

Abstraksi

Tesis ini bertujuan mengkaji dan menganalisis : (1) Faktor-faktor Korelatif Kriminogen yang mempengaruhi Tindak Pidana Korupsi pada program PTSL (2) Konstruksi Yuridis Tindak Pidana Korupsi pada program PTSL (3) Upaya Pencegahan di masa yang akan datang Tindak Pidana Korupsi pada program PTSL.

Metode penelitian yang digunakan melalui pendekatan yuridis empiris. Spesifikasi penelitian dalam artikel ini bersifat deskriptif analisis. Data primer berupa hasil wawancara berbasis *purposive sampling* beserta data sekunder meliputi data bahan hukum primer, sekunder dan tersier, dikaji dan dianalisis mendalam sedemikian rupa sehingga permasalahan faktor kriminogen, konstruksi yuridis pasal tindak pidana korupsi yang terkuualifikasi pemerasan dan penggelapan itu menjadi terang benderang peristiwa maupun fakta-faktanya. Seluruhnya dijelaskan dalam kerangka teori sistem hukum dan teori CDMA (Corruption = [Discretion+Monopoly] – Accountability) dari Robert Klitgaard.

Penemuan penelitian berupa simpulan : (1) Faktor Korelatif Kriminogen Tindak Pidana Korupsi program PTSL pada kasus *a quo*, menerangkan bahwa aspek *Legal Substance* berupa Substansi Peraturan Desa sebagai payung hukum program PTSL cacat semenjak lahirnya, baik formil maupun materiilnya. Aspek *Legal Structure*, meliputi terpenuhinya semua variabel predictor Teori CDMA Klitgaard, yaitu Diskresi Pejabat sebagai Sekretaris Desa juncto Pelaksana Tugas Kepala Desa juncto Ketua Panitia PTSL. Tersangka yang melimpah kekuasaannya itu, menciptakan iklim Monopoli baik informasi maupun pengelolaan keuangan program PTSL. Pada ujungnya kontrol Akuntabilitas *stake holder* (pihak yang berkepentingan dengan program PTSL), melemah dan tak berfungsi memainkan peran kontrol komunitas pada pelaksanaan PTSL. Aspek *Legal Culture* menjelaskan tentang lemahnya perlindungan hukum dan hak atas tanah masyarakat, karena model komunikasi berbasis *Patron and Client* beroperasi secara *asimetris*. Artinya keterbatasan budaya hukum masyarakat, menjadi dorongan munculnya *normless* tentang hak-hak warga desa dalam program PTSL. (2) Konstruksi Yuridis Tindak Pidana Korupsi program PTSL (kasus *a quo*), memenuhi asas legalitas sebagaimana tuntutan Jaksa Penuntut Umum yaitu Pasal 12 huruf e (Kualifikasi Tindak Pidana Korupsi Pemerasan) dan Pasal 8 (Kualifikasi Tindak Pidana Korupsi Penggelapan) UU Pemberantasan Tindak Pidana Korupsi terhadap subyek pelaku Pegawai Negeri Sipil (PNS). Tuntutan Jaksa Penuntut Umum, pidana penjara 4 tahun 6 bulan dan pidana denda 300 juta rupiah. (3) Upaya penanggulangan tindak pidana korupsi program PTSL ke depan meliputi kebijakan non-penal berupa kegiatan *preemptif* dan *preventif* yang menitikberatkan pada budaya hukum masyarakat. Melalui budaya komunikasi *gethok tular* yang sudah membudaya di masyarakat pedesaan diharapkan mampu memulihkan kesadaran perlindungan hukum dan hak atas tanah warga. Kebijakan *penal* , perlu mengoptimalkan sanksi ancaman pidana pada koruptor yaitu efek jera (prevensi *special*) agar pelaku dapat dimiskinkan dengan strategi pidana denda secara maksimal.

Kata kunci : Faktor Korelatif Kriminogen, Tindak Pidana Korupsi , Pendaftaran Tanah Sistematis Lengkap.

Abstraction

This thesis aims to examine and analyze: (1) Criminogen Correlative Factors that affect Corruption Crimes in the PTSL program (2) Juridical Construction of Corruption Crimes in the PTSL program (3) Prevention Efforts in the future Corruption Crimes in the PTSL program .

The research method used is an empirical juridical approach. The research specifications in this article are descriptive analysis. Primary data in the form of purposive sampling based interview results along with secondary data covering primary, secondary and tertiary legal material data, studied and analyzed in depth in such a way that the problems of criminogenic factors, juridical construction of articles of corruption that qualify for extortion and embezzlement become clear on events and facts. -in fact. Everything is explained within the framework of the legal system theory and the theory of CDMA (Corruption = [Discretion + Monopoly] – Accountability) from Robert Klitgaard.

The research findings are in the form of conclusions: (1) Correlative Factors of Criminal Acts of Corruption in the PTSL program in the a quo case, explaining that the Legal Substance aspect in the form of the Substance of Village Regulations as the legal umbrella for the PTSL program has been disabled since its birth, both formally and materially. The Legal Structure aspect includes the fulfillment of all predictor variables of Klitgaard's CDMA Theory, namely the Discretion of Officials as Village Secretary juncto Acting Village Head juncto Head of PTSL Committee. The suspect, who has a lot of power, has created a monopoly climate for both information and financial management of the PTSL program. In the end, the accountability of stake holders (parties with an interest in the PTSL program) is weak and does not function to play the role of community control in the implementation of PTSL. The Legal Culture aspect explains the weak legal protection and community land rights, because the Patron and Client-based communication model operates asymmetrically. This means that the limitations of the community's legal culture have become the impetus for the emergence of normless about the rights of villagers in the PTSL program. (2) Juridical Construction of the Corruption Crime of the PTSL program (a quo case), fulfills the legality principle as demanded by the Public Prosecutor, namely Article 12 letter e (Qualification for the Crime of Extortion Corruption) and Article 8 (Qualification for the Crime of Embezzlement) of the Law on the Eradication of Criminal Acts Corruption against the subject of the perpetrators of Civil Servants (PNS). The Public Prosecutor's demands are imprisonment for 4 years and 6 months and a fine of 300 million rupiah. (3) Efforts to overcome corruption in the PTSL program in the future include non-penal policies in the form of preemptive and preventive activities that focus on the legal culture of the community. Through the gethok tular communication culture that has been entrenched in rural communities, it is hoped that it will be able to restore awareness of legal protection and citizens' land rights. Penal policy, it is necessary to optimize criminal sanctions against corruptors, namely a deterrent effect (special prevention) so that perpetrators can be impoverished with a maximum fine criminal strategy.

Keywords: Criminogen Correlative Factors, Corruption Crimes, Complete Systematic Land Registration