

LAW ENFORCEMENT THE CRIME OF CORRUPTION ABUSE OF SCHOOL OPERATIONAL ASSISTANCE FUNDS

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Abstract

With the existence of school operational assistance funds (BOS), it is hoped that public access to quality education is expected can be achieved. However, in practice the use of BOS funds is not always what is expected. This is because there are irresponsible elements who often misuse the BOS funds. Individuals who use BOS funds not in accordance with the guidelines for the use of BOS funds can be held legally responsible. The occurrence of corruption in the misuse of school operational assistance funds is caused by several factors, namely the school operational assistance management team that should have been formed by the school principal has never been formed, so that the management of school operational assistance funds is not transparent and accountable. Another factor is the weakness of the control system in the management of the School Operational Assistance Fund, which creates opportunities for managers to use BOS funds for personal interests. Perpetrators of criminal acts of corruption misuse of school operational assistance funds have been processed by law enforcement officials. The process starts from the stages of investigation, prosecution and trial and has obtained a final and binding decision. Even the perpetrator who was convicted and has served the sentence imposed on him. In the process, law enforcement officers have carried out the law enforcement process and have provided legal certainty for the actions of the perpetrators. However, the results of the process are still far from the principles of justice and benefits for the community.

Keywords: Law Enforcement, Corruption, School Operational Assistance

INTRODUCTION

One sector that has a fairly large portion of the budget from both the APBN and APBD is the budget in the education sector, which is 20% as an implementation of the mandate of the 1945 Constitution of the Republic of Indonesia (UUD NRI). can improve the quality of education in Indonesia. However, the large education budget has even become one of the areas that are prone to corruption. Although the value of corruption from each individual is small, if it is accumulated it will become a very large value and will be a loss to the state. Corruption in the

field of education will have a direct impact on students, causing a decline in the quality of education.¹

With the school operational assistance fund (BOS), it is hoped that public access to quality education can be achieved. However, in practice the use of BOS funds is not always what is expected. This is because there are irresponsible elements who often misuse the BOS funds. Individuals who use BOS funds not in accordance with the guidelines for the use of BOS funds can be held legally responsible.²

Misuse of BOS funds is an act that is categorized as a criminal act of corruption as regulated in Article 8 (Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption) which reads:³

"Shared with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a minimum fine of Rp. 150,000,000.00 (one hundred and fifty million rupiah) and a maximum of Rp. 750,000,000.00 (seven hundred and fifty million rupiahs), a civil servant or a person other than a civil servant assigned to carry out a public office continuously or temporarily, intentionally embezzles money or securities that are kept because of his position, or allows the said money or securities to be taken or embezzled. by another person, or assist in performing the act."

North Maluku Province is an archipelagic province that also receives BOS funds from the APBN and APBD. However, it is inseparable from the existence of individuals in certain schools who then abuse the use of BOS funds, as has happened in South Halmahera Regency. South Halmahera Regency is located in the southern part of the island of Halmahera, North Maluku Province, in 2017 there was a case of corruption in the misuse of BOS funds by one of the principals of a junior high school.

The principal of the school abused BOS funds from 2014 to 2016. Then in 2017 a legal process was carried out against the principal. The principal does not finance school activities properly according to the guidelines for the use of BOS funds, but the funds are used for his personal interests. The misuse of BOS funds is not due to various existing factors. Therefore, there is a need for strict law enforcement for any individual principal or anyone who misuses BOS funds by referring to the provisions of the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

RESEARCH METHOD

¹ Ishak, Nurfaika, Rahmad Ramadhan Hasibuan, and Tri Suhendra Arbani. "Bureaucratic and Political Collaboration Towards a Good Governance System." *Bestuur*, Volume 8, Nomor 1, (2020), hal. 20.

² Safriani, Andi. "Hakikat Hukum dalam Perspektif Perbandingan Hukum." *Jurnal Jurisprudentie* 5.2 (2018).

³ Undang-Undang Republik Indonesia Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi

This research uses socio-juridical research type. Research with socio-juridical type is used with the reason to identify the factors that cause the occurrence of criminal acts of corruption in the misuse of school operational funds in South Halmahera Regency and the law enforcement process. The nature of this research is exploratory which aims to test whether there is a causal relationship between the various variables studied.

The approach used in this study is the statutory approach (*the statute approach*).⁴ In this context, the provisions that will be reviewed and reviewed are several national legal instruments and regional policies, while to analyze the authors use a conceptual approach (*conceptual approach*) and a case approach (*case approach*).⁵

The types and sources of data used by researchers are primary data, namely data obtained or sourced through direct interviews with related sources. Secondary Data, namely data obtained from books and writings related to this research.

In accordance with the problems to be answered and the objectives to be achieved in this study, all legal materials collected were analyzed qualitatively, then described to answer the problems in this research.

RESULTS AND DISCUSSION

A. Factors that lead to criminal acts of corruption misuse of school operational assistance funds

1. Not formed School BOS Management

Team The boss management team consists of the Principal as the person in charge and also the teacher council, however the school BOS Management Team was never formed because it was never implemented formation meeting and there is no Decree for the Establishment of the School BOS Management Team. It was the principal who immediately took or disbursed BOS funds at Bank Maluku in Bacan, even though it was the treasurer who should have disbursed the Bos funds. At the beginning of each year, the school should form a School BOS Management Team which is determined by the principal by means of a Decree (SK). However, from 2014 to 2016, the Defendant as the Principal of SMPN 42 Halmahera Selatan never issued a Principal Decree regarding the formation of the School BOS Management Team.

The School BOS Management Team consists of:

- a. Person in Charge: Principal
- b. Member:
 - 1) School BOS Treasurer

⁴ Peter Mahmud Marzuki, 2010, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, hlm. 96

⁵ *Ibid*, hlm. 137

- 2) One person from the student's parent element outside the school committee who is selected by the principal and the school committee by considering their credibility and avoiding conflicts of interest.

The School BOS Management Team is determined by a decree from the Principal. However, with the absence of the formation of the school BOS Management Team at SMPN 42 Halmahera Selatan by the Defendant as the Principal of SMPN 42 Halmahera Selatan, it resulted in the inability to carry out the duties and responsibilities of the BOS Management Team at SMPN 42 Halmahera Selatan which has the following duties and responsibilities:

- a. Filling out, sending and updating basic education data (forms BOS-01A, BOS-01B, BOS-01C, BOS-01D and BOS-01E) in full into the system provided by the Ministry of Education and Culture.
- b. Making RKAS covering all sources of school revenue (Forms BOS-01A and BOS-K2);
- c. Verifying the amount of funds received with existing student data;
- d. Manage BOS funds responsibly and transparently;
- e. Announce the amount of funds received and managed by the education unit and the plan for the use of BOS funds (RKAS) on the school notice board signed by the principal, treasurer and Head of the School Committee (Form BOS-03);
- f. Announce the use of BOS funds on the bulletin board (Form BOS-04, Form BOS-K3 and BOS-07);
- g. Formally and materially responsible for the use of received BOS funds;
- h. Make a report on the realization of the use of quarterly BOS funds (Forms BOS-K7 and BOS-K7A) at the end of each quarter as a form of accountability for the use of funds and stored in the education unit for monitoring and auditing purposes;
- i. Prepare and sign cash closing register forms and cash inspection reports (BOS-K7B and BOS-K7C);
- j. Entering quarterly BOS fund usage data into the online system via www.bos.kemdikbud.go.id;
- k. Make an annual report which is a complication of the report on the use of BOS funds every quarter to be submitted to the District/City Education SKPD no later than January 5 of the following year;
- l. Carry out bookkeeping in an orderly manner (Forms BOS-K3, BOS-K4, BOS-K5, and BOS-K6);
- m. Providing services and handling public complaints;
- n. Placing banners in education units related to the free education policy (BOS-05);
- o. For public schools, they are required to report the results of purchasing investment goods from BOS funds to the Regency/City Education SKPD;
- p. Signing a statement of responsibility stating that the BOS received has been used in accordance with the BOS NPH (Attachment of BOS-K7 Format);
- q. Propose a list of names of BSM recipients in accordance with Social Security Card (KPS) holders and proposals outside of KPS to the Regency/City BOS Management Team.

2. Management of BOS funds is not transparent

The Defendant as Principal of SMP Negeri 42 South Halmahera in managing the School Operational Assistance (BOS) funds received by SMP Negeri 42 Halmahera

Selatan never involved Muhammad Guntur Hi Ibra, S.Pd as school treasurer, Amin Taraju and Bakar Karim as the school committee and parents of students so that the amount of BOS funds received by SMPN 42 Halmahera Selatan and its use cannot be known transparently. This can be seen from the non-implementation of the following activities:

- a. Not making RKAS (School Activity Plan and Budget) which covers all sources of school revenue
- b. Announcing the amount of funds received and managed by the school and the planned use of BOS funds (RKAS) on the school notice board signed by the principal, treasurer and school committee.
- c. Announce the use of BOS funds on the school notice board.

Whereas the Defendant as the head of SMP Negeri 42 Halmahera Selatan has never held a meeting on the use of BOS funds involving the School Management Team, the teacher council and the school committee so that there has never been an agreement in the form of minutes of the meeting and signed by the meeting participants regarding the agreement on the use of BOS funds.

The defendant as the head of SMP Negeri 42 Halmahera Selatan in using the BOS funds received was not in accordance with the components of activities regulated in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 101 of 2013 Chapter V Letter A, Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 161 of 2014 Chapter V Letter A and Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 80 of 2015 as amended by Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 16 of 2016 Chapter V letter A regarding Financing Components, including the following:

1. Library development;
2. Activities in the context of accepting new students;
3. Learning and extra-curricular activities for students;
4. Test activities and exams;
5. Purchase of consumables;
6. Power subscriptions and services;
7. School maintenance/light rehabilitation and school sanitation;
8. Payment of monthly honorarium for honorary teachers and honorary education personnel;
9. Teacher Professional Development;
10. Helping poor students who have not received assistance from other programs such as KIP;
11. BOS management financing;
12. Other costs if all components 1 to 12 have been funded by BOS.

The defendant as the Principal of SMPN 42 Halmahera Selatan used the BOS funds received in 2014, 2015 and 2016 outside of its allocation, among others, for personal purposes, including consumption during the 2015-2016 ELECTIONS

because the defendant supported one of the candidates for regent and deputy regent in South Halmahera Regency.

The defendant as the Head of SMPN 42 Halmahera Selatan in terms of reporting the use and accountability of School Operational Assistance (BOS) funds did not carry out as stipulated in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 101 of 2013 Chapter VII Letter A Number 1, Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 161 of 2014 Chapter VII Letter A Number 1, as well as Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 80 of 2015 as amended by Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 16 of 2016 Chapter VII letter A Number 1 which include the following:

- a. Reporting the Budget Plan and School Expenditure Income (RAPBS) or called Form K-1.
- b. Reporting RKAS or BOS Form K-2.
- c. Every expense is recorded in the General Cash Book or BOS Form K-3.
- d. Each disbursement is recorded in the Cash Book or BOS Form K-4.
- e. Every bank disbursement is recorded in the bank subsidiary ledger or BOS Form K-5.
- f. Tax payments are recorded in the Tax Helper Book or BOS Form K-6.
- g. Make a realization of the use of funds for each type of budget or BOS K-7 Form.
- h. Make a recapitulation of the use of BOS funds per quarter or BOS Form K-7A.

Based on what has been described above, the author then concludes that the principal in managing BOS funds is self-managed in a non-transparent manner because: the

- a. principal has never made an Activity Plan and School Budget (RKAS) so that the RKAS has never been announced. The
 - b. use of BOS funds is only known by the principal and use of the funds that have been received have never posted on school notice boards
 - c. BOS funds that have been received are managed by the Principal and treasurer do not know about accountability
 - d. treasurer of school have never seen any evidence of the expenditure on the use of the funds given / shown by
 - e. Headmasterthe school has never involved the BOS treasurer or the parents of students in managing BOS funds
3. Weak control system in the management of the School Operational Assistance Fund (BOS)

The control system in managing BOS funds is so weak that there are opportunities for managers using BOS funds for the personal interest of the principal. This is because the Monitoring Team from the Education Office of South Halmahera Regency never goes to school. This problem occurs because of the span of control in the form of a long distance considering the geographical conditions of South

Halmahera Regency which is an archipelago. During the period from 2014 to 2016 there was never a monitoring team from the South Halmahera District Education Office who went to school to carry out supervision in the form of monitoring and evaluating the use of BOS funds.

Due to the weakness of the control system in the management of the School Operational Assistance Fund (BOS) causing irregularities in the use of the School Operational Assistance Fund (BOS) for the 2014 (Semester II), 2015, and 2016 Fiscal Years, there was a state financial loss of Rp. 200,740,000.00 (two hundred million seven hundred and forty thousand rupiah). So that the impact on the distribution of School Operational Assistance Funds (BOS) in 2014, 2015 and 2016 at SMPN 42 Halmahera Selatan was not achieved, namely:

- a. To ease the burden on the community to finance education in the context of quality 9-year compulsory education, and play a role in accelerating the achievement of Standards Minimum Service (SPM) in education units that have not met the SPM, and the achievement of National Education Standards (SNP) in education units that have met the SPM.
- b. To waive levies for all junior high school students on the operating costs of the education unit.
- c. To free all fees for poor students from all levies in any form.

Whereas the impact of the weak control system in the management of the School Operational Assistance Fund (BOS) caused the Defendant to use the received BOS funds not in accordance with the components of activities regulated in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 101 of 2013 Chapter V Letter A, Ministerial Regulation Education and Culture No. 161 of 2014 Chapter V the letters A and Regulation of the Minister of Education and Culture, No. 80 of 2015 as amended by the Regulation of the Minister of Education and Culture No. 16, 2016, Chapter V letter A regarding Component Financing, among others, as follows:

- a. Development Library;
- b. Activities in the context of accepting new students;
- c. Learning and extra-curricular activities for students;
- d. Test activities and exams;
- e. Purchase of consumables;
- f. Power subscriptions and services;
- g. School maintenance/light rehabilitation and school sanitation;
- h. Payment of monthly honorarium for honorary teachers and honorary education personnel;
- i. Teacher Professional Development;
- j. Helping poor students who have not received assistance from other programs such as KIP;
- k. BOS management financing;
- l. Other costs if all components 1 to 12 have been funded by BOS.

B. The process of law enforcement for the criminal act of corruption in the misuse of school operational assistance funds

Soerjono Soekanto defines law enforcement as follows, conceptually, the essence and meaning of law enforcement lies in harmonizing the relationship of values that are spelled out in solid rules and manifested in an attitude of action as a summary. the final stage of value elaboration to create, maintain and maintain peaceful social life.⁶

Humans in social life, basically have certain views about what is good and what is bad. These views are always manifested in certain value pairs, for example: the value of order - the value of tranquility; public interest value - private interest value; sustainability value - innovation value and so on. In the context of law enforcement, these pairs of values need to be harmonized; for example, it is necessary to harmonize the value of order with the value of peace. This is because the value of order is based on attachment, while the value of tranquility is based on freedom. In his life, humans need attachment or freedom in a harmonious form.⁷

Andi Hamzah⁸ states that law enforcement is the activity of submitting the values that are outlined in the principles or views of values that are solid and manifest from an attitude of action as a series of final stages of spreading values to create (*as social engineering*) maintain and maintain (*social control*). community, social life, whether it is an enforcement action (*preventive*) or an eradication action (*repressive*).

More, Sudarto⁹ said, if the legal order is viewed schematically, it can be distinguished that there are three law enforcement systems, namely the civil law enforcement system, the administrative law enforcement system, and the criminal law enforcement system. The standpoint of the legal system schematic, enforcement of criminal law is seen as an independent law enforcement system, because it is supported by law enforcement officials (*lawenforcementOfficier*) which has its own rules.

Thus, law enforcement is every action by law enforcement officers to implement, implement, and enforce the law in accordance with the duties, functions and authorities given by laws and regulations with the aim that the law can be obeyed so that legal objectives can be achieved.¹⁰

⁶ Soerjono Soekanto. *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Raja Grafindo Persada, Jakarta, 2007, hlm. 5.

⁷ *Ibid* hlm. 6

⁸ Andi Hamzah, *Barang Bukti Dalam Proses Pidana*, Sinar Grafika, Jakarta, 1998, hlm.13.

⁹ Sudarto, *Kapita Selektta Hukum Pidana*, Alumni, Bandung, 1986, hlm.111.

¹⁰ Tri Suhendra Arbani, "Penggunaan dan Batas Diskresi Dalam Pengelolaan Keuangan Daerah Di Indonesia." *Widya Pranata Hukum: Jurnal Kajian Dan Penelitian Hukum, Volume 1 Nomor 2*, (2019): hal 179.

The law enforcement officers in question are as stated by Suparni¹¹ usually include: police, prosecutors, judges, officials, and legal advisors. The law enforcement processes carried out by law enforcement officers, especially in corruption crimes, namely:

1. Investigation Process by District Attorney

Investigators means a series of investigative actions carried out by investigating officials in accordance with the method stipulated in the law to seek and collect evidence and the evidence makes or becomes light of the crime that occurred while at the same time finding the suspect or the perpetrator of the crime. In the investigation, the emphasis is placed on the act of seeking and collecting evidence so that the criminal acts found can be explained and so that they can find and determine the perpetrators.¹²

The process of investigating corruption in the misuse of school operational assistance funds began with an audit report from the South Halmahera Regency Inspectorate which concluded:

- a. SMP Negeri 42 Halmahera Selatan received the School Operational Assistance Fund (BOS) for the 2014 (Semester II), 2015, and 2016 Fiscal Years. of Rp. 276,810,000.00 (two hundred and seventy six million eight hundred and ten thousand rupiah).
- b. Withdrawal of School Operational Assistance Funds (BOS) for Fiscal Years 2014 (Semester II), 2015, and 2016 by Br. Suharto Noh Rp. 276,750,000.00 (two hundred and seventy-six million seven hundred and fifty thousand rupiah).
- c. Accountability for the use/expenditure of the School Operational Assistance Fund (BOS) for Fiscal Years 2014 (Semester II), 2015, and 2016 has been made but not supported by complete and valid evidence. However, there is a real expenditure for school operational activities of Rp. 76,010,000.00 (seventy six million ten thousand rupiah).
- d. That due to allegations of irregularities in the use of School Operational Assistance Funds (BOS) for Fiscal Years 2014 (Semester II), 2015, and 2016 there was a state financial loss of Rp. 200,740,000.00 (two hundred million seven hundred and forty thousand rupiah).

Based on the results of the report, the investigators of the South Halmahera District Attorney immediately followed up by examining witnesses and experts consisting of 12 witnesses and 1 expert. After examining the witnesses and expert investigators at the South Halmahera District Attorney, 1 suspect was determined, and after the investigation file was declared complete by the Research Prosecutor, the case file was transferred as well as the surrender of the suspect to the South Halmahera District Public Prosecutor.

¹¹ Nanik Suparni, *Pelestarian, Pengelolaan dan Penegakan Hukum Lingkungan*, Sinar Grafika, Jakarta, 1992, hlm.160.

¹² M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP*, Sinar Grafika, Jakarta, 2015, hlm.109.

2. Prosecution Process by the Public

Prosecutor A public prosecutor is a prosecutor who is authorized by law to carry out prosecutions and carry out judges' decisions. In carrying out the function and authority of the prosecution, the public prosecutor on the one hand receives the case file from the investigator. On the other hand, the case files he received were transferred to the judge to be prosecuted and examined in court. In terms of the prosecution's authority, it can be said that during this trial, the main role of the prosecutor as a public prosecutor is to prove the guilt of the accused.¹³

After the public prosecutor received the transfer of case files from the investigators of the South Halmahera District Attorney, the public prosecutor then prepared an indictment consisting of the following charges:

PRIMAIR :

The defendant's actions were as regulated and threatened with criminality in Article 2 paragraph (1) in conjunction with Article 18 of Law Number 31 1999 concerning the Eradication of Corruption Crimes as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes.

SUBSIDAIRsanctions :

The defendant's actions are as regulated and subject to criminalin Article 3 in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and added to by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 Regarding the Eradication of Criminal Acts of Corruption.

MORE SUBSIDAIR :

The defendant's actions as regulated and punishable by crime in Article 9 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and added to by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication Corruption Crime.

Furthermore, the case file and the suspect were transferred to the court for corruption at the Ternate District Court, and the public prosecutor has charged the defendant with criminal charges which are basically in accordance with the criminal charges of the public prosecutor, the defendant has been legally and convincingly proven guilty of committing a criminal act of corruption as The Subsidiary Charge of the Public Prosecutor is violating Article 3 in conjunction with Article 18 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of

¹³ *Ibid*, hlm. 367

Corruption. The defendant is also charged with imprisonment for 2 (two) years and 6 (six) months and a fine 50,000,000.- (*fifty million rupiah*) of Rp. and is also sentenced to pay compensation to the Defendant in the amount of Rp. 200,740,000.- (*two hundred million seven hundred and forty thousand rupiahs*), with the provision that if the Defendant does not pay the replacement money within 1 (one) month after the Court's decision has permanent legal force, his assets are confiscated by the Prosecutor and auctioned off. to cover the replacement money and in the event that the Defendant does not have sufficient assets to pay the replacement money, he shall be punished with imprisonment for 1 (one) year.

3. Trial Process at the Corruption Court

Basically, the examination in court is to look for legal facts to find the ultimate truth (material truth) regarding the actual events that occurred so that the contents of what the public prosecutor is accused of are proven to be true or vice versa.¹⁴

At the trial in the court of corruption at the Ternate District Court, the indictment was read by the public prosecutor and on this charge the defendant and his legal advisor did not file an objection/exception. The panel of judges then ordered the public prosecutor to present witnesses and experts to hear their statements and opinions as well as to examine the accused. Furthermore, on the criminal charges from the public prosecutor, the defendant and his legal adviser have submitted a plea/defense which basically asks for leniency. After the examination of the case in trial was completed, the panel of judges then deliberated and handed down a decision which in essence stated that the defendant had been legally and convincingly proven guilty of committing a criminal act of corruption as stated in the Subsidiary Charge of the Public Prosecutor, namely violating Article 3 in conjunction with Article 18 of Law Number 31 of 1999 as has been amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption. The defendant is also charged with imprisonment for 2 (two) years and 6 (six) months and a fine 50,000,000.- (*fifty million rupiah*) of Rp. and is also sentenced to pay compensation to the Defendant in the amount of Rp. 200,740,000.- (*two hundred million seven hundred and forty thousand rupiahs*), with the provision that if the Defendant does not pay the replacement money within 1 (one) month after the Court's decision has permanent legal force, his assets are confiscated by the Prosecutor and auctioned off. to cover the replacement money and in the event that the Defendant does not have sufficient assets to pay the replacement money, he shall be punished with imprisonment for 1 (one) year. Moment this The perpetrator has finished serving his sentence and has also been dismissed from his position as principal as a consequence of the legal responsibility that must be accepted for his actions.

The crime of corruption in the education budget, especially the school operational assistance fund (BOS), should be eradicated. Because corruption in the

¹⁴ Adami Chazawi, *Hukum Pidana Korupsi di Indonesia*, Rajawali Pers, Depok, 2018, hlm. 350

education sector has a lot of implications, not only in terms of the amount of state losses, but the impact can be much bigger. As a result of corruption in the education sector, educators will lose the basis of legitimacy and public trust in educational institutions and the leadership of educational institutions will also be lost. Another impact is that the community's opportunity to get quality education is lost due to the corruption of the education budget.

Therefore, if you look at the law enforcement process for corruption, the misuse of school operational assistance funds in South Halmahera Regency which has been carried out by law enforcement officers, from the point of view of legal certainty starting from the stages of investigation, prosecution and trial process to the court's decision, it has been fulfilled as follows. statutory provisions. However, if you look further at the impact of corruption in the school operational assistance funds, it seems very far from the sense of justice and benefit for the community towards the sentencing that has been decided by the court to the principal as the perpetrator of the corruption.¹⁵

Existing school operational assistance funds should be used according to their designation, namely in using the BOS funds they receive must be in accordance with the components of activities regulated in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 101 of 2013 Chapter V Letter A, Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 161 2014 Chapter V Letter A and Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 80 of 2015 as amended by Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 16 of 2016 Chapter V letter A regarding Financing Components.

However, in reality the BOS funds in 2014, 2015 and 2016 were used by the Defendant for personal purposes, including consumption during the 2015-2016 Regional Head Election because the defendant supported one of the candidates for regent and deputy regent in South Halmahera Regency. As a result of the actions of the perpetrators who manage and use school operational assistance funds for their personal interests, it has implications for the service and quality of education in South Halmahera.

However, the public prosecutor at the South Halmahera District Attorney and the panel of judges at the Corruption Court at the Ternate District Court, instead demanded and decided criminal penalties in the form of imprisonment, fines and refunds at a relatively light level, which if viewed from the perspective of legal justice society is still very far from what is expected if you see the impact of these acts of corruption. Moreover, the facts of the trial clearly revealed that the education fund which should have been used to educate the nation's life was instead used as a political cost to fund one of the pairs of candidates for regent and deputy regent in the post-conflict local election.

¹⁵ Desi Handayani, "Konflik Desentralisasi Di Bidang Pendidikan Terhadap Penyalahgunaan Dana Biaya Operasional Sekolah Biaya Operasional Sekolah (Bos) Di Indonesia." *Al-Idarah: Jurnal Kependidikan Islam*, Volume 7, Nomor 1 (2017), hal. 65.

This should be a consideration for the public prosecutor as well as for the panel of judges to be able to give the most severe decision to the perpetrators of corruption in the school's operational assistance funds.¹⁶ Instead of making a decision which, according to the author, is still light as in the criminal charges and the verdict described above, which is only in the form of imprisonment for 2 (two) years and 6 (six) months and a fine of Rp. 50,000,000.- (five) tens of millions rupiah) and also sentenced to pay compensation to the Defendant in the amount of Rp. 200,740,000, - (two hundred million seven hundred and forty thousand rupiah). Especially now that the defendant has been released after serving his sentence, while the fines and replacement money that should have been paid by the defendant are not returned to the state, but the defendant is only serving a prison sentence as a substitute for the fine and replacement money. Of course, this is a blurry note in efforts to eradicate corruption, in which the substance of eradicating corruption is the return of state financial losses, but the reality is that the defendant did not return it, but was sentenced to additional imprisonment as a substitute for payment of fines and replacement money.

CONCLUSION

The occurrence of corruption in the misuse of school operational assistance funds in South Halmahera Regency is caused by several factors, namely the school operational assistance management team that should have been formed by the school principal was never formed, so that the management of school operational assistance funds is not transparent and accountable. Another factor is the weakness of the control system in the management of the School Operational Assistance Fund, which creates opportunities for managers to use BOS funds for personal interests. The perpetrators of the criminal act of corruption in the misuse of school operational assistance funds in South Halmahera Regency have been processed by law enforcement officials. The process starts from the stages of investigation, prosecution and trial and has obtained a final and binding decision. Even the perpetrator has served the sentence imposed on him. In the process, law enforcement officers have carried out the law enforcement process and have provided legal certainty for the actions of the perpetrators. However, the results of the process are still far from the principles of justice and benefits for the community.

¹⁶ Jayadi, Ahkam. "Peran Nilai-Nilai Religiositas dalam Pembangunan dan Penegekan Hukum Negara." *Jurnal Jurisprudentie* 6.1 (2019), hal. 30

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