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## **Criminal Liability of State Civil Apparatus for Misappropriation of Regional Original Revenue**

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### **Abstract**

This study aims to analyze in depth the criminal liability of State Civil Apparatus (ASN) who commit misappropriation of Regional Original Revenue (PAD) in Indonesia. The problem of corruption, especially in the public sector, continues to be a serious challenge that hinders development and undermines the integrity of the government. The main focus of this study is to understand how law enforcement against such crimes can be implemented, taking into account the validity of the latest Law Number 1 of 2023 concerning the Criminal Code (KUHPidana), which significantly changes and updates the Criminal Law framework in Indonesia. Using a juridical-normative approach, this study examines relevant laws and regulations, legal doctrines, and court decisions, comparing the old and new legal regimes. The analysis results show that the new Criminal Code introduces several legal concepts that can affect the criminal liability of State Civil Apparatus, including the expansion of certain offenses and adjustments to sanctions. However, challenges in implementation remain significant, especially regarding coordination between law enforcement agencies and the effectiveness of the sanctions imposed. Therefore, this study concludes that although the criminal law framework has been updated, stronger collaborative efforts are needed from all parties, starting from stricter internal supervision, increased transparency, to reform of the criminal justice system to ensure firm and fair criminal accountability for State Civil Apparatus who abuse their authority and position.

**Keywords:** *Criminal Liability, State Civil Apparatus, Embezzlement, Regional Original Income, 2023 Criminal Code, Corruption Crimes.*

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### **INTRODUCTION**

Development in various regions in Indonesia is highly dependent on the availability and effectiveness of regional financial management. One of the main sources of funding for this development is Regional Original Revenue (PAD), which comes from regional taxes, regional levies, the management of separated regional assets, and other sources. PAD plays a vital role in supporting a region's financial independence and financing development programs and projects that directly impact the community's interests. However, regional financial management, including Regional Original Revenue, is vulnerable to irregularities and misappropriation, particularly by individuals in positions of authority.

The misappropriation of Regional Original Revenue by State Civil Apparatus (ASN) has become a serious issue that not only harms state finances but also erodes public trust in government institutions. Civil Apparatus, as the frontline in public service and managing state finances, should uphold integrity and professionalism. However, numerous uncovered cases demonstrate otherwise. Practices of corruption, collusion, and nepotism (KKN) in the management of Regional Original Revenue remain commonplace, ranging from manipulation of revenue data, falsification of payment receipts, to outright embezzlement.

The impact of misappropriation of Regional Original Revenue is far-reaching. Economically, this misuse causes significant financial losses for the state, hinders infrastructure development, and reduces budget allocations for crucial sectors such as education and health. Socially, this corrupt practice creates injustice, widens social disparities, and undermines public morality. Meanwhile, politically, misappropriation of Regional Original Revenue can trigger instability and erode the government's legitimacy in the eyes of the public.

The government has attempted to address this problem by issuing various regulations, such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. This regulation serves as the primary legal basis for prosecuting perpetrators of corruption, including civil servants who abuse their authority and position to enrich themselves or others through misappropriation of Regional Original Revenue. Furthermore, there are other regulations governing the discipline of State Civil Apparatus, such as Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, which serves as an instrument for upholding the integrity of State Civil Apparatus.

A significant change in the Indonesian criminal law landscape occurred with the enactment of Law Number 1 of 2023 concerning the Criminal Code (KUHPidana). Although the Corruption Law remains valid as *lex specialis*, the new Criminal Code introduces fundamental changes that require analysis in relation to the criminal liability of State Civil Servants. These changes include adjustments to the formulation of offenses, criminal sanctions, and more modern sentencing concepts, such as community service and fines tailored to the financial capacity of the convict. Analysis of this new Criminal Code is crucial for understanding how the future criminal justice system will view and handle cases of misappropriation of Regional Original Revenue by State Civil Servants.

Despite the legal framework being updated, implementation on the ground still faces various challenges. Weak internal and external oversight, a lack of transparency in financial management, and low legal awareness among civil servants themselves often create loopholes for misappropriation. Furthermore, the law enforcement process against corrupt civil servants is often slow and does not appear to provide an optimal deterrent effect, resulting in the recurrence of similar cases. This suggests a deeper problem, extending beyond regulations to systems and work culture.

Based on the above description, this research is highly relevant and important to conduct. An in-depth and comprehensive study is needed to optimize criminal accountability for Civil Servants who misappropriate Regional Original Revenue. This research is expected to make a significant contribution to efforts to eradicate corruption within government, particularly in regional financial management. Therefore, this study will thoroughly examine the criminal sanctions that can be imposed, the law enforcement process, and the obstacles faced in realizing a Civil Servants that is clean, has integrity, and is accountable.

## METHOD

This research uses a juridical-normative research method with a qualitative approach. This method focuses on the study of legal norms, legislation, and legal doctrines relevant to the research topic. This approach was chosen because the problem being studied is normative legal in nature, namely analyzing how the law should be applied and interpreted.

The type of data used is secondary data, which consists of:

1. Primary Legal Materials: Includes relevant laws and regulations, such as the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Law Number 23 of 2014 concerning Regional Government, and court decisions that have permanent legal force (*inkracht*).

2. Secondary Legal Materials: Consisting of criminal law textbooks, scientific journals, research findings, theses, dissertations, and articles by legal experts discussing issues related to corruption, criminal liability, and regional finance. These legal materials serve to support and deepen the primary legal materials.
3. Tertiary Legal Materials: Includes legal dictionaries, encyclopedias, and indexes of legal magazines, which are used to gain initial understanding and supporting information.
4. Data collection techniques are conducted through library research. Researchers will collect, identify, and classify legal materials from various credible sources. Once the data is collected, the data analysis technique used is qualitative analysis. This analysis includes:
5. Legal Interpretation: Interpreting the meaning of legal norms contained in statutory regulations.
6. Synchronization and Harmonization: Identifying the relationship and compatibility between various legal regulations, especially between the Corruption Law and the new Criminal Code.
7. Legal Evaluation: Evaluating the effectiveness and relevance of a legal norm in the context of law enforcement in the field.
8. Legal Construction: Building legal arguments and conclusions based on the results of interpretations and analyses that have been carried out.

Through this method, it is hoped that the research will produce comprehensive and accurate findings regarding the criminal liability of State Civil Apparatus for misappropriation of Regional Original Income, taking into account significant legal changes.

## RESULTS AND DISCUSSION

### **Forms of Civil Servant Criminal Responsibility for State Civil Apparatus Misappropriation from the Perspective of the Latest Criminal Code**

Criminal liability for State Civil Apparatus (ASN) who misuse Regional Original Revenue (PAD) is normatively regulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (Corruption Law). However, the presence of Law Number 1 of 2023 concerning the Criminal Code (KUHPidana), which will come into effect in 2026, has important implications that must be analyzed. This new Criminal Code, although it does not directly revoke the Corruption Law (because the Corruption Law has *lex specialis* status), provides a new philosophical and sociological foundation for criminal punishment that can influence law enforcement in corruption cases. According to Muhammad Arif Shaleh (2022), criminal liability for corruption aims not only to punish the perpetrator, but also to recover state losses and provide a deterrent effect. In the context of the new Criminal Code, there are several relevant adjustments. For example, the new Criminal Code introduces the concept of fines tailored to the perpetrator's economic capacity and community service sanctions. This can be an alternative to imprisonment, especially for less serious cases. However, the principal penalty of imprisonment remains the primary option for corruption crimes that cause significant state financial losses.

However, the new Criminal Code also strengthens the concept of criminalizing corporations. This is relevant because misappropriation of Regional Original Revenue often involves corporate entities collaborating with civil servants. Therefore, the new Criminal Code allows law enforcement to prosecute not only individual civil servants but also the corporations involved, thus providing more

comprehensive accountability. It should be noted that the provisions of Article 46 of the new Criminal Code can also serve as a basis for prosecuting corporations for corruption, a crime previously regulated in the Corruption Law.

There is also debate regarding the application of the death penalty in the new Criminal Code. While the Corruption Eradication Law still regulates the death penalty, the new Criminal Code introduces stricter requirements, namely as an alternative punishment with a 10-year probationary period. This can lead to different legal interpretations in serious corruption cases, such as misappropriation of regional revenue (PAD) during disasters. Therefore, it is important for law enforcement to interpret and apply both laws harmoniously and consistently to ensure legal certainty.

### **Inhibiting and Supporting Factors in Law Enforcement and the Role of the Latest Criminal Code**

Law enforcement against civil servants who misappropriate regional revenues faces various systemic and cultural challenges. Commonly encountered inhibiting factors include:

- a. **Weak Internal Oversight:** Internal oversight mechanisms in government institutions, such as inspectorates, are often ineffective in detecting and preventing misconduct early. Limited resources and a lack of independence are key factors.
- b. **Lack of Transparency and Accountability:** The lack of transparency and accountability in managing Regional Original Revenue creates loopholes for certain civil servants to manipulate funds. Inaccurate or deliberately concealed financial reporting is often the modus operandi.
- c. **Power Intervention:** Political or power interference from certain parties often hinders the investigation and prosecution process. This can make law enforcement reluctant or difficult to follow up on corruption cases.
- d. **Resource Constraints:** Law enforcement agencies, such as the police, prosecutors, and the Corruption Eradication Commission (KPK), often face limitations in qualified human resources, budget, and technology to conduct complex investigations.

In this context, the new Criminal Code (Law No. 1 of 2023) is expected to play a significant supporting role. The new Criminal Code introduces a more modern and restorative concept of punishment, which can complement existing criminal sanctions. For example, the implementation of community service or supervision can be a more humane and effective alternative to reintegrating perpetrators into society. Furthermore, the new Criminal Code also strengthens the legal basis for corporate accountability, which can indirectly increase the effectiveness of law enforcement against systemic corruption involving collusion between civil servants and the private sector.

However, to ensure the new Criminal Code can function optimally as a supporting factor, several strategic steps are required. First, harmonization between the Corruption Eradication Law and the new Criminal Code must be achieved through government regulations or clear technical guidelines. Second, the capacity and integrity of law enforcement officials are needed to properly implement the new Criminal Code. Third, reform of the internal oversight system in government institutions must be accelerated to close loopholes for corruption. Therefore, the success of law enforcement against misappropriation of Regional Original Revenue by State Civil Apparatus depends heavily on the synergy between a strong legal framework (including the new Criminal Code) with systemic improvements and increased integrity from all parties involved.

### **CONCLUSION**

1. Based on the analysis conducted, it can be concluded that criminal liability for State Civil Apparatus (ASN) who misuse Regional Original Revenue (PAD) is strictly regulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The presence of Law Number 1 of 2023 concerning the Criminal Code brings a new dimension to criminal liability, including adjustments to sanctions and the concept of corporate criminalization.

2. Law enforcement in these cases still faces serious challenges, particularly related to weak internal oversight systems, a lack of transparency, and the potential for interference by powerful parties. While the updated Criminal Code has the potential to be a supporting factor through its more modern and comprehensive criminalization concept, its successful implementation depends heavily on legal harmonization and systemic reform at various levels of government and law enforcement. Therefore, a strong commitment from all stakeholders is needed to strengthen oversight systems, enhance integrity, and ensure fair and transparent legal processes to achieve clean and corruption-free governance.

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