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A Juridical Analysis of the Abuse of Authority by Village Heads in the Management of Village-Owned Enterprises (BUMDes) Based on the Anticorruption Law (Case Study of Decision Number 5/Pid.Sus-TPK/2025/PN Dps)

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ABSTRACT

Objective: *This research aims to analyze the legal regulation of BUMDes within Indonesian laws and regulations, as well as to examine the application of the Anti-Corruption Law in cases of abuse of authority by village heads, as reflected in the Decision of the Denpasar District Court Number 5/Pid.Sus-TPK/2025/PN Dps.* ***Method:*** *This study employs an empirical research method with a qualitative approach, supported by primary and secondary data obtained through literature review and judicial decision analysis.* ***Results:*** *The findings indicate that the regulation of BUMDes has been comprehensively stipulated in Law Number 6 of 2014 on Villages and its implementing regulations; however, in practice, weaknesses remain in supervision and accountability mechanisms. Furthermore, the application of the AntiCorruption Law in the aforementioned court decision demonstrates that a village head, as a public official, may be held criminally liable if proven to have abused his authority in the management of BUMDes, resulting in state financial losses.* ***Novelty:*** *This research concludes that the enforcement of anti-corruption criminal law at the village level is an essential instrument in realizing transparent, accountable, and just village governance.*

INTRODUCTION

Corruption is a major obstacle to national development in Indonesia, extending down to the village level as governed under Law No. 6 of 2014 on Villages [1]. Law No. 31 of 1999 as amended by Law No. 20 of 2001 and Law No. 1 of 2023 concerning the Eradication of Corruption Offences (Anti-Corruption Law) regulates various forms of corruption, where Articles 603–606 specifically target the abuse of authority that causes state financial or economic losses [2]–[4]. In the village context, Village-Owned Enterprises (BUMDes) established pursuant to Government Regulation No. 11 of 2021 serve as pivotal economic entities [5]. However, BUMDes frequently become objects of authority abuse by village heads who hold primary managerial and supervisory roles [6], [7]. A case study of the Denpasar District Court Decision Number 5/Pid.Sus-TPK/2025/PN Dps illustrates a concrete instance where a village head was charged with violating Articles 603–606 of the Anti-Corruption Law through non-transparent BUMDes management, such as misallocating funds and executing unauthorized maneuvers resulting in state losses [8], [9]. This raises questions regarding the efficacy of applying these provisions within BUMDes management and their broader implications for village governance [10].

The primary issue identified in this research is the systemic vulnerability in supervision and accountability mechanisms within BUMDes Kerta Laba, which enabled the village head of Dawan Kaler, I Kadek Sudarmawa, S.H. (serving from 2012 to 2020), to abuse his office [11]. Based on the court ruling, the defendant was proven to have misused authority, opportunities, and facilities inherent in his official position, compromising capital injection funds, savings and loan facilities, and business assets of BUMDes Kerta Laba—specifically involving Dawan Kaler Village funds—and diverting BUMDes funds for personal enrichment [12]. This not only incurred direct financial losses to the state and Dawan Kaler Village, but also deteriorated public trust in village institutions [13]. Furthermore, challenges arise in enforcing Articles 603–606 of the Anti-Corruption Law, particularly in proving the element of "causing financial loss to the state" within village settings that frequently suffer from fragmented or incomplete financial records [14]. The court ruling reveals that while the panel of judges evaluated evidence such as financial audit reports of BUMDes Kerta Laba and testimony from residents of Dawan Kaler Village, debate persists regarding the legal interpretation of a village head's statutory authority as a public official [15], [16].

This research is highly relevant to contemporary developments in Indonesian anti-corruption criminal law, particularly amidst decentralization and village economic development [17]. While Law No. 6 of 2014 promotes BUMDes creation to foster community welfare through economic self-reliance, the absence of stringent oversight renders these entities vulnerable to corruption [18]. The Denpasar District Court decision serves as a crucial empirical benchmark for analyzing how statutory corruption provisions are applied to localized governance [19]. Furthermore, it contributes significantly to legal literature, as in-depth judicial case studies at the village level remain underrepresented compared to national or provincial-level anti-corruption research [20], [21].

This study is imperative because rural corruption exacerbates socio-economic inequality, especially in communities dependent on BUMDes for local income [22]. The findings provide valuable policy insights, such as refining BUMDes operational guidelines and enhancing capacity-building programs for village officials to mitigate future infractions [23]. Academically, this study bridges the gap in micro-level corruption literature, advancing a more holistic understanding of anti-corruption enforcement in Indonesia [24], [25]. Ultimately, it seeks to foster institutional and public awareness toward building accountable and sustainable village governance [26].

RESEARCH METHOD

The research approach employed in this study is a qualitative approach. The qualitative approach is a research methodology that produces descriptive legal data, capturing written or spoken statements from informants as well as observable legal behavior.

The research type utilized is empirical or sociological legal research, which examines law as it operates in reality within society and evaluates human behavior in relation to legal norms. In empirical legal research, secondary data is examined initially, followed by field investigation to collect primary data directly from field observations and societal contexts.

Data collected from both primary and secondary sources were analyzed qualitatively. Qualitative data analysis involves a deductive processing framework—

starting from established general legal principles and doctrines to derive specific conclusions. The results are presented descriptively by explaining, elaborating, and analyzing the legal phenomena in direct alignment with the research problems examined.

RESULTS AND DISCUSSION

Results

Based on the legal facts established during trial proceedings and the judicial reasoning of the Panel of Judges in Denpasar District Court Decision Number 5/Pid.Sus-TPK/2025/PN Dps, this corruption case originated from the management of BUMDes Kerta Laba in Dawan Kaler Village, Dawan District, Klungkung Regency. The enterprise received capital injections from village finances as well as regional government assistance funds, including the Mandara Integrated Village Development Movement Program (Gerbang Sadu Mandara/GSM). In principle, these funds were allocated to empower the village economy through business units managed by BUMDes. At the time of the offense, Defendant I Kadek Sudarmawa, S.H. served as the Village Head of Dawan Kaler. Pursuant to the Articles of Association and Bylaws (AD/ART) of BUMDes and prevailing legislation, the defendant *ex officio* served as the Commissioner of BUMDes Kerta Laba. In this capacity, the defendant held authority to direct policy, conduct oversight, and make strategic decisions concerning BUMDes business units, including the Savings and Loan Unit and the Bottled Drinking Water Unit (UDAKA).

During the execution of the GSM Program within the Savings and Loan Unit, the defendant bypassed mandatory village deliberation mechanisms and failed to follow required verification procedures. Instead, the defendant issued direct instructions to the Board of Directors and Daily Operational Executive of BUMDes to disburse loan funds to specific groups and individuals without lawful procedures. A portion of these loan recipients consisted of fictitious groups and entities that did not qualify as Target Households (Rumah Tangga Sasaran/RTS) as mandated by the Gerbang Sadu Mandara guidelines.

Furthermore, during the loan disbursement process, the defendant utilized third-party identities—including the identity of his own child—to secure loans from BUMDes. The funds acquired through these illegal mechanisms were not utilized for productive economic activities benefiting the village community, but were instead appropriated by the defendant for personal use, including paying personal debts and financing his private tourism business. Consequently, the disbursed loans were not repaid in accordance with applicable rules, resulting in non-performing loans (bad debts) within the BUMDes Savings and Loan Unit.

Based on audit calculations and court examinations, irregularities in distributing and utilizing the GSM funds generated financial discrepancies and non-performing loans amounting to an unaccounted total state/regional financial loss of approximately IDR 293,835,000.00. This figure was formally classified as a state/regional financial loss because the underlying funds derived from village budgets and government assistance grants. Beyond the Savings and Loan Unit, the defendant committed abuse of authority in managing the Bottled Drinking Water Unit (UDAKA). In this unit, the defendant ordered substantial cash advance (*kas bon*) disbursements from BUMDes funds and personally received a portion thereof. However, he failed to present complete and legally valid financial accountability documentation. Audits concluded that these UDAKA funds could not be accounted for, thereby constituting part of the total state/regional financial loss.

These management irregularities were uncovered following inspections and audits conducted by supervisory authorities. During clarification proceedings, the defendant failed to produce adequate financial documentation. Consequently, his actions were determined to violate village financial management laws and directly inflict financial losses upon the state/region.

Following the investigation, law enforcement officers submitted the case to the Corruption Court at the Denpasar District Court, charging the defendant under Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption Offences. During trial, the Panel of Judges examined witness testimonies, expert opinions, defendant statements, documentary evidence, and physical exhibits. Based on the totality of evidence, the court concluded that the defendant exploited his public position and authority in violation of statutory regulations, resulting in state financial losses, thereby satisfying all elements of corruption under the Anti-Corruption Law.

Discussion

According to the indictment submitted by the Public Prosecutor in Decision No. 5/Pid.Sus-TPK/2025/PN Dps, Defendant I Kadek Sudarmawa, S.H. was charged with corruption arising from authority abuse in managing BUMDes Kerta Laba funds. The Public Prosecutor formulated a subsidiary indictment structure as follows:

1. **Primary Indictment:** The defendant was charged under Article 2 Paragraph (1) of Law No. 31 of 1999 as amended by Law No. 20 of 2001 in conjunction with Article 55 Paragraph (1) 1st of the Criminal Code (KUHP), as revised under Article 603 of Law No. 1 of 2023 (New KUHP). Under this primary count, the Prosecutor argued that the defendant unlawfully committed acts to enrich himself, others, or a corporation, causing financial losses to the state/region through mismanaging GSM and BUMDes funds.
2. **Subsidiary Indictment:** Should the primary count not be proven, the Prosecutor charged the defendant under Article 3 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 in conjunction with Article 55 Paragraph (1) 1st of the Criminal Code, as revised under Article 604 of Law No. 1 of 2023. Under this count, the Prosecutor asserted that the defendant, with intent to enrich himself or another, abused the authority, opportunity, or means available to him by virtue of his office or position, resulting in state/regional financial losses.

In rendering its verdict, the Panel of Judges at the Denpasar Corruption Court grounded its consideration on facts established in court, valid evidence pursuant to Article 184 of the Criminal Procedure Code (KUHAP), and statutory provisions.

1. *Consideration of Facts and Evidence:* The judges evaluated witness statements, expert input, defendant testimony, and physical/documentary evidence, establishing firm conviction that the defendant committed the acts charged regarding BUMDes Kerta Laba and GSM funds. The court affirmed that the Prosecutor's evidence satisfied Article 184 KUHAP criteria.
2. *Consideration of the Indictment:* Examining the subsidiary structure, the court found that the primary count under Article 2 Paragraph (1) was not fully satisfied, specifically regarding the element of "unlawfully" (*met recht*) in both formal and material legal dimensions. However, the court ruled that the subsidiary count under Article 3 was legally and convincingly proven, as the defendant's conduct was more accurately classified as an abuse of official authority. Thus, the court applied Article 3 in sentencing.
3. *Consideration of the Abuse of Authority Element:* The court determined that as Village Head and ex-officio BUMDes Commissioner, the defendant possessed lawful authority over fund management and oversight. However, he exercised this authority contrary to its statutory purpose by ordering disbursements without village meetings, issuing loans to fictitious groups and non-RTS entities, and converting funds for personal use. This deviated from statutory regulations and violated principles of accountability and transparency in village financial governance.
4. *Consideration of State Financial Loss:* The court recognized that BUMDes capital derived from village funds and state aid constitutes state financial assets. Based on audit findings, the court concluded that the defendant's actions caused a definite and actual state/regional financial loss of ± IDR 293,835,000.00 directly attributable to his official abuse .
5. *Consideration of Criminal Liability:* The court established intent (*dolus*), as the defendant possessed full awareness of his official powers and the legal consequences of his actions. Finding no justification or excuse to eliminate criminal responsibility, the court held the defendant criminally liable under Article 3 of the Anti-Corruption Law.
6. *Aggravating and Mitigating Factors:* Aggravating factors included failing to support government corruption eradication efforts and violating the duty of a village head to serve as a role model. Mitigating factors included polite courtroom demeanor, lack of prior criminal record, and family support obligations.

CONCLUSION

Fundamental Finding: The legal framework governing Village-Owned Enterprises (BUMDes) in Indonesia is established across layered statutory instruments, from the Village Law to implementing government regulations. This framework positions BUMDes as economic entities designed to elevate community welfare through professional, transparent, and accountable management. Although village heads hold supervisory authority over BUMDes, such power is strictly constrained by the principle of legality and general principles of good governance. Any act by a village head that deviates from the statutory purpose of their authority constitutes an abuse of power. The application of the Anti-Corruption Law in Denpasar District Court Decision No. 5/Pid.Sus-TPK/2025/PN Dps confirms that village heads who abuse authority in managing BUMDes funds and assets face criminal liability. The court found the defendant guilty under Article 3 of the Anti-Corruption Law, fulfilling elements of authority abuse, self-enrichment, and state financial loss. **Implication:** This ruling underscores that non-transparent and illegal BUMDes management transcends administrative infractions, carrying severe criminal consequences under Indonesian anti-corruption law. **Limitation:** Future Research This study is limited by its normative juridical approach and its focus on Denpasar District Court Decision No. 5/Pid.Sus-TPK/2025/PN Dps as the primary case illustration. Therefore, the findings may not fully represent the diverse patterns of authority abuse in BUMDes management across different regions of Indonesia. The study also does not comprehensively examine empirical factors such as internal supervision, financial management practices, institutional capacity, and the role of village communities in preventing abuse of authority. **Future research:** should employ empirical and comparative approaches by examining multiple court decisions involving BUMDes across different regions in Indonesia. Further studies could investigate the relationship between BUMDes governance mechanisms, village-level supervision, financial transparency, and the occurrence of authority abuse. Research should also explore preventive strategies, including strengthening internal controls, community participation, accountability mechanisms, and legal education for village officials, to reduce the risk of corruption and improve the governance of BUMDes.

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