TPK / 2016 / PN / PDG)**”

### **Research Method**

The research method used in this study is a normative juridical, a research approach based on normative literature study and conducted through investigating law secondary data.<sup>4</sup> To conduct this study, the researcher completes any materials required in studying and finishing this study by investigating the primary, secondary, and tertiary data.<sup>5</sup> The techniques to collect the data are:

1. Literature study is conducted through collecting law materials relating to the study of materials, such as books of law whether in a form of written texts or soft-copy edition, such as e-books, journal articles, papers, government publication, and other sources provided in the internet and accessed via online. Besides, reading, studying, and noting some reviews of literature materials relating to the object of this study are conducted.
2. Study of interview was conducted to some related interviewees, such as the Head of National Land Agency of West Sumatera Province and Conveyance.

The character of the research is analytical descriptive, that is, which describes a condition or condition that is happening and is going on and its purpose is to be able to provide as much detailed data as possible about the object under study.

### **Result and Conclusion**

The land procurement of IAIN Imam Bonjol Padang in 2010 was included in the category of land procurement for construction implementation other than for public use. To that end, IAIN Imam Bonjol Padang conducts land procurement directly by IAIN Imam Bonjol Padang through the chancellor supported by four committee members namely the land procurement committee, secretariat committee, task force and field support team. In addition to the 4 (four) registries, the land acquisition of Imam Bonjol Padang in 2010 also involved Commitment Making Officers (PPK), the Examining and Recipient Committee, the Assessment Team and Notary Public.

To determine the mistakes in the land procurement for IAIN Imam Bonjol Padang in 2010, then back to the lack of land area of 65,231 M2 resulted in the suffered losses worth of Rp.1,946,701,050 (one billion nine hundred forty six million seven hundred one thousand fifty rupiah) ). This land shortage is inseparable from the mistakes made by the parties involved in the the land procurement for IAIN Imam Bonjol Padang, Rector, Committing Officer (PPK), committee of examiners and recipients of work, Rector, Notary and land owner.

<sup>4</sup> Mamudji Sri, et al., *Legal Research and Writing Methods*, Faculty Publishing Board Law of the University of Indonesia, Jakarta, 2005, Page4-5.

<sup>5</sup> Adi Rianto, *Social and Legal Research Methodology*, Granite, Jakarta, 2004, page 31.

To determine the criminal liability of one of the most important elements is a mistake. According to criminal law experts, the mistake (Schuld) was formed from the existence of a number of elements which generally consist of the following three elements:

1. The ability to be responsible (toerekeningsvatbaarheid) of the perpetrator;
2. certain mental attitude of the performer in relation to his actions in the form of intent or negligence; and
3. There is no reason to eliminate the blame or eliminate criminal liability on the perpetrators.<sup>6</sup>

The existence of the land procurement committee IAIN Imam Bonjol Padang only help the chancellor as the party who has the absolute responsibility in the procurement of the land. Observing (Decree) the land procurement committee of IAIN Imam Bonjol Padang in 2010 did not explain the duties and responsibilities in the land procurement, unlike the land procurement committee in the public interest which specifically explained the duties and responsibilities of the land procurement committee.

So, it is clear that the existence of the land procurement committee IAIN Imam Bonjol Padang only helps the Chancellor in terms of socialization, meetings / consultations with the community in terms of the land procurement. Whereas the relinquishment of rights, re-measurement, inspection of the work is the responsibility of the Commitment-Making Officer, SPM Issuing Officer and the Examining Officer and Chancellor in accordance with their duties and responsibilities as stipulated in the Minister of Religion Regulation of the Republic of Indonesia Number 2 of 2006 concerning the Mechanism of Payment of Budget Expenses. State Revenue and Expenditure in the Ministry of Religion.

The responsibility of the Budget User Authority (KPA) namely Prof. Dr. SIRAJUDDIN ZAR, MA in the procurement of campus III land IAIN Imam Bonjol Padang can be seen in the provisions of the direct payment mechanism (LS), in accordance with Article 5 numbers 2 and 3 of the Regulation of the Minister of Religion of the Republic of Indonesia Number 2 of 2006 Whereas for the responsibilities of the PPK appointed with SK by KPA based on Article 3 paragraph (1) jo jo Article 1 number 8, number 11, number 12 and number 13, Article 6 Regulation of the Minister of Religion of the Republic of Indonesia Number 2 of 2006 Concerning the Mechanism of Payment of State Budget and Expense Burden in the Ministry of Religion .

Seeing the function of each party involved in the land procurement as described in their duties and responsibilities in the Regulation of the Minister of Religion of the Republic of Indonesia Number 2 of 2006 concerning the Mechanism of Paying for the State Budget in the Ministry of Religion, the land procurement committee in the land procurement activity does not have any criminal action which is a requirement for criminal liability to be held. Because the land acquisition committee does not fulfill one of the elements in criminal liability, the land acquisition committee cannot be held liable.

Legal Considerations in its decision No. 26 / Pid.Sus / TPK / 2016 / PN. In declaring the Defendant has been guilty of committing an act against the law as referred to in Article 2 paragraph (1) of Law Number 31 of 1999 which has been amended by Law Number 20 of 2001 concerning Eradication of Corruption is wrong / incorrect, because legally the Land procurement Committee There is no action "against the law" as referred to in Article 2 Paragraph (1) of Law No. 31 of 1999 concerning Eradication of Corruption Crimes as amended and supplemented by Law Number 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning Eradication of Corruption Crimes. therefore, the correct decision for the Defendant as the Chairperson of the Land procurement Committee is a free Verdict as referred to in Article 191 paragraph (1) of Law Number 8 of 1981 concerning the Criminal Procedure Book (KUHP).

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<sup>6</sup> Frans Maramis, Op.Cit. p. 116.

## **References**

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Decision of the Corruption Criminal Court in the Padang Class IA District Court Number 26 / Pid.Sus / TPK / 2016 / PN.PDG., P. 240.

Criminal Law Code (KUHP).

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