

Criminal Liability In The Crime Of Corruption In The Construction Of A 4G Base Transceiver Station (Bts)

Herli Antoni¹; Mustakim²; Lilik Prihatini³; Asmak Ul Hosnah⁴. Walter AL Sinaga⁵.

^{1,2,3,4} Faculty of Law, Pakuan University
Jl. Pakuan, RT.02/RW.06, Tegallega, Bogor Tengah Subdistrict, Bogor City, West Java 16129
Email: herli.antoni@unpak.ac.id¹, mustakim@unpak.ac.id², lilikprihatini62@gmail.com³,
asmak.hosnah@unpak.ac.id⁴, sinaga.aaaron@gmail.com⁵.

Manuscripts received : 26/02/2026, Revision and Review : 18/03/2026, Approved 30/04/2026

Abstract

This writing aims to find out the factors that cause corruption, criminal liability in the corruption act of the construction of the 4G Base Transceiver Station (BTS) carried out by the President Director of Bakti in Perkaratan Decision Number 3/Pid.Sus-TPK/2024/PT DKI. This writing uses a normative legal writing method with a legislative and case approach. The legal materials used are primary and secondary legal materials and are analyzed using prescriptive-normative analysis. The results of the writing show that: (1) Abuse of Authority influenced by the organizational structure of the Ministry of Communication and Informatics which places Bakti under and responsible to the Minister through the Secretary General. The authority of the President Director of Bakti to be fully accountable to the Minister is very ineffective. (2) The lack of technical supervision is also the cause of corruption in the construction of 4G BTS. Supervision is technically impossible for the Secretary General because the duties and functions of the Secretary General are more about providing administrative support to all organizational elements within the Ministry. (3) Another factor is that political pressure or political intervention in the procurement of projects can create opportunities for acts of corruption. Criminal liability in the crime of corruption in development is in the form of imprisonment for eighteen years and a fine of one billion rupiah and an additional penalty in the form of payment of five billion rupiah in lieu of money, but the verdict or punishment imposed by the judge is still too light, which is feared that it cannot have a deterrent effect on the perpetrator in accordance with the purpose of the crime.

Keywords: *Accountability, Corruption, Base Transceiver Station construction*

A. Introduction

The Telecommunication and Information Accessibility Agency or Bakti is one of the institutions under the auspices of the Ministry of Communication and Information Technology which aims to improve telecommunication infrastructure in 3T (Frontier, Outermost and Disadvantaged) areas. As an accelerator, facilitator, and regulator of digital transformation, Bakti has prepared various programs, including the provision of 4G Base Tranceiver Station (BTS) Infrastructure and Supporting Infrastructure. The construction of BTS to provide internet access that reaches all regions of Indonesia, especially in 3T, will be carried out by Bakti while areas outside the 3T area will be handed over to mobile operators. In 2021, Bakti plans to build 4,200 BTS in 12,548 villages/sub-districts, which is targeted to be completed by the end of 2022.

However, in its implementation, the 4G BTS project is considered problematic because it is suspected that there is abuse and misappropriation of funds, so that many BTS tower constructions have failed. The Financial and Development Supervisory Agency (BPKP) has calculated state losses in the corruption case of this project with total state losses reaching Rp 8 trillion.¹ The large budget is certainly a point prone to abuse and a potential for corruption.

Corruption is a criminal act that is often committed by state officials who are trusted by the public to be able to provide welfare to the community but actually make state losses because of their actions. Corruption is related to power because with that power it can be abused for the benefit of his personal, family, or cronies.² With that power, public officials can abuse the authority, opportunity or means available to them because of their position or position so as to harm the State Finance or the State Economy, benefit themselves or others or a Corporation. So far, there has been an assumption that the difficulty of eradicating corruption in Indonesia is caused by the understanding that corruption is the nation's culture.³ One of the causes of corruption is the weak moral integrity which contributes to weakening national discipline. In addition, the weak system is also one of the causes and also the weak mechanisms in various bureaucratic and law enforcement sectors today.⁴

The case of corruption in the construction of the 4G BTS tower is the existence of the Jakarta High Court Decision Number 3/Pid.Sus-TPK/2024/PTDKI. The President Director of Bakti Kominfo has been found guilty of committing corruption crimes jointly and money laundering. In its decision, the Panel of Judges sentenced the defendant to 18 years in prison to pay a fine of Rp1,000,000,000.00; (one billion rupiah) with the provision that if it is not paid,

¹Ministry of State Secretariat of the Republic of Indonesia: "BTS Project Problematic, Vice President Emphasizes Sky Toll Program Continues", <https://www.setneg.go.id>, accessed March 30, 2024.

² Sulistiyowati Firma, "The Influence of Salary Satisfaction and Organizational Culture on the Perception of Local Government Apparatus About Corruption," *JAAI Journal*, Vol 11.2007.

³ Arfan Faiz Muhlizi, "Awakening the Anti-Corruption Culture of the Archipelago", *Rechtvinding Journal*, 2014, p.1.

⁴ Olan Laurance Hasiholan Pasaribu et al., "Juridical Study of the Corruption Crime Free Verdict (Case Study at the Medan District Court)", *Mercatoria Journal* (Vol. 1 No.2.2008), p. 135.

it will be replaced with imprisonment for 12 (twelve) months and charges the Defendant to pay compensation of Rp5,000,000,000.00 (five billion rupiah).

From decision number 3/Pid.Sus-TPK/2024/PTDKI, it can be seen that the criminal penalty for the defendant has not been maximized when compared to state financial losses of up to Rp 8 trillion. This decision has not created a final decision (*eind vernis*) that is in line with the purpose of the law itself, which is to realize the benefits, justice and legal certainty for all parties.

B. Research Methods

This research method uses normative legal abbreviations with the nature of analytical descriptive research with the aim of providing an overview of the factors that cause the crime of corruption in the construction of 4G *Base Transceiver Station* (BTS) carried out by the President Director of Bakti, and criminal liability in the crime of corruption in the construction of the base transceiver station, as well as the application of the law. The method used is normative analysis, data is analyzed with legal theory, legal principles, legal concepts, criminal law doctrines and applicable laws and regulations. Data analysis is the last step in research activities.

C. Results and Discussion

In terminology, the meaning of corruption comes from Latin, namely *corruptio* which means bribery, *corruptore* which means destructive, a symptom in which officials, state agencies abuse their authority by bribery, forgery and other irregularities.⁵ This definition is a very simple definition, which cannot be used as a benchmark or standard for corruption as a criminal act. Lubis and Scott in their view, stated that in the legal sense, corruption is conduct that benefits oneself at the expense of others, by government officials who directly violate the limits of the law for such conduct; Meanwhile, according to government norms, it can be considered corruption if there is a violation of the law or not, but in business such actions are reprehensible.⁶

Meanwhile, in the Great Dictionary of the Indonesian Language, corruption is the misappropriation or misuse of state money (companies, organizations, foundations, and so on) for personal or other personal gain.⁷ In general, corruption is more interpreted as acts of bribery, abuse of authority or against the law for one's own benefit, trading in influence, and others, which are reprehensible in nature.⁸

⁵ Evi Hartanti, *The Crime of Corruption*, (Jakarta: Sinar Grafika, 2005), p. 8.

⁶ Lubis, M., and Scoot, J.C, *Political Corruption*, Indonesian Torch Foundation: (Jakarta: 1993), p: 19

⁷ Ministry of Education and Culture of the Republic of Indonesia, *Great Dictionary of the Indonesian Language*, (Jakarta: Balai Pustaka, 1995), p. 527.

⁸ Yudi Kristiana, *Eradication of Corruption from a Progressive Legal Perspective*, (Jakarta: Thafamedia, 2016), p. 41.

Kartono explained that corruption is the behavior of individuals who use authority and position to extract personal profits, to the detriment of the public and the state. So corruption for personal gain, mismanagement of power, for personal gain, mismanagement of the resources of the state by using authority and formal powers (e.g. for legal reasons and the power of arms) to enrich oneself.⁹

In Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, but the crime of corruption as formulated in Article 2 paragraph (1) that every person who unlawfully commits an act of enriching himself or others or a corporation that can harm the state finances or the state economy. Article 3 paragraph (1) that: Every person who with the aim of benefiting himself or others or a corporation, abuses the authority, opportunity or means available to him or her position or position that may be detrimental to the state finances or the state economy¹⁰

The crime of corruption in this law is formulated expressly as a formal criminal act, this is very important for proof. With the formal formulation adopted in this law, it means that even though the proceeds of corruption have been returned to the state, the perpetrators of corruption crimes are still submitted to the Court and remain criminally punished in accordance with the Explanation of Article 4 of Law No. 31 of 1999.¹¹

In English, criminal liability is referred to as *responsibility*, or *criminal liability*. The concept of criminal liability is actually not only related to legal issues but also concerns moral values or general morality embraced by a society or groups in society, this is done so that criminal liability fulfills justice. Criminal liability is a form of determining whether a suspect or defendant is held accountable for a criminal act that has occurred. In other words, criminal liability is a form of determining whether a person is acquitted or convicted.¹²

There are 2 theories of criminal responsibility, namely: Monistic theory, does not separate between criminal acts and mistakes because mistakes are elements of criminal acts, then based on "criminal acts without fault are elements of criminal responsibility." Dualistic Theory, this theory provides a clear separation between criminal acts and mistakes, according to this theory fault is not an element of a criminal act but fault is an element to determine criminal responsibility. Fault as *mens rea* must be separated from a criminal act, where the criminal act is *Actus reus* while liability is only related to *mens rea* because criminal liability is

⁹ Kartini Kartono, *Social Pathology*, (Jakarta: Raja Grafindo Persada, 2003), p. 80.

¹⁰ Dimas Arya Aziza, "The Application of Position Delik in Article 3 and Article 11 of Law Number 3 of 1999 Jo Law Number 20 of 2001 concerning the Eradication of Corruption," *Binamulia Law* 7, no. 2 (2018): p. 169, <https://doi.org/10.37893/jbh.v7i2.31>.

¹¹ Yeni Sri Lestari, "Political Cartels and Political Corruption in Indonesia," *Pandecta Research Law Journal* 12, no. 1 (2017): p. 68, <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/7820>.

¹² Antoni Herli et al., "The Juridical Phenomenon of Reducing Sentences for Corruption Convicts Based on Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption Crimes (Analysis of Decision Number 14/Pid.TPK/2021/PT DKI)", *Journal of Citizenship*, Vol. 6 No. 1 June 2022 P-ISSN: 1978-0184 E-ISSN: 2723-2328 Available at: <https://journal.upy.ac.id>, accessed July 25, 2024

based on the existence of error.¹³ The Elements of Criminal Responsibility are Responsible Responsibility, Intentional Mistakes (*Opzet, Dolus*) or Forgetfulness (*Culpa*) and No Excuse for Forgiveness.

The causative factors can be from the internal perpetrators of corruption (*Actur Reus*), or from the environmental situation that is conducive for someone to commit corruption (*Mens Rea*).¹⁴

The factors that cause corruption crimes, as stated by the Financial and Development Supervisory Agency (BPKP) in its book entitled *Corruption Eradication Strategy*, include:

1. Individual aspects of corruption perpetrators

When viewed from the perspective of the perpetrator of corruption, the causes of corruption can be in the form of an impulse from within him, which can also be said to be his desire, intention, or awareness to do. The reasons why a person is encouraged to commit corruption include human greed, alack of strength to face temptation, insufficient income for reasonable living needs, urgent life needs, consumptive lifestyle, lazy or unwilling to work hard, religious teachings are not applied correctly.

2. Organizational aspects such as the lack of role models from leaders, the absence of the right organizational culture, the accountability system in government agencies is inadequate, the weakness of the management control system, management tends to cover up corruption in its organization.

3. The aspect of society where individuals and organizations are located is influenced by the values that apply in society are conducive to corruption, the community is not aware that the most disadvantaged by every corrupt practice is the community itself and the community is not aware that the community itself is involved in every corrupt practice, the community is not aware that the prevention and eradication of corruption will only be successful if the community actively participates in it.

The factors that caused the President Director of Bakti to commit a criminal act of corruption based on the facts revealed at the trial were in the form of witness testimony evidence, letter evidence, expert testimony evidence and evidence of the defendant and witnesses who contradicted each other, namely:

1. Internal Factors

a. Less strong morals in the face of temptation

A person whose morals are not strong tends to be more easily encouraged to commit corruption because of temptation

b. Human greed

¹³ Agus Rusianto, *Crime and Criminal Responsibility (A Critical Review Through Consistency of Principles, Theories, and Applications)*, (Jakarta: PERNADAMEDIA GROUP, 2016), p. 127.

¹⁴ "Indonesian Transparency Society", <http://www.transparansi.ot.id>, Retrieved 19 April 2024.

Humans always feel that they are never enough for what they have achieved, humans always have a burning desire in them to always add wealth that can make humans themselves commit acts that are corrupted.

2. External Factors

a. Organizational Structure

1) Authority

Based on this authority, the President Director of Bakti has established several regulations in the implementation of 4G BTS work, including:

- a) BAKTI President Regulation Number 7 of 2020 dated September 28, 2020 concerning Guidelines for the Procurement of BTS Infrastructure goods / services and their supporters in order to support digital transformation.
- b) BAKTI President Regulation Number 8 of 2020 dated October 9, 2020 concerning Operational Cooperation in the Utilization of BAKTI Assets and other parties' assets within BLU BAKTI
- c) BAKTI President Regulation Number 2 of 2021 dated February 8, 2021 concerning Guidelines for the Selection of Cellular Service Provider Partners in the 4G mobile service provision program in the 3T region in the context of digital transformation.
- d) Decree of the president director of BAKTI Number 60 of 2020 dated October 5, 2020 concerning the determination of the location of universal telecommunications and informatics service areas in the context of providing 4G BTS infrastructure and its supporting infrastructure.
- e) Decree of the President Director of BAKTI Number 59 of 2020 dated August 24, 2020 concerning the appointment of BTS professional experts within BAKTI for the 2020 fiscal year.

In terms of procurement of goods/services, the President Director of Bakti makes rules and does not refer to Government Regulation Number 23 of 2005 concerning Financial Management of Public Service Agencies which was last amended by Government Regulation No. 74 of 2012 and Presidential Regulation No. 16 of 2018 concerning the Procurement of Government Goods/Services which was amended by Presidential Regulation No. 12 of 2021. Through his authority, the President Director decided on BAKTI President Regulation Number 7 of 2020 dated September 28, 2020 concerning Guidelines for the Procurement of BTS Infrastructure goods / services and their supporters in order to support digital transformation.

The procurement of large infrastructure projects such as 4G telecommunications networks requires complex processes and complicated bureaucracy. This can create loopholes for corrupt practices, especially if governance and oversight are

weak. Based on the Duties and Fungsi of Bakti based on the Regulation of the Minister of Communication and Informatics Number 3 of 2018 concerning the Organization and Work Procedures of the Telecommunication and Information Accessibility Agency states that Bakti is a non-echelon organizational unit within the Ministry of Communication and Information in the implementation of its duties and functions, namely planning, implementation, monitoring and evaluation of planning, budget preparation, provision of infrastructure and the implementation of internal audits under and responsible to the Minister through the Secretary General. The Secretary General cannot provide technical guidance because the duties and functions of the Secretary General are more about providing administrative support to all organizational elements within the Ministry.

2) Supervision

Supervision of the implementation of the construction of the 4G BTS is carried out by the internal Bakti and the Ministry of Communication and Informatics and supervisory consultants. The size of the budget and the breadth of the work area require stricter supervision, therefore in terms of supervision of Bakti is not only through internal supervision but necessary) Supervision involving several elements of the Attorney General's Office of the Republic of Indonesia, the Ministry of Finance, the Financial and Development Supervisory Agency, the Government Goods/Services Procurement Policy Institute.

b. Factor policy

Political factors can also be a major driver. This case involves the Minister of Communication and Information who has an important role in the policy-making process. Political pressure or political intervention in the procurement of projects can create opportunities for corruption.

From the results of the juridical analysis, the Defendant as the President Director of Bakti has a work program including the construction, operation and maintenance of BTS and supporting infrastructure as many as 4200 4G BTS with a budget of IDR 11,718,651,399,000. In its implementation, the defendant Anang Achmad Latief appointed a consultant service provider without a consultant provider selection process with a contract value of IDR 1,779,972,750. In December 2020, Hudev UI submitted the results of the Technical Study to support *the Lastmile Project 2021 Bapati*, but the prequalification had started on October 16, 2020. In addition, the selection process *for the Project Management Office (PMO)/Supervisory Consultant*, where from the selection process won by the Consortium which is an affiliated company with friends of the President Director of Bakti which was just established in 2020, the contract value of the activity is Rp.56,419,946,932,- In determining the implementer/job

provider, the auction committee's action approves participants who are not eligible, at the request of the President Director of Bakti, violating the provisions related to evaluation procedures regulated in Presidential Regulation No. 16 of 2018 and its amendments as well as in LKPP Regulation Number 9 of 2018 concerning Guidelines for the Implementation of Procurement of Goods/Services.

Data on the completion of work in the *Bakti Asset Management System* (AMS) as of December 31, 2021 is known to be the progress of work from 4,200 sites, there are no sites that have been completed/Minutes of Work Results Inspection (BAPHP). Of the 4,200 sites, only 32 sites have been subjected to acceptance tests/Minutes of Acceptance Test (BAUP), but the work has been paid to providers in the amount of Rp7,374,109,379,556.00 including taxes. As of March 31, the construction has been completed and can be used as many as 958 BTS sites with real costs for 958 sites of IDR 1,478,685,936,789.

The BPKP State Loss Calculation Audit Report has resulted in State Financial Losses or State Economy, amounting to Rp8,032,084,133,795.51. The defendant Anang Achmad Latif obtained a sum of money from the Consortium of goods providers and subcontractors which was used to make cash payments for the house at a price of Rp 6,711,204,300.00. The purchase of 1 (one) unit of BMW motorcycle for IDR 950,000,000.00 in the name of the Defendant's brother and 1 (one) unit of BMW X5 car for IDR 1,800,000,000.00, should be suspected of using money derived from the proceeds of corruption crimes because it is very inconsistent with the profile of the Defendant Anang Achmad Latif who has an income of IDR 150,000,000.00 per month.

1. Indictment

The public prosecutor's indictment against the defendant was dropped in the form of alternative indictments, namely:

a. First Primary Charge

- 1) Criminally threatened in Article 2 paragraph (1) jo. Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption jo. Article 55 paragraph (1) 1 of the Criminal Code.
- 2) In the alternative
Criminally threatened in Article 3 Jo. Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption as amended and supplemented by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Jo. Article 55 paragraph (1) 1 of the Criminal Code

b. Second Primary Dakwaa

- 1) Criminally threatened in Article 3 of Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Jo. Article 55 paragraph (1) 1 of the Criminal Code

2) In the alternative

Criminally threatened in Article 4 of Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Jo. Article 55 paragraph (1) 1 of the Criminal Code

2. Judge's Considerations

The panel of judges considered the relevant indictments, namely the First Primary Indictment Article 2 paragraph (1) jo Article 18 of Law Number 31 of 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 jo Article 55 paragraph (1) 1 of the Criminal Code and the Second Primary Indictment Article 3 of Law Number 8 of 2010 concerning the Prevention and Eradication of Criminal Acts Money Laundering with the following elements:

a. Elements of each person

The element of every person is the subject of the law, namely a human being who based on the results of the examination at the trial has known the identity of the defendant himself, is a person who is physically and mentally healthy and able to give evidence at the trial, so that there is the truth that the defendant in this case is the identity of the defendant with the indictment, and based on the testimony of expert witnesses, as well as evidence in this case, that the defendant in question is indeed a person named Anang Achmad Latif as the President Director of the Telecommunications and Informatics Accessibility Agency based on the Decree of the Minister of Communication and Information No. 675 of 2018 and as KPA based on the Decree of the Minister of Communication and Information No. 695 of 2020 dated December 30, 2020 on the procurement of goods and services of the Government of the *Base Tranceiver Station* Infrastructure Provision Project (BTS) 4 G in areas throughout Indonesia which are included in the 3 T's (Frontier, Disadvantaged, and Outermost areas) for the 2021 and 2022 fiscal years.

b. Unlawful elements

Explanation of Article 2 paragraph (1) of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes which is meant by "unlawfully" in this article includes unlawful acts in a formal and material sense, That is, even though the act is not regulated in the laws and regulations, if the act is considered reprehensible because it is not in accordance with the sense of justice or the norms of social life in society, the act can be punished.

Based on the facts revealed at the trial in the form of witness testimony evidence, letter evidence, expert testimony evidence and evidence of the defendant's testimony which are in accordance with each other so that they become clueal evidence, it was revealed that the defendant Anang Achmad Latif had committed an act "against the law"

because it was carried out by deviating from the rule of law or prohibition in the Provision of 4G Base Transceiver Station (BTS) Infrastructure, As described above, it is contrary to Law Number 1 of 2004 concerning the State Treasury Article 18 paragraph (3) which states, officials who sign and/or ratify documents related to the evidence letter that is the basis for the expenditure on the expenses of the State Budget/APBD are responsible for the material truth and consequences arising from the use of the evidence in question. Law Number 17 of 2003 concerning State Finance Article 3 paragraph (1) and its explanation which states, "State Finance is managed in an orderly manner, obeys laws and regulations, efficiently, economically, effectively, transparently and responsibly with regard to a sense of justice and propriety". Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services, LKPP Regulation Number 9 of 2018 concerning Guidelines for the Implementation of the Procurement of Goods/Services through Providers.

- c. The element of doing an act of enriching oneself, or another person or a corporation.

The act of enriching oneself or others or a corporation is alternative, meaning that not everything must be proven, but proven according to the facts revealed in the trial, which can include enriching oneself, enriching others or enriching a corporation. The facts at the trial of the Defendant and several other people as well as the corporation obtained a sum of money or property, including the Defendant Anang Achmad Latif in the amount of Rp 5,000,000,000.00. Dr. Yohan Suryanto amounted to Rp453,608,400.00. Irwan Hermawan amounted to IDR 243,000,000,000.00. Johnny Gerard Plate amounting to IDR 15,500,000,000.00. Konsorsium Fiber Home PT. Telkominfra PT. Multi Trans Data (PT. MTD) amounting to IDR 2,489,289,548,449.00

- d. Elements that are detrimental to state finances and the country's economy

The element of harm to state finances and the economy in the crime of corruption was initially a formal crime, meaning that the consequences did not need to have occurred, but after the Constitutional Court Decision No. 25/PUU-XIV/2016 dated January 25, 2017, became a material crime, state losses according to Article 1 number 22 of Law Number 1 of 204, are "losses that must meet the elements of real and definite shortcomings." State losses must be based on procedures and procedures that contain certainty, and not based on fabrications or assumptions that are assumptions, based on the findings of authorized agencies or appointed public accountants or by authorized institutions/agencies.

Based on calculations by Experts from BPKP RI and the Audit Report on the Calculation of State Financial Losses amounting to Rp8,032,084,133,795.51 (eight trillion thirty-two billion eighty-four million one hundred thirty-three thousand seven hundred ninety-five rupiah fifty-one cents).

- e. Elements of Participating in Doing (*Delneming*)

According to *MVT*, every person who deliberately *meedoer* (participates in committing a criminal event) is characterized by a cooperation between the participants that is realized or the participants have jointly committed a criminal act. According to Pompe, there are two possibilities for participating in the occurrence of a criminal act, first, each of them fulfills all the elements in the formulation of the crime, and second, no one fulfills the elements of the crime in its entirety, but they both realize the crime.

For *the media*, the condition is that there is conscious cooperation. The existence of common awareness does not mean that there is consensus first, it is enough if there is an understanding between the participants at the time the act is carried out with the aim of achieving the same result, the important thing is that there must be conscious intentionality. Based on the facts revealed at the trial, **the defendants** cooperated with each other to complement each other in the criminal incident charged by the Public Prosecutor to Anang Achmad Latif as the President Director of Bakti and as the KPA, Johnny Gerard Plate as the Minister of Communication and Information who gave approval for the 4G BTS construction project in the 3T area on the instruction of the President of the Republic of Indonesia, Dr. Yohan Suryanto is an Expert from Hudev UI, Irwan Hermawan as Commissioner of PT. Solitech Media synergized by the Director of Bakti to find and collect money from the tender winners, and Galumbang Menak Simanjuntak as President Director of PT. Mora Telematika Indonesia, which sought a fee of 8% to 10% to Konsursiun Lintasarta and several other defendants.

Because the Defendant was charged with the cumulative indictment of the second indictment of Primair regarding TPPU, the Panel will then prove the Second Indictment of Primair, namely Article 3 of Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes with the following elements:¹⁵

- a. Elements have placed, transferred, transferred, spend, paid, granted, deposited, brought abroad, changed shape, exchanged for currency or securities or other deeds. Money laundering is simply defined as a process of making the proceeds of crimes (*proceeds of crimes*) or referred to as dirty money, for example, the proceeds of drugs, corruption, tax evasion, gambling, smuggling and others that are converted or changed into a form that appears legitimate so that they can be used safely. Money Laundering or TPPU is a criminal act that includes, among other things, placing, transferring, paying, or spending, transferring, entrusting, bringing abroad, exchanging, and hiding or disguising objects in the form of assets that he knows or should suspect is the result of a criminal act. This

¹⁵ Article 3 of Law of the Republic of Indonesia Number 8 of 2010 concerning *the Prevention and Eradication of Money Laundering Crimes*.

element is in the form of an alternative so that only one is proven and this element is also proven. The fact that the Defendant Anang Achmad Latif has committed the act includes: Sakinah Juliani Utami has exchanged foreign currency at *the Money Changer Exchange, Money Changer Anugrah Mega Perkasa, PT Karya Utama Valas Indo and PT Dua Putra Valutama*, where foreign money in the form of US and Singapore dollars was obtained from her husband, the Defendant Anang Achmad Latif. Have purchased 1 (one) unit of BMW R 1250 GSA motorcycle for IDR 1,145,486,700.00 which was paid 3 (three) times.

- b. Elements with the purpose of concealing or disguising the origin of wealth; Hiding is an activity that is carried out in an effort, so that other people will not know the origin of the wealth from, among other things, not informing the Financial Service Provider officer about the origin of the source of funds in the context of placement, then trying to further distance the wealth (money) from the perpetrator and his crime through transfers both at home and abroad, on behalf of themselves or other parties or through fictitious companies created or illegal companies and so on (layering). The meaning of disguise includes the act of mixing haram money with halal money so that haram money appears as if it comes from legitimate activities, exchanging haram money with other currencies and so on.

Based on the facts of the trial, the defendant Anang Achmad Latif had purchased goods between 2021 and 2022. The defendant Anang Achmad Latif has hidden and disguised his wealth by spending several prophetys, and two-wheeled and four-wheeled vehicles that are partly in the name of others to his brother and to his wife.

The criminal liability of the President Director of Bakti who committed the crime of corruption cannot be separated from criminal and criminal problems. The defendant's actions are subject to criminal sanctions in the form of imprisonment for 18 (eighteen) years and a fine of Rp. 1,000,000,000.- with the provision that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months. In addition, an additional penalty was also imposed in the form of payment of compensation to the Defendant in the amount of Rp5,000,000,000.00 taken from the money that had been deposited to the prosecutor's office in the amount of Rp6,711,204,300.00, and the remaining 1,711,204,300, returned to the Defendant through Tia Mutia Hasna. However, the defendant President Director Bakti filed an appeal, which then filed an appeal, and then through the Supreme Court's decision Number 4103 K/Pid.Sus/2024, the Supreme Court rejected the Cassation of the Public Prosecutor and the Defendant with a criminal correction to imprisonment for 10 (ten) years. The punishment of the defendants is very light. The verdict handed down by the panel of judges in the corruption court also cannot be separated from the light charges submitted by the public prosecutor in the trial.

Like the theory of justice put forward by Aristotle, which is corrective justice which assumes that if a violation is violated or a mistake is committed, then corrective justice seeks

to provide adequate compensation for the aggrieved party. If a crime has been committed, then appropriate punishment needs to be meted out to the perpetrator; however, injustice will result in the disruption of established or established "equality", corrective justice in charge of rebuilding that equality. The punishment given to the defendant is the appropriate punishment received by the defendant for the offense violated by the defendant, with additional penalties imposed on the defendant imposed by the state on the defendant can be used as compensation for the aggrieved party, which in this case is the state.

This is in line with Aristotle's opinion on distributive justice, so a premise can be drawn that distributive justice must refer to the distribution of resources owned by the state equally and proportionally for the purpose of equalizing the lives of all people. Evenly distributed, it means that the availability of telecommunication signals that are distributed comprehensively to the wider community, and must be by paying attention to the proportionality scale, so that the right of the community to get welfare from various aspects of life can be fulfilled by the State as the largest/largest community organization.

It is feared that verdicts or punishments that are also too light will not have a deterrent effect on the perpetrator in accordance with the purpose of the punishment which will ultimately harm the sense of justice of the community. The Panel of Judges in exercising its authority also has a role in efforts to impose penalties on corruptors in an effort to support bureaucratic reform and break the chain of corruption carried out by civil servants.

D. Conclusions and Recommendations

The factor causing corruption in the construction of the 4G Base Transceiver Station (BTS) is the Abuse of Authority which is influenced by the organizational structure of the Ministry of Communication and Informatics which places Bakti under and responsible to the Minister through the Secretary General. The authority of the President Director of Bakti to be fully accountable to the Minister is very ineffective. The lack of technical supervision is also the cause of corruption in the construction of 4G BTS. Supervision is technically impossible for the Secretary General because the duties and functions of the Secretary General are more about providing administrative support to all organizational elements within the Ministry. Another factor is that political pressure or political intervention in the procurement of projects can create opportunities for corruption. Criminal liability in the corruption act of the construction of the 4G Base Transceiver Station (BTS) is in the form of imprisonment, additional penalties in the form of payment of compensation as a punishment imposed by the judge is still too light, which is feared to not be able to have a deterrent effect on the perpetrator in accordance with the purpose of the penalty.

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